

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

4 2023 GENERAL SESSION

5 STATE OF UTAH

6 **Chief Sponsor: Jacob L. Anderegg**

7 House Sponsor: Raymond P. Ward

9 **LONG TITLE**

10 **General Description:**

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

12 **Highlighted Provisions:**

13 This bill:

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

19 **Money Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 This bill provides a coordination clause.

23 This bill provides revisor instructions.

24 **Utah Code Sections Affected:**

25 AMENDS:

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

27 **26B-6-101**, as enacted by Laws of Utah 2022, Chapter 255

28 **26B-7-101**, as enacted by Laws of Utah 2022, Chapter 255

29 ENACTS:

30 **26B-6-501**, Utah Code Annotated 1953

31 **26B-6-601**, Utah Code Annotated 1953

32 **26B-7-324**, Utah Code Annotated 1953

33 RENUMBERS AND AMENDS:

34 **26B-5-102**, (Renumbered from 62A-15-103, as last amended by Laws of Utah 2022,
35 Chapters 187, 255, and 415)

36 **26B-5-103**, (Renumbered from 62A-15-104, as last amended by Laws of Utah 2022,
37 Chapter 255)

38 **26B-5-104**, (Renumbered from 62A-15-105, as last amended by Laws of Utah 2009,
39 Chapter 75)

40 **26B-5-105**, (Renumbered from 62A-15-105.2, as enacted by Laws of Utah 2012,
41 Chapter 305)

42 **26B-5-106**, (Renumbered from 62A-15-107, as last amended by Laws of Utah 2009,
43 Chapter 75)

44 **26B-5-107**, (Renumbered from 62A-15-108, as last amended by Laws of Utah 2009,
45 Chapter 75)

46 **26B-5-108**, (Renumbered from 62A-15-110, as last amended by Laws of Utah 2005,
47 Chapter 71)

48 **26B-5-109**, (Renumbered from 62A-15-113, as enacted by Laws of Utah 2017, Chapter
49 315)

50 **26B-5-110**, (Renumbered from 62A-15-103.1, as enacted by Laws of Utah 2019,
51 Chapter 440)

52 **26B-5-111**, (Renumbered from 62A-15-115, as enacted by Laws of Utah 2018, Chapter
53 414)

54 **26B-5-112**, (Renumbered from 62A-15-116, as last amended by Laws of Utah 2020,
55 Chapter 303)

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

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

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

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

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

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

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

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

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

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

326 **26B-6-216**, (Renumbered from 62A-3-317, as last amended by Laws of Utah 2017,
327 Chapter 176)

328 **26B-6-217**, (Renumbered from 62A-3-320, as last amended by Laws of Utah 2017,
329 Chapter 176)

330 **26B-6-218**, (Renumbered from 62A-3-321, as last amended by Laws of Utah 2017,
331 Chapter 176)

332 **26B-6-219**, (Renumbered from 62A-3-322, as enacted by Laws of Utah 2018, Third
333 Special Session, Chapter 1)

334 **26B-6-301**, (Renumbered from 62A-14-102, as last amended by Laws of Utah 2013,
335 Chapter 364)

336 **26B-6-302**, (Renumbered from 62A-14-103, as enacted by Laws of Utah 1999, Chapter
337 69)

338 **26B-6-303**, (Renumbered from 62A-14-104, as last amended by Laws of Utah 2009,
339 Chapter 75)

340 **26B-6-304**, (Renumbered from 62A-14-105, as last amended by Laws of Utah 2022,
341 Chapter 441)

342 **26B-6-305**, (Renumbered from 62A-14-107, as enacted by Laws of Utah 1999, Chapter
343 69)

344 **26B-6-306**, (Renumbered from 62A-14-108, as last amended by Laws of Utah 2022,
345 Chapter 255)

346 **26B-6-307**, (Renumbered from 62A-14-109, as last amended by Laws of Utah 2012,
347 Chapter 347)

348 **26B-6-308**, (Renumbered from 62A-14-110, as enacted by Laws of Utah 1999, Chapter
349 69)

350 **26B-6-309**, (Renumbered from 62A-14-111, as enacted by Laws of Utah 1999, Chapter
351 69)

352 **26B-6-401**, (Renumbered from 62A-5-101, as last amended by Laws of Utah 2020,

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

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

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

434 **26B-6-803**, (Renumbered from 62A-5b-104, as last amended by Laws of Utah 2019,
435 Chapter 190)

436 **26B-6-804**, (Renumbered from 62A-5b-105, as last amended by Laws of Utah 2019,
437 Chapter 190)

438 **26B-6-805**, (Renumbered from 62A-5b-106, as last amended by Laws of Utah 2019,
439 Chapter 190)

440 **26B-6-806**, (Renumbered from 62A-6-102, as enacted by Laws of Utah 1988, Chapter
441 1)

442 **26B-6-807**, (Renumbered from 62A-6-103, as enacted by Laws of Utah 1988, Chapter
443 1)

444 **26B-6-808**, (Renumbered from 62A-6-104, as enacted by Laws of Utah 1988, Chapter
445 1)

446 **26B-6-809**, (Renumbered from 62A-6-105, as enacted by Laws of Utah 1988, Chapter
447 1)

448 **26B-6-810**, (Renumbered from 62A-6-106, as enacted by Laws of Utah 1988, Chapter
449 1)

450 **26B-6-811**, (Renumbered from 62A-6-107, as enacted by Laws of Utah 1988, Chapter
451 1)

452 **26B-6-812**, (Renumbered from 62A-6-108, as enacted by Laws of Utah 1988, Chapter
453 1)

454 **26B-6-813**, (Renumbered from 62A-6-109, as enacted by Laws of Utah 1988, Chapter
455 1)

456 **26B-6-814**, (Renumbered from 62A-6-110, as enacted by Laws of Utah 1988, Chapter
457 1)

458 **26B-6-815**, (Renumbered from 62A-6-111, as enacted by Laws of Utah 1988, Chapter
459 1)

460 **26B-6-816**, (Renumbered from 62A-6-112, as enacted by Laws of Utah 1988, Chapter

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

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

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

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

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

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

623 **26B-7-409**, (Renumbered from 26-51-201, as enacted by Laws of Utah 2008, Chapter
624 38)

625 **26B-7-410**, (Renumbered from 26-15a-104, as last amended by Laws of Utah 2008,
626 Chapter 382)

627 **26B-7-411**, (Renumbered from 26-15a-105, as last amended by Laws of Utah 2014,
628 Chapter 327)

629 **26B-7-412**, (Renumbered from 26-15a-106, as last amended by Laws of Utah 2020,
630 Chapter 189)

631 **26B-7-413**, (Renumbered from 26-15-5, as last amended by Laws of Utah 2020,
632 Chapter 189)

633 **26B-7-414**, (Renumbered from 26-15-9, as enacted by Laws of Utah 1981, Chapter
634 126)

635 **26B-7-415**, (Renumbered from 26-15b-105, as last amended by Laws of Utah 2020,
636 Fifth Special Session, Chapter 4)

637 **26B-7-416**, (Renumbered from 26-15c-105, as enacted by Laws of Utah 2021, Chapter
638 417)

639 **26B-7-501**, (Renumbered from 26-62-102, as last amended by Laws of Utah 2020,
640 Chapters 302 and 347)

641 **26B-7-502**, (Renumbered from 26-15-11, as last amended by Laws of Utah 1994,
642 Chapter 281)

643 **26B-7-503**, (Renumbered from 26-38-3, as last amended by Laws of Utah 2009,
644 Chapter 383)

645 **26B-7-504**, (Renumbered from 26-43-102, as enacted by Laws of Utah 1998, Chapter
646 73)

647 **26B-7-505**, (Renumbered from 26-57-103, as last amended by Laws of Utah 2021, First
648 Special Session, Chapter 12)

649 **26B-7-506**, (Renumbered from 26-62-103, as enacted by Laws of Utah 2018, Chapter

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

677 [26B-7-520](#), (Renumbered from 26-62-307, as renumbered and amended by Laws of
678 Utah 2018, Chapter 231)

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

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

682 [62A-17-102](#), as enacted by Laws of Utah 2013, Chapter 24

683

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

685 Section 1. Section [26B-5-101](#) is amended to read:

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

687 **Part 1. General Provisions**

688 **26B-5-101. Chapter definitions.**

689 [~~Reserved.~~]

690 As used in this chapter:

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

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

693 (b) are diminished when addressed by effective treatment, supervision, and other

694 support resources, resulting in reduced risk of criminal behavior.

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

696 (3) "Division" means the Division of Integrated Healthcare created in Section

697 [26B-1-202](#).

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

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

700 (6) "Mental health crisis" means:

701 (a) a mental health condition that manifests in an individual by symptoms of sufficient

702 severity that a prudent layperson who possesses an average knowledge of mental health issues

703 could reasonably expect the absence of immediate attention or intervention to result in:

704 (i) serious danger to the individual's health or well-being; or
705 (ii) a danger to the health or well-being of others; or
706 (b) a mental health condition that, in the opinion of a mental health therapist or the
707 therapist's designee, requires direct professional observation or intervention.

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

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

- 713 (a) direct mental health services;
- 714 (b) on-site intervention provided by a mobile crisis outreach team;
- 715 (c) the provision of safety and care plans;
- 716 (d) prolonged mental health services for up to 90 days after the day on which an
717 individual experiences a mental health crisis;
- 718 (e) referrals to other community resources;
- 719 (f) local mental health crisis lines; and
- 720 (g) the statewide mental health crisis line.

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

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

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

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

731 substance abuse or mental health programs or services.

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

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

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

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

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

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

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

755 (b) are community based;

756 (c) are informed about trauma;

757 (d) build meaningful partnerships with families and children;

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

760 (f) include individualized case planning;

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

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

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

768 ~~[62A-15-103]~~. **26B-5-102. Division of Integrated Healthcare -- Office of**
769 **Substance Use and Mental Health -- Creation -- Responsibilities.**

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

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

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

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

780 (2) The division shall:

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

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

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

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

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

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

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

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

797 (A) emergency department utilization;

798 (B) jail and prison populations;

799 (C) the homeless population; and

800 (D) the child welfare system; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

832 (A) local substance abuse authorities;

833 (B) local mental health authorities; and

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

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

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

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

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

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

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

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

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

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

855 (F) appropriate expenditure of public funds;

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

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

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

866 money;

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

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

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

875 (i) a review and determination regarding whether:

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

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

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

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

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

887 (A) a substance use disorder;

888 (B) a mental health disorder; or

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

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

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

893 Rulemaking Act, that:

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

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

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

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

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

901 Rulemaking Act, that:

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

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

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

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

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

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

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

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

920 Enforcement and Criminal Justice Interim Committee, that includes:

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

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

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

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

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

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

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

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

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

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

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

947 and

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

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

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

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

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

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

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

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

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

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

974 from possessing firearms;

975 (C) information about suicide prevention awareness; and

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

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

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

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

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

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

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

983 identify individuals who may be suicidal; and

984 (C) provides information regarding crisis intervention resources;

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

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

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

988 (ii) mobile crisis outreach teams;

989 (iii) mental health practitioners;

990 (iv) other public health suicide prevention organizations;

991 (v) entities that teach firearm safety courses;

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

993 of students in the school district; and

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

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

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

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

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

999 making rules that establish procedures for:

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

1001 safety brochures and packets;

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

1003 (iii) administering the rebate program; and

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

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

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

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

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

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

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

1028 devises, or bequests of real or personal property or services to be used as specified by the
1029 donor.

1030 (8) The division shall annually review with each local substance abuse authority and
1031 each local mental health authority the authority's statutory and contract responsibilities
1032 regarding:

1033 (a) use of public funds;

1034 (b) oversight of public funds; and

1035 (c) governance of substance use disorder and mental health programs and services.

1036 (9) The Legislature may refuse to appropriate funds to the division upon the division's
1037 failure to comply with the provisions of this part.

1038 (10) If a local substance abuse authority contacts the division under Subsection
1039 [17-43-201](#)(10) for assistance in providing treatment services to a pregnant woman or pregnant
1040 minor, the division shall:

1041 (a) refer the pregnant woman or pregnant minor to a treatment facility that has the
1042 capacity to provide the treatment services; or

1043 (b) otherwise ensure that treatment services are made available to the pregnant woman
1044 or pregnant minor.

1045 (11) The division shall employ a school-based mental health specialist to be housed at
1046 the State Board of Education who shall work with the State Board of Education to:

1047 (a) provide coordination between a local education agency and local mental health
1048 authority;

1049 (b) recommend evidence-based and evidence informed mental health screenings and
1050 intervention assessments for a local education agency; and

1051 (c) coordinate with the local community, including local departments of health, to
1052 enhance and expand mental health related resources for a local education agency.

1053 Section 3. Section **26B-5-103**, which is renumbered from Section 62A-15-104 is
1054 renumbered and amended to read:

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

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

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

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

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

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

1066 The division shall:

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

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

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

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

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

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

1082 screening, and assessment that are described in Section 41-6a-501.

1083 Section 5. Section **26B-5-105**, which is renumbered from Section 62A-15-105.2 is
1084 renumbered and amended to read:

1085 ~~[62A-15-105.2]~~. **26B-5-105. Employment first emphasis on the provision of**
1086 **services.**

1087 (1) As used in this section, "recipient" means an individual who is:

1088 (a) undergoing treatment for a substance ~~[abuse]~~ use problem; or

1089 (b) suffers from a mental illness.

1090 (2) When providing services to a recipient, the division shall, within funds
1091 appropriated by the Legislature and in accordance with the requirements of federal and state
1092 law and memorandums of understanding between the division and other state entities that
1093 provide services to a recipient, give priority to providing services that assist an eligible
1094 recipient in obtaining and retaining meaningful and gainful employment that enables the
1095 recipient to earn sufficient income to:

1096 (a) purchase goods and services;

1097 (b) establish self-sufficiency; and

1098 (c) exercise economic control of the recipient's life.

1099 (3) The division shall develop a written plan to implement the policy described in
1100 Subsection (2) that includes:

1101 (a) assessing the strengths and needs of a recipient;

1102 (b) customizing strength-based approaches to obtaining employment;

1103 (c) expecting, encouraging, providing, and rewarding:

1104 (i) integrated employment in the workplace at competitive wages and benefits; and

1105 (ii) self-employment;

1106 (d) developing partnerships with potential employers;

1107 (e) maximizing appropriate employment training opportunities;

1108 (f) coordinating services with other government agencies and community resources;

1109 (g) to the extent possible, eliminating practices and policies that interfere with the
1110 policy described in Subsection (2); and

1111 (h) arranging sub-minimum wage work or volunteer work for an eligible recipient
1112 when employment at market rates cannot be obtained.

1113 (4) The division shall, on an annual basis:

1114 (a) set goals to implement the policy described in Subsection (2) and the plan described
1115 in Subsection (3);

1116 (b) determine whether the goals for the previous year have been met; and

1117 (c) modify the plan described in Subsection (3) as needed.

1118 Section 6. Section **26B-5-106**, which is renumbered from Section 62A-15-107 is
1119 renumbered and amended to read:

1120 ~~[62A-15-107]~~. **26B-5-106. Authority to assess fees.**

1121 The division may, with the approval of the Legislature and the executive director,
1122 establish fee schedules and assess fees for services rendered by the division.

1123 Section 7. Section **26B-5-107**, which is renumbered from Section 62A-15-108 is
1124 renumbered and amended to read:

1125 ~~[62A-15-108]~~. **26B-5-107. Formula for allocation of funds to local
1126 substance abuse authorities and local mental health authorities.**

1127 (1) (a) The division shall establish, by rule, formulas for allocating funds to local
1128 substance abuse authorities and local mental health authorities through contracts, to provide
1129 substance ~~[abuse]~~ use prevention and treatment services in accordance with the provisions of
1130 this chapter and Title 17, Chapter 43, Part 2, Local Substance Abuse Authorities, and mental
1131 health services in accordance with the provisions of this chapter and Title 17, Chapter 43, Part
1132 3, Local Mental Health Authorities.

1133 (b) The formulas shall provide for allocation of funds based on need. Determination of
1134 need shall be based on population unless the division establishes, by valid and accepted data,
1135 that other defined factors are relevant and reliable indicators of need.

1136 (c) The formulas shall include a differential to compensate for additional costs of
1137 providing services in rural areas.

1138 (2) The formulas established under Subsection (1) apply to all state and federal funds
1139 appropriated by the Legislature to the division for local substance abuse authorities and local
1140 mental health authorities, but does not apply to:

1141 (a) funds that local substance abuse authorities and local mental health authorities
1142 receive from sources other than the division;

1143 (b) funds that local substance abuse authorities and local mental health authorities
1144 receive from the division to operate specific programs within their jurisdictions which are
1145 available to all residents of the state;

1146 (c) funds that local substance abuse authorities and local mental health authorities
1147 receive from the division to meet needs that exist only within their local areas; and

1148 (d) funds that local substance abuse authorities and local mental health authorities
1149 receive from the division for research projects.

1150 Section 8. Section **26B-5-108**, which is renumbered from Section 62A-15-110 is
1151 renumbered and amended to read:

1152 ~~[62A-15-110]~~. **26B-5-108. Contracts for substance use and mental health**
1153 **services -- Provisions -- Responsibilities.**

1154 (1) If the division contracts with a local substance abuse authority or a local mental
1155 health authority to provide substance ~~[abuse]~~ use or mental health programs and services in
1156 accordance with the provisions of this chapter and Title 17, Chapter 43, Part 2, Local
1157 Substance Abuse Authorities, or Title 17, Chapter 43, Part 3, Local Mental Health Authorities,
1158 it shall ensure that those contracts include at least the following provisions:

1159 (a) that an independent auditor shall conduct any audit of the local substance abuse
1160 authority or its contract provider's programs or services and any audit of the local mental health
1161 authority or its contract provider's programs or services, pursuant to the provisions of Title 51,
1162 Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and

1163 Other Local Entities Act;

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

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

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

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

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

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

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

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

1190 expenditures associated with reviewing the expenditure of public funds by a local substance
1191 abuse authority or its contract provider or a local mental health authority or its contract
1192 provider, if there has been an audit finding or judicial determination that public funds have
1193 been misused by the local substance abuse authority or its contract provider or the local mental
1194 health authority or its contract provider.

1195 Section 9. Section **26B-5-109**, which is renumbered from Section 62A-15-113 is
1196 renumbered and amended to read:

1197 ~~[62A-15-113]~~. **26B-5-109. Local plan program funding.**

1198 (1) To facilitate the distribution of newly appropriated funds beginning from fiscal year
1199 2018 for prevention, treatment, and recovery support services that reduce recidivism or reduce
1200 the per capita number of incarcerated offenders with a substance use disorder or a mental
1201 health disorder, the division shall:

1202 (a) form an application review and fund distribution committee that includes:

1203 (i) one representative of the Utah Sheriffs' Association;

1204 (ii) one representative of the Statewide Association of Prosecutors of Utah;

1205 (iii) two representatives from the division; and

1206 (iv) two representatives from the Utah Association of Counties; and

1207 (b) require the application review and fund distribution committee to:

1208 (i) establish a competitive application process for funding of a local plan, as described
1209 in Sections [17-43-201\(5\)\(b\)](#) and [17-43-301\(6\)\(a\)\(ii\)](#);

1210 (ii) establish criteria in accordance with Subsection (1) for the evaluation of an
1211 application;

1212 (iii) ensure that the committee members' affiliate groups approve of the application
1213 process and criteria;

1214 (iv) evaluate applications; and

1215 (v) distribute funds to programs implemented by counties, local mental health
1216 authorities, or local substance abuse authorities.

1217 (2) Demonstration of matching county funds is not a requirement to receive funds, but
1218 the application review committee may take into consideration the existence of matching funds
1219 when determining which programs to fund.

1220 Section 10. Section **26B-5-110**, which is renumbered from Section 62A-15-103.1 is
1221 renumbered and amended to read:

1222 ~~[62A-15-103.1]~~. **26B-5-110. Suicide Prevention Education Program --**
1223 **Definitions -- Grant requirements.**

1224 (1) As used in this section, "bureau" means the Bureau of Criminal Identification
1225 created in Section [53-10-201](#) within the Department of Public Safety.

1226 (2) There is created a Suicide Prevention Education Program to fund suicide
1227 prevention education opportunities for federally licensed firearms dealers who operate a retail
1228 establishment open to the public and the dealers' employees.

1229 (3) The division, in conjunction with the bureau, shall provide a grant to an employer
1230 described in Subsection (2) in accordance with the criteria provided in Subsection
1231 ~~[62A-15-1101(7)(b)]~~ [26B-5-611\(8\)\(b\)](#).

1232 (4) An employer may apply for a grant of up to \$2,500 under the program.

1233 Section 11. Section **26B-5-111**, which is renumbered from Section 62A-15-115 is
1234 renumbered and amended to read:

1235 ~~[62A-15-115]~~. **26B-5-111. Mental health crisis response training.**

1236 (1) The division shall award grants to communities to conduct mental health crisis
1237 response training.

1238 (2) For the application and award of the grants described in Subsection (1), the division
1239 shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
1240 Act, that determine:

1241 (a) the requirements and process for a community to apply for a grant; and

1242 (b) the substantive mental health crisis response programs that qualify for the award of
1243 a grant.

1244 Section 12. Section **26B-5-112**, which is renumbered from Section 62A-15-116 is
1245 renumbered and amended to read:

1246 ~~[62A-15-116]~~. **26B-5-112**. **Mobile crisis outreach team expansion.**

1247 (1) ~~[The]~~ In consultation with the Behavioral Health Crisis Response Commission,
1248 established in Section [63C-18-202](#), the division shall award grants for the development of:

1249 (a) five mobile crisis outreach teams:

1250 (i) in counties of the second, third, fourth, fifth, or sixth class; or

1251 (ii) in counties of the first class, if no more than two mobile crisis outreach teams are
1252 operating or have been awarded a grant to operate in the county; and

1253 (b) at least three mobile crisis outreach teams in counties of the third, fourth, fifth, or
1254 sixth class.

1255 (2) A mobile crisis outreach team awarded a grant under Subsection (1) shall provide
1256 mental health crisis services 24 hours per day, 7 days per week, and every day of the year.

1257 (3) The division shall prioritize the award of a grant described in Subsection (1) to
1258 entities, based on:

1259 (a) the number of individuals the proposed mobile crisis outreach team will serve; and

1260 (b) the percentage of matching funds the entity will provide to develop the proposed
1261 mobile crisis outreach team.

1262 (4) An entity does not need to have resources already in place to be awarded a grant
1263 described in Subsection (1).

1264 (5) ~~[The]~~ In consultation with the Behavioral Health Crisis Response Commission,
1265 established in Section [63C-18-202](#), the division shall make rules, in accordance with Title 63G,
1266 Chapter 3, Utah Administrative Rulemaking Act, for the application and award of the grants
1267 described in Subsection (1).

1268 Section 13. Section **26B-5-113**, which is renumbered from Section 62A-15-117 is
1269 renumbered and amended to read:

1270 ~~[62A-15-117]~~. **26B-5-113**. **Medicaid reimbursement for school-based health**

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

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

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

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

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

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

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

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

1289 (1) As used in this section:

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

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

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

1298 develop and implement a behavioral health receiving center.

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

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

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

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

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

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

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

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

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

1314 (d) provide details regarding:

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

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

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

1320 (iv) the cost of the proposed project;

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

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

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

1352 behavioral health receiving center;

1353 (c) recommendations for the future use of mental health crisis services in behavioral
1354 health receiving centers; and

1355 (d) obstacles encountered in the provision of mental health crisis services in a
1356 behavioral health receiving center.

1357 Section 15. Section **26B-5-115**, which is renumbered from Section 62A-15-119 is
1358 renumbered and amended to read:

1359 ~~[62A-15-119]~~. **26B-5-115. Safety Net Initiative.**

1360 (1) As used in this section, "individuals in underserved communities" means
1361 individuals living in culturally isolated communities in the state who may lack access to public
1362 assistance and other government services.

1363 (2) There is created within the division the Safety Net Initiative to:

1364 (a) implement strategies to increase awareness and reduce risk factors in order to
1365 improve the safety and well-being of individuals in underserved communities;

1366 (b) coordinate with government agencies, nonprofit organizations, and interested
1367 individuals to provide open communication with individuals in underserved communities; and

1368 (c) coordinate efforts to give individuals in underserved communities needed access to
1369 public assistance and other government services.

1370 (3) The division may employ or contract with individuals, entities, and support staff as
1371 necessary to administer the duties required by this section.

1372 Section 16. Section **26B-5-116**, which is renumbered from Section 62A-15-121 is
1373 renumbered and amended to read:

1374 ~~[62A-15-121]~~. **26B-5-116. Suicide technical assistance program.**

1375 (1) As used in this section, "technical assistance" means training for the prevention of
1376 suicide.

1377 (2) (a) Before July 1, 2021, and each subsequent July 1, the division shall solicit
1378 applications from health care organizations to receive technical assistance provided by the

1379 division.

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

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

1382 before December 31 of each year.

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

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

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

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

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

1392 (e) provide details regarding:

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

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

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

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

1400 (B) collect non-identifying data; and

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

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

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

1406 (b) the extent to which the population described in Subsection (3)(a) is likely to benefit
1407 from the health care organization receiving the technical assistance;

1408 (c) the cost of providing the technical assistance to the health care organization; and

1409 (d) the extent to which any of the following are likely to benefit the health care
1410 organization's ability to assist in preventing suicides in the state:

1411 (i) existing or planned contracts or partnerships between the applicant and other
1412 persons to develop and implement other initiatives; or

1413 (ii) additional funding sources available to the applicant for suicide prevention
1414 services.

1415 (5) Before June 30, 2022, and each subsequent June 30, the division shall submit a
1416 written report to the Health and Human Services Interim Committee regarding each health care
1417 organization the division provided technical assistance to in the preceding year under this
1418 section.

1419 (6) Before June 30, 2024, the division shall submit a written report to the Health and
1420 Human Services Interim Committee regarding:

1421 (a) data gathered in relation to providing technical assistance to a health care
1422 organization;

1423 (b) knowledge gained relating to providing technical assistance;

1424 (c) recommendations for the future regarding how the state can better prevent suicides;

1425 and

1426 (d) obstacles encountered when providing technical assistance.

1427 Section 17. Section **26B-5-117**, which is renumbered from Section 62A-15-122 is
1428 renumbered and amended to read:

1429 ~~[62A-15-122]~~. **26B-5-117. Early childhood mental health support grant**
1430 **program.**

1431 (1) As used in this section:

1432 (a) "Child care" means the child care services defined in Section [35A-3-102](#) for a child

1433 during early childhood.

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

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

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

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

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

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

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

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

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

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

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

1454 (f) the sustainability of the proposed project.

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

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

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

1460 are likely to benefit from the proposed project;

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

1462 (d) the viability of the proposed project.

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

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

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

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

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

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

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

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

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

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

1479 (1) As used in this section:

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

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

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

1487 (d) "Mental health professional" means an individual licensed under Title 58, Chapter
1488 60, Mental Health Professional Practice Act, or Title 58, Chapter 61, Psychologist Licensing
1489 Act, or a psychiatrist.

1490 (e) "Physician" means an individual licensed to practice as a physician or osteopath
1491 under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah
1492 Osteopathic Medical Practice Act.

1493 (f) "Primary care physician" means a physician that provides health services related to
1494 family medicine, internal medicine, pediatrics, obstetrics, gynecology, or geriatrics.

1495 (g) "Program" means a program described in Subsection (2)(a).

1496 (h) "Psychiatrist" means a physician who is board eligible for a psychiatry
1497 specialization recognized by the American Board of Medical Specialists or the American
1498 Osteopathic Association's Bureau of Osteopathic Specialists.

1499 (i) "Small primary health care practice" means a medical practice of primary health
1500 care physicians that:

1501 (i) includes 10 or fewer primary care physicians; or

1502 (ii) is primarily based in a county of the third through sixth class, as classified in
1503 Section [17-50-501](#).

1504 (2) (a) Before July 1, 2022, the division shall solicit applications from small primary
1505 health care practices for a grant to support or implement a program to provide integrated
1506 physical and behavioral health services under a collaborative care model.

1507 (b) A grant under this section may be used to:

1508 (i) hire and train staff to administer a program;

1509 (ii) identify and formalize contractual relationships with mental health professionals
1510 and case managers to implement a program; or

1511 (iii) purchase or upgrade software and other resources necessary to support or
1512 implement a program.

1513 (c) The division shall approve at least one but not more than six applications each year.

1514 (d) The division shall determine which applicants receive a grant under this section
1515 before December 31, 2022.

1516 (3) An application for a grant under this section shall:

1517 (a) identify the population to whom the applicant will provide services under a
1518 program;

1519 (b) identify the small primary health care practice's current resources that are used to
1520 provide integrated physical and behavioral health services;

1521 (c) explain how the population described in Subsection (3)(a) will benefit from the
1522 program;

1523 (d) provide details regarding:

1524 (i) how the applicant will provide timely and effective services under the program;

1525 (ii) any existing or planned contracts or partnerships between the applicant and other
1526 persons that are related to a collaborative care model;

1527 (iii) the methods the applicant will use to:

1528 (A) protect the privacy of each individual to whom the applicant provides services
1529 under the program; and

1530 (B) collect non-identifying data; and

1531 (e) provide other information requested by the division for the division to evaluate the
1532 application.

1533 (4) In evaluating an application for a grant under this section, the division shall
1534 consider:

1535 (a) the extent to which providing the grant to the applicant will fulfill the purpose of
1536 providing increased integrated physical and behavioral health services; and

1537 (b) the extent to which the population described in Subsection (3)(a) is likely to benefit
1538 from the applicant receiving the grant.

1539 (5) Before July 1, 2023, the division shall submit a written report to the Health and
1540 Human Services Interim Committee regarding each applicant the division provided a grant to

1541 in the preceding year under this section.

1542 (6) Before July 1, 2024, the division shall submit a written report to the Health and
1543 Human Services Interim Committee regarding:

1544 (a) data gathered and knowledge gained in relation to providing grants to an applicant;
1545 and

1546 (b) recommendations for how the state can better implement integrated physical and
1547 behavioral health services.

1548 Section 19. Section **26B-5-119**, which is renumbered from Section 62A-15-615 is
1549 renumbered and amended to read:

1550 ~~[62A-15-615]~~. **26B-5-119. Forms.**

1551 The division shall furnish the clerks of the ~~[district courts]~~ court with forms, blanks,
1552 warrants, and certificates, to enable ~~[the district court]~~ judges, with regularity and facility, to
1553 comply with the provisions of this chapter.

1554 Section 20. Section **26B-5-201**, which is renumbered from Section 62A-15-202 is
1555 renumbered and amended to read:

1556 **Part 2. Substance Use Disorder Intervention, Prevention, and Education**
1557 ~~[62A-15-202]~~. **26B-5-201. Definitions.**

1558 As used in this part:

1559 (1) "Juvenile substance ~~[abuse]~~ use offender" means any minor who has committed a
1560 drug or alcohol related offense under the jurisdiction of the juvenile court in accordance with
1561 Section **78A-6-103**.

1562 (2) "Local substance abuse authority" means a county legislative body designated to
1563 provide substance abuse services in accordance with Section **17-43-201**.

1564 (3) "Minor" means the same as that term is defined in Section **80-1-102**.

1565 (4) "Teen substance ~~[abuse]~~ use school" means any school established by the local
1566 substance abuse authority, in cooperation with the Board of Juvenile Court Judges, that
1567 provides an educational, interpersonal, skill-building experience for juvenile substance abuse

1568 offenders and their parents or legal guardians.

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

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

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

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

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

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

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

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

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

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

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

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

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

1595 (b) "Drug or alcohol addiction" means that the person has a physical or psychological
1596 dependence on drugs or alcohol in a manner not prescribed by a physician.

1597 (2) The parent or legal guardian of a minor under [~~the age of~~] 18 old years may submit
1598 that child, without the child's consent, to an approved treatment facility or program for
1599 treatment or rehabilitation of drug or alcohol addiction, upon application to a facility or
1600 program, and after a careful diagnostic inquiry is made by a neutral and detached fact finder, in
1601 accordance with the requirements of this section.

1602 (3) The neutral fact finder who conducts the inquiry:

1603 (a) shall be either a physician, psychologist, marriage and family therapist, psychiatric
1604 and mental health nurse specialist, or social worker licensed to practice in this state, who is
1605 trained and practicing in the area of substance [~~abuse~~] use; and

1606 (b) may not profit, financially or otherwise, from the commitment of the child and may
1607 not be employed by the proposed facility or program.

1608 (4) The review by a neutral fact finder may be conducted on the premises of the
1609 proposed treatment facility or program.

1610 (5) The inquiry conducted by the neutral fact finder shall include a private interview
1611 with the child, and an evaluation of the child's background and need for treatment.

1612 (6) The child may be committed to the approved treatment facility or program if it is
1613 determined by the neutral fact finder that:

1614 (a) the child is addicted to drugs or alcohol and because of that addiction poses a
1615 serious risk of harm to himself or others;

1616 (b) the proposed treatment or rehabilitation is in the child's best interest; and

1617 (c) there is no less restrictive alternative that would be equally as effective, from a
1618 clinical standpoint, as the proposed treatment facility or program.

1619 (7) Any approved treatment facility or program that receives a child under this section
1620 shall conduct a periodic review, at intervals not to exceed 30 days, to determine whether the
1621 criteria described in Subsection (6) continue to exist.

1622 (8) A minor committed under this section shall be released from the facility or program
1623 upon the request of his parent or legal guardian.

1624 (9) Commitment of a minor under this section terminates when the minor reaches the
1625 age of 18 years old.

1626 (10) Nothing in this section requires a program or facility to accept any person for
1627 treatment or rehabilitation.

1628 (11) The parent or legal guardian who requests commitment of a minor under this
1629 section is responsible to pay any fee associated with the review required by this section and any
1630 necessary charges for commitment, treatment, or rehabilitation for a minor committed under
1631 this section.

1632 (12) The child shall be released from commitment unless the report of the neutral fact
1633 finder is submitted to the juvenile court within 72 hours of commitment and approved by the
1634 court.

1635 Section 24. Section **26B-5-205**, which is renumbered from Section 62A-15-401 is
1636 renumbered and amended to read:

1637 ~~[62A-15-401]~~. **26B-5-205. Alcohol training and education seminar.**

1638 (1) As used in this ~~[part]~~ section:

1639 (a) "Instructor" means a person that directly provides the instruction during an alcohol
1640 training and education seminar for a seminar provider.

1641 (b) "Licensee" means a person who is:

1642 (i) (A) a new or renewing licensee under Title 32B, Alcoholic Beverage Control Act;
1643 and

1644 (B) engaged in the retail sale of an alcoholic product for consumption on the premises
1645 of the licensee; or

1646 (ii) a business that is:

1647 (A) a new or renewing licensee licensed by a city, town, or county; and

1648 (B) engaged in the retail sale of beer for consumption off the premises of the licensee.

- 1649 (c) "Off-premise beer retailer" is as defined in Section [32B-1-102](#).
- 1650 (d) "Seminar provider" means a person other than the division who provides an alcohol
1651 training and education seminar meeting the requirements of this section.
- 1652 (2) (a) This section applies to:
- 1653 (i) a retail manager as defined in Section [32B-1-701](#);
- 1654 (ii) retail staff as defined in Section [32B-1-701](#); and
- 1655 (iii) an individual who, as defined by division rule:
- 1656 (A) directly supervises the sale of beer to a customer for consumption off the premises
1657 of an off-premise beer retailer; or
- 1658 (B) sells beer to a customer for consumption off the premises of an off-premise beer
1659 retailer.
- 1660 (b) If the individual does not have a valid record that the individual has completed an
1661 alcohol training and education seminar, an individual described in Subsection (2)(a) shall:
- 1662 (i) (A) complete an alcohol training and education seminar within 30 days of the
1663 following if the individual is described in Subsection (2)(a)(i) or (ii):
- 1664 (I) if the individual is an employee, the day the individual begins employment;
- 1665 (II) if the individual is an independent contractor, the day the individual is first hired;
- 1666 or
- 1667 (III) if the individual holds an ownership interest in the licensee, the day that the
1668 individual first engages in an activity that would result in that individual being required to
1669 complete an alcohol training and education seminar; or
- 1670 (B) complete an alcohol training and education seminar within the time periods
1671 specified in Subsection [32B-1-703](#)(1) if the individual is described in Subsection (2)(a)(iii)(A)
1672 or (B); and
- 1673 (ii) pay a fee:
- 1674 (A) to the seminar provider; and
- 1675 (B) that is equal to or greater than the amount established under Subsection (4)(h).

1676 (c) An individual shall have a valid record that the individual completed an alcohol
1677 training and education seminar within the time period provided in this Subsection (2) to engage
1678 in an activity described in Subsection (2)(a).

1679 (d) A record that an individual has completed an alcohol training and education
1680 seminar is valid for:

1681 (i) three years from the day on which the record is issued for an individual described in
1682 Subsection (2)(a)(i) or (ii); and

1683 (ii) five years from the day on which the record is issued for an individual described in
1684 Subsection (2)(a)(iii)(A) or (B).

1685 (e) On and after July 1, 2011, to be considered as having completed an alcohol training
1686 and education seminar, an individual shall:

1687 (i) attend the alcohol training and education seminar and take any test required to
1688 demonstrate completion of the alcohol training and education seminar in the physical presence
1689 of an instructor of the seminar provider; or

1690 (ii) complete the alcohol training and education seminar and take any test required to
1691 demonstrate completion of the alcohol training and education seminar through an online course
1692 or testing program that meets the requirements described in Subsection (2)(f).

1693 (f) The division shall by rule made in accordance with Title 63G, Chapter 3, Utah
1694 Administrative Rulemaking Act, establish one or more requirements for an online course or
1695 testing program described in Subsection (2)(e) that are designed to inhibit fraud in the use of
1696 the online course or testing program. In developing the requirements by rule the division shall
1697 consider whether to require:

1698 (i) authentication that the an individual accurately identifies the individual as taking the
1699 online course or test;

1700 (ii) measures to ensure that an individual taking the online course or test is focused on
1701 training material throughout the entire training period;

1702 (iii) measures to track the actual time an individual taking the online course or test is

- 1703 actively engaged online;
- 1704 (iv) a seminar provider to provide technical support, such as requiring a telephone
1705 number, email, or other method of communication that allows an individual taking the online
1706 course or test to receive assistance if the individual is unable to participate online because of
1707 technical difficulties;
- 1708 (v) a test to meet quality standards, including randomization of test questions and
1709 maximum time limits to take a test;
- 1710 (vi) a seminar provider to have a system to reduce fraud as to who completes an online
1711 course or test, such as requiring a distinct online certificate with information printed on the
1712 certificate that identifies the person taking the online course or test, or requiring measures to
1713 inhibit duplication of a certificate;
- 1714 (vii) measures for the division to audit online courses or tests;
- 1715 (viii) measures to allow an individual taking an online course or test to provide an
1716 evaluation of the online course or test;
- 1717 (ix) a seminar provider to track the Internet protocol address or similar electronic
1718 location of an individual who takes an online course or test;
- 1719 (x) an individual who takes an online course or test to use an e-signature; or
- 1720 (xi) a seminar provider to invalidate a certificate if the seminar provider learns that the
1721 certificate does not accurately reflect the individual who took the online course or test.
- 1722 (3) (a) A licensee may not permit an individual who is not in compliance with
1723 Subsection (2) to:
- 1724 (i) serve or supervise the serving of an alcoholic product to a customer for
1725 consumption on the premises of the licensee;
- 1726 (ii) engage in any activity that would constitute managing operations at the premises of
1727 a licensee that engages in the retail sale of an alcoholic product for consumption on the
1728 premises of the licensee;
- 1729 (iii) directly supervise the sale of beer to a customer for consumption off the premises

- 1730 of an off-premise beer retailer; or
- 1731 (iv) sell beer to a customer for consumption off the premises of an off-premise beer
- 1732 retailer.
- 1733 (b) A licensee that violates Subsection (3)(a) is subject to Section [32B-1-702](#).
- 1734 (4) The division shall:
- 1735 (a) (i) provide alcohol training and education seminars; or
- 1736 (ii) certify one or more seminar providers;
- 1737 (b) establish the curriculum for an alcohol training and education seminar that includes
- 1738 the following subjects:
- 1739 (i) (A) alcohol as a drug; and
- 1740 (B) alcohol's effect on the body and behavior;
- 1741 (ii) recognizing the problem drinker or signs of intoxication;
- 1742 (iii) an overview of state alcohol laws related to responsible beverage sale or service,
- 1743 as determined in consultation with the Department of Alcoholic Beverage Services;
- 1744 (iv) dealing with the problem customer, including ways to terminate sale or service;
- 1745 and
- 1746 (v) for those supervising or engaging in the retail sale of an alcoholic product for
- 1747 consumption on the premises of a licensee, alternative means of transportation to get the
- 1748 customer safely home;
- 1749 (c) recertify each seminar provider every three years;
- 1750 (d) monitor compliance with the curriculum described in Subsection (4)(b);
- 1751 (e) maintain for at least five years a record of every person who has completed an
- 1752 alcohol training and education seminar;
- 1753 (f) provide the information described in Subsection (4)(e) on request to:
- 1754 (i) the Department of Alcoholic Beverage Services;
- 1755 (ii) law enforcement; or
- 1756 (iii) a person licensed by the state or a local government to sell an alcoholic product;

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

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

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

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

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

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

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

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

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

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

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

1777 (6) A seminar provider shall:

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

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

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

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

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

1784 seminar provider is consistent with:
1785 (i) the curriculum established under this section; and
1786 (ii) this section;
1787 (d) provide the division with the names of all persons who complete an alcohol training
1788 and education seminar provided by the seminar provider;
1789 (e) (i) collect a fee for each person attending an alcohol training and education seminar
1790 in accordance with Subsection (2); and
1791 (ii) forward to the division the portion of the fee that is equal to the amount described
1792 in Subsection (4)(h); and
1793 (f) issue a record to an individual that completes an alcohol training and education
1794 seminar provided by the seminar provider.
1795 (7) (a) If after a hearing conducted in accordance with Title 63G, Chapter 4,
1796 Administrative Procedures Act, the division finds that a seminar provider violates this section
1797 or that an instructor of the seminar provider violates this section, the division may:
1798 (i) suspend the certification of the seminar provider for a period not to exceed 90 days;
1799 (ii) revoke the certification of the seminar provider;
1800 (iii) require the seminar provider to take corrective action regarding an instructor; or
1801 (iv) prohibit the seminar provider from using an instructor until such time that the
1802 seminar provider establishes to the satisfaction of the division that the instructor is in
1803 compliance with Subsection (6)(b).
1804 (b) The division may certify a seminar provider whose certification is revoked:
1805 (i) no sooner than 90 days from the date the certification is revoked; and
1806 (ii) if the seminar provider establishes to the satisfaction of the division that the
1807 seminar provider will comply with this section.

1808 Section 25. Section **26B-5-206**, which is renumbered from Section 62A-15-403 is
1809 renumbered and amended to read:

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

1811 **education campaign.**

1812 (1) As used in this section:

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

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

1817 (2) The advisory council shall:

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

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

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

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

1826 (i) carefully researched;

1827 (ii) developed for target groups; and

1828 (iii) appropriate for target groups; and

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

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

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

1838 (i) describes the media and education campaign; and
1839 (ii) details how the division intends to use money from the restricted account to fund
1840 the media and education campaign.

1841 (c) If the advisory council approves the plan described in Subsection (3)(b), the
1842 division shall conduct the media and education campaign in accordance with the guidelines
1843 described in Subsection (2).

1844 (4) The division shall submit to the Health and Human Services Interim Committee
1845 and the advisory council annually by no later than October 1, a written report detailing:

1846 (a) the use of the money for the media and education campaigns conducted in
1847 accordance with Subsection (3); and

1848 (b) the impact and result of the use of the money during the previous fiscal year ending
1849 June 30.

1850 Section 26. Section **26B-5-207**, which is renumbered from Section 62A-15-501 is
1851 renumbered and amended to read:

1852 ~~[62A-15-501]~~. **26B-5-207. DUI -- Legislative policy -- Rehabilitation**
1853 **treatment and evaluation -- Use of victim impact panels.**

1854 The Legislature finds that drivers impaired by alcohol or drugs constitute a major
1855 problem in this state and that the problem demands a comprehensive detection, intervention,
1856 education, and treatment program including emergency services, outpatient treatment,
1857 detoxification, residential care, inpatient care, medical and psychological care, social service
1858 care, vocational rehabilitation, and career counseling through public and private agencies. It is
1859 the policy of this state to provide those programs at the expense of persons convicted of driving
1860 while under the influence of intoxicating liquor or drugs. It is also the policy of this state to
1861 utilize victim impact panels to assist persons convicted of driving under the influence of
1862 intoxicating liquor or drugs to gain a full understanding of the severity of their offense.

1863 Section 27. Section **26B-5-208**, which is renumbered from Section 62A-15-502 is
1864 renumbered and amended to read:

1865 ~~[62A-15-502]~~. **26B-5-208. Penalty for DUI conviction -- Amounts.**

1866 (1) Courts of record and not of record may at sentencing assess against the defendant,
1867 in addition to any fine, an amount that will fully compensate agencies that treat the defendant
1868 for their costs in each case where a defendant is convicted of violating:

1869 (a) Section ~~41-6a-502~~ or ~~41-6a-517~~;

1870 (b) a criminal prohibition resulting from a plea bargain after an original charge of
1871 violating Section ~~41-6a-502~~; or

1872 (c) an ordinance that complies with the requirements of Subsection ~~41-6a-510~~(1).

1873 (2) The fee assessed shall be collected by the court or an entity appointed by the court.

1874 Section 28. Section **26B-5-209**, which is renumbered from Section ~~62A-15-503~~ is
1875 renumbered and amended to read:

1876 ~~[62A-15-503]~~. **26B-5-209. Assessments for DUI -- Use of money for**
1877 **rehabilitation programs, including victim impact panels -- Rulemaking power granted.**

1878 (1) (a) Assessments imposed under Section [~~62A-15-502~~] 26B-5-208 may, pursuant to
1879 court order:

1880 (i) be collected by the clerk of the court in which the person was convicted; or

1881 (ii) be paid directly to the licensed alcohol or drug treatment program.

1882 (b) Assessments collected by the court under Subsection (1)(a)(i) shall be forwarded to
1883 a special nonlapsing account created by the county treasurer of the county in which the fee is
1884 collected.

1885 (2) Assessments under Subsection (1) shall be used exclusively for the operation of
1886 licensed alcohol or drug rehabilitation programs and education, assessment, supervision, and
1887 other activities related to and supporting the rehabilitation of persons convicted of driving
1888 while under the influence of intoxicating liquor or drugs. A requirement of the rehabilitation
1889 program shall be participation with a victim impact panel or program providing a forum for
1890 victims of alcohol or drug related offenses and defendants to share experiences on the impact
1891 of alcohol or drug related incidents in their lives. The [~~Division of Substance Abuse and~~

1892 ~~Mental Health~~ division shall establish guidelines to implement victim impact panels where, in
1893 the judgment of the licensed alcohol or drug program, appropriate victims are available, and
1894 shall establish guidelines for other programs where such victims are not available.

1895 (3) None of the assessments shall be maintained for administrative costs by the
1896 division.

1897 Section 29. Section **26B-5-210**, which is renumbered from Section 62A-15-504 is
1898 renumbered and amended to read:

1899 ~~[62A-15-504].~~ **26B-5-210. Policy -- Alternatives to incarceration.**

1900 It is the policy of this state to provide adequate and appropriate health and social
1901 services as alternatives to incarceration for public intoxication.

1902 Section 30. Section **26B-5-301**, which is renumbered from Section 62A-15-602 is
1903 renumbered and amended to read:

1904 **Part 3. Utah State Hospital and Other Mental Health Facilities**

1905 ~~[62A-15-602].~~ **26B-5-301. Definitions.**

1906 As used in this part, [~~Part 7, Commitment of Persons Under Age 18 to Division of~~
1907 ~~Substance Abuse and Mental Health, Part 8, Interstate Compact on Mental Health, Part 9, Utah~~
1908 ~~Forensic Mental Health Facility, Part 10, Declaration for Mental Health Treatment, and Part~~
1909 ~~12, Essential Treatment and Intervention Act]~~ Part 4, Commitment of Persons Under Age 18,
1910 and Part 5, Essential Treatment and Intervention:

1911 (1) "Adult" means an individual 18 years old or older.

1912 (2) "Approved treatment facility or program" means a mental health or substance use
1913 treatment provider that meets the goals and measurements described in Subsection
1914 ~~[62A-15-103]~~ 26B-5-110(2)(j).

1915 (3) "Assisted outpatient treatment" means involuntary outpatient mental health
1916 treatment ordered under Section ~~[62A-15-630.5]~~ 26B-5-351.

1917 (4) "Attending physician" means a physician licensed to practice medicine in this state
1918 who has primary responsibility for the care and treatment of the declarant.

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

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

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

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

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

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

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

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

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

1945 (a) sexual intercourse;

1946 (b) penetration, however slight, of the genital or anal opening of the individual;

1947 (c) any sexual act involving the genitals or anus of the actor or the individual and the
1948 mouth or anus of either individual, regardless of the gender of either participant; or

1949 (d) any sexual act causing substantial emotional injury or bodily pain.

1950 ~~[(10)]~~ (12) "Informed waiver" means the patient was informed of a right and, after
1951 being informed of that right and the patient's right to waive the right, expressly communicated
1952 his or her intention to waive that right.

1953 (13) "Incapable" means that, in the opinion of the court in a guardianship proceeding
1954 under Title 75, Utah Uniform Probate Code, or in the opinion of two physicians, a person's
1955 ability to receive and evaluate information effectively or communicate decisions is impaired to
1956 such an extent that the person currently lacks the capacity to make mental health treatment
1957 decisions.

1958 ~~[(11)]~~ (14) "Institution" means a hospital or a health facility licensed under Section
1959 ~~[26-21-8]~~ [26B-2-206](#).

1960 ~~[(12)]~~ (15) "Local substance abuse authority" means the same as that term is defined in
1961 Section ~~[62A-15-102]~~ [26B-5-101](#) and described in Section [17-43-201](#).

1962 ~~[(13)]~~ (16) "Mental health facility" means the Utah State Hospital or other facility that
1963 provides mental health services under contract with the division, a local mental health
1964 authority, a person that contracts with a local mental health authority, or a person that provides
1965 acute inpatient psychiatric services to a patient.

1966 ~~[(14)]~~ (17) "Mental health officer" means an individual who is designated by a local
1967 mental health authority as qualified by training and experience in the recognition and
1968 identification of mental illness, to:

1969 (a) apply for and provide certification for a temporary commitment; or

1970 (b) assist in the arrangement of transportation to a designated mental health facility.

1971 ~~[(15)]~~ (18) "Mental illness" means:

1972 (a) a psychiatric disorder that substantially impairs an individual's mental, emotional,

1973 behavioral, or related functioning; or

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

1975 (i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders
1976 published by the American Psychiatric Association; or

1977 (ii) the current edition of the International Statistical Classification of Diseases and
1978 Related Health Problems.

1979 (19) "Mental health treatment" means convulsive treatment, treatment with
1980 psychoactive medication, or admission to and retention in a facility for a period not to exceed
1981 17 days.

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

1983 (a) under commitment to the custody or to the treatment services of a local mental
1984 health authority; or

1985 (b) undergoing essential treatment and intervention.

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

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

1988 (b) licensed as a physician under Title 58, Chapter 68, Utah Osteopathic Medical
1989 Practice Act.

1990 [~~18~~] (22) "Serious bodily injury" means bodily injury that involves a substantial risk
1991 of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or
1992 protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

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

1994 [~~19~~] (24) "Substantial danger" means that due to mental illness, an individual is at
1995 serious risk of:

1996 (a) suicide;

1997 (b) serious bodily self-injury;

1998 (c) serious bodily injury because the individual is incapable of providing the basic
1999 necessities of life, including food, clothing, or shelter;

- 2000 (d) causing or attempting to cause serious bodily injury to another individual;
- 2001 (e) engaging in harmful sexual conduct; or
- 2002 (f) if not treated, suffering severe and abnormal mental, emotional, or physical distress

2003 that:

- 2004 (i) is associated with significant impairment of judgment, reason, or behavior; and
- 2005 (ii) causes a substantial deterioration of the individual's previous ability to function
- 2006 independently.

2007 ~~[(20)]~~ (25) "Treatment" means psychotherapy, medication, including the administration
 2008 of psychotropic medication, or other medical treatments that are generally accepted medical or
 2009 psychosocial interventions for the purpose of restoring the patient to an optimal level of
 2010 functioning in the least restrictive environment.

2011 Section 31. Section **26B-5-302**, which is renumbered from Section 62A-15-601 is
 2012 renumbered and amended to read:

2013 ~~[62A-15-601].~~ **26B-5-302. Utah State Hospital.**

2014 The Utah State Hospital is established and located in Provo, in Utah county. [~~For~~
 2015 ~~purposes of this part it is referred to as the "state hospital."~~]

2016 Section 32. Section **26B-5-303**, which is renumbered from Section 62A-15-603 is
 2017 renumbered and amended to read:

2018 ~~[62A-15-603].~~ **26B-5-303. Administration of state hospital -- Division --**
 2019 **Authority.**

2020 (1) The division shall administer the state hospital as part of the state's comprehensive
 2021 mental health program and, to the fullest extent possible, shall, as the state hospital's
 2022 administrator, coordinate with local mental health authority programs.

2023 (2) The division has the same powers, duties, rights, and responsibilities as, and shall
 2024 perform the same functions that by law are conferred or required to be discharged or performed
 2025 by, the state hospital.

2026 (3) Supervision and administration of security responsibilities for the state hospital is

2027 vested in the division. The executive director shall designate, as special function officers,
2028 individuals with peace officer authority to perform special security functions for the state
2029 hospital.

2030 (4) A director of a mental health facility that houses an involuntary patient or a patient
2031 committed by judicial order may establish secure areas, as provided in Section [76-8-311.1](#),
2032 within the mental health facility for the patient.

2033 Section 33. Section **26B-5-304**, which is renumbered from Section 62A-15-613 is
2034 renumbered and amended to read:

2035 ~~[62A-15-613]~~. **26B-5-304. Appointment of superintendent -- Qualifications**
2036 **-- Powers and responsibilities.**

2037 (1) The director, with the consent of the executive director, shall appoint a
2038 superintendent of the state hospital, who shall hold office at the will of the director.

2039 (2) The superintendent shall have a bachelor's degree from an accredited university or
2040 college, be experienced in administration, and be knowledgeable in matters concerning mental
2041 health.

2042 (3) The superintendent has general responsibility for the buildings, grounds, and
2043 property of the state hospital.

2044 (4) The superintendent shall appoint, with the approval of the director, as many
2045 employees as necessary for the efficient and economical care and management of the state
2046 hospital, and shall fix the employees' compensation and administer personnel functions
2047 according to the standards of the Division of Human Resource Management.

2048 Section 34. Section **26B-5-305**, which is renumbered from Section 62A-15-614 is
2049 renumbered and amended to read:

2050 ~~[62A-15-614]~~. **26B-5-305. Clinical director -- Appointment -- Conditions**
2051 **and procedure -- Duties.**

2052 (1) Whenever the superintendent is not qualified to be the clinical director of the state
2053 hospital under this section, ~~he~~ the superintendent shall, with the approval of the director of

2054 the division, appoint a clinical director who is licensed to practice medicine and surgery in this
2055 state, and who has had at least three years' training in a psychiatric residency program approved
2056 by the American Board of Psychiatry and Neurology, Inc., and who is eligible for certification
2057 by that board.

2058 (2) The salary of the clinical director of the state hospital shall be fixed by the
2059 standards of the Division of Finance, to be paid in the same manner as the salaries of other
2060 employees.

2061 (3) The clinical director shall perform such duties as directed by the superintendent and
2062 prescribed by the rules of the board, and shall prescribe and direct the treatment of patients and
2063 adopt sanitary measures for their welfare.

2064 [(3)] (4) If the superintendent is qualified to be the clinical director, [he] the
2065 superintendent may assume the duties of the clinical director.

2066 Section 35. Section **26B-5-306**, which is renumbered from Section 62A-15-610 is
2067 renumbered and amended to read:

2068 [~~62A-15-610~~]. **26B-5-306. Objectives of state hospital and other facilities --**
2069 **Persons who may be admitted to state hospital.**

2070 (1) The objectives of the state hospital and other mental health facilities shall be to care
2071 for all persons within this state who are subject to the provisions of this chapter; and to furnish
2072 them with the proper attendance, medical treatment, seclusion, rest, restraint, amusement,
2073 occupation, and support that is conducive to their physical and mental well-being.

2074 (2) Only the following persons may be admitted to the state hospital:

2075 (a) persons 18 years [~~of age~~] old and older who meet the criteria necessary for
2076 commitment under this part and who have severe mental disorders for whom no appropriate,
2077 less restrictive treatment alternative is available;

2078 (b) persons under 18 years [~~of age~~] old who meet the criteria necessary for commitment
2079 under [~~Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and~~
2080 ~~Mental Health~~] Part 4, Commitment of Persons under Age 18, and for whom no less restrictive

2081 alternative is available;

2082 (c) persons adjudicated and found to be guilty with a mental illness under Title 77,
2083 Chapter 16a, Commitment and Treatment of Persons with a Mental Illness;

2084 (d) persons adjudicated and found to be not guilty by reason of insanity who are under
2085 a subsequent commitment order because they have a mental illness and are a danger to
2086 themselves or others, under Section [77-16a-302](#);

2087 (e) persons found incompetent to proceed under Section [77-15-6](#);

2088 (f) persons who require an examination under Title 77, Utah Code of Criminal
2089 Procedure; and

2090 (g) persons in the custody of the Department of Corrections, admitted in accordance
2091 with Section [~~62A-15-605.5~~] [26B-5-372](#), giving priority to those persons with severe mental
2092 disorders.

2093 Section 36. Section **26B-5-307**, which is renumbered from Section 62A-15-644 is
2094 renumbered and amended to read:

2095 ~~[62A-15-644]~~. **26B-5-307. Additional powers of director -- Reports and**
2096 **records of division.**

2097 (1) In addition to specific authority granted by other provisions of this part, the director
2098 has authority to prescribe the form of applications, records, reports, and medical certificates
2099 provided for under this part, and the information required to be contained therein, and to adopt
2100 rules that are not inconsistent with the provisions of this part that the director finds to be
2101 reasonably necessary for the proper and efficient commitment of persons with a mental illness.

2102 (2) The division shall require reports relating to the admission, examination, diagnosis,
2103 release, or discharge of any patient and investigate complaints made by any patient or by any
2104 person on behalf of a patient.

2105 (3) A local mental health authority shall keep a record of the names and current status
2106 of all persons involuntarily committed to it under this chapter.

2107 Section 37. Section **26B-5-308**, which is renumbered from Section 62A-15-639 is

2108 renumbered and amended to read:

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

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

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

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

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

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

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

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

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

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

2133 (b) receive visitors; and

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

2135 instruments, make purchases, enter contractual relationships, and vote, unless the patient has
2136 been adjudicated to be incompetent and has not been restored to legal capacity.

2137 (2) When any right of a patient is limited or denied, the nature, extent, and reason for
2138 that limitation or denial shall be entered in the patient's treatment record. Any continuing denial
2139 or limitation shall be reviewed every 30 days and shall also be entered in that treatment record.
2140 Notice of that continuing denial in excess of 30 days shall be sent to the division, the
2141 appropriate local mental health authority, the appropriate local substance abuse authority, or an
2142 approved treatment facility or program, whichever is most applicable to the patient.

2143 (3) Notwithstanding any limitations authorized under this section on the right of
2144 communication, each patient is entitled to communicate by sealed mail with the appropriate
2145 local mental health authority, the appropriate local substance abuse authority, an approved
2146 treatment facility or program, the division, the patient's attorney, and the court, if any, that
2147 ordered the patient's commitment or essential treatment. In no case may the patient be denied a
2148 visit with the legal counsel or clergy of the patient's choice.

2149 (4) Local mental health authorities, local substance abuse authorities, and approved
2150 treatment facilities or programs shall provide reasonable means and arrangements for
2151 informing involuntary patients of their right to release as provided in this chapter, and for
2152 assisting them in making and presenting requests for release.

2153 (5) Mental health facilities, local substance abuse authorities, and approved treatment
2154 facilities or programs shall post a statement, created by the division, describing a patient's
2155 rights under Utah law.

2156 (6) Notwithstanding Section 53B-17-303, an individual committed under this chapter
2157 has the right to determine the final disposition of that individual's body after death.

2158 Section 40. Section 26B-5-311, which is renumbered from Section 62A-15-642 is
2159 renumbered and amended to read:

2160 ~~[62A-15-642].~~ **26B-5-311. Habeas corpus.**

2161 Any individual detained pursuant to this part is entitled to the writ of habeas corpus

2162 upon proper petition by [~~himself~~] themselves or a friend, to the [~~district~~] court in the county in
2163 which [~~he~~] the individual is detained.

2164 Section 41. Section **26B-5-312**, which is renumbered from Section 62A-15-643 is
2165 renumbered and amended to read:

2166 ~~[62A-15-643]~~. **26B-5-312. Confidentiality of information and records --**
2167 **Exceptions -- Penalty.**

2168 (1) All certificates, applications, records, and reports made for the purpose of this part,
2169 including those made on judicial proceedings for involuntary commitment, that directly or
2170 indirectly identify a patient or former patient or an individual whose commitment has been
2171 sought under this part, shall be kept confidential and may not be disclosed by any person except
2172 insofar as:

2173 (a) the individual identified or his legal guardian, if any, or, if a minor, his parent or
2174 legal guardian shall consent;

2175 (b) disclosure may be necessary to carry out the provisions of:

2176 (i) this part; or

2177 (ii) Section [53-10-208.1](#); or

2178 (c) a court may direct, upon its determination that disclosure is necessary for the
2179 conduct of proceedings before it, and that failure to make the disclosure would be contrary to
2180 the public interest.

2181 (2) A person who knowingly or intentionally discloses any information not authorized
2182 by this section is guilty of a class B misdemeanor.

2183 Section 42. Section **26B-5-313**, which is renumbered from Section 62A-15-1002 is
2184 renumbered and amended to read:

2185 ~~[62A-15-1002]~~. **26B-5-313. Declaration for mental health treatment.**

2186 (1) An adult who is not incapable may make a declaration of preferences or
2187 instructions regarding [~~his~~] the adult's mental health treatment. The declaration may include,
2188 but is not limited to, consent to or refusal of specified mental health treatment.

2189 (2) A declaration for mental health treatment shall designate a capable adult to act as
2190 attorney-in-fact to make decisions about mental health treatment for the declarant. An
2191 alternative attorney-in-fact may also be designated to act as attorney-in-fact if the original
2192 designee is unable or unwilling to act at any time. An attorney-in-fact who has accepted the
2193 appointment in writing may make decisions about mental health treatment on behalf of the
2194 declarant only when the declarant is incapable. The decisions shall be consistent with any
2195 instructions or desires the declarant has expressed in the declaration.

2196 (3) A declaration is effective only if it is signed by the declarant and two capable adult
2197 witnesses. The witnesses shall attest that the declarant is known to them, signed the declaration
2198 in their presence, appears to be of sound mind and is not under duress, fraud, or undue
2199 influence. Persons specified in Subsection [~~62A-15-1003~~] 26B-5-314(6) may not act as
2200 witnesses.

2201 (4) A declaration becomes operative when it is delivered to the declarant's physician or
2202 other mental health treatment provider and remains valid until it expires or is revoked by the
2203 declarant. The physician or provider is authorized to act in accordance with an operative
2204 declaration when the declarant has been found to be incapable. The physician or provider shall
2205 continue to obtain the declarant's informed consent to all mental health treatment decisions if
2206 the declarant is capable of providing informed consent or refusal.

2207 (5) (a) An attorney-in-fact does not have authority to make mental health treatment
2208 decisions unless the declarant is incapable.

2209 (b) An attorney-in-fact is not, solely as a result of acting in that capacity, personally
2210 liable for the cost of treatment provided to the declarant.

2211 (c) Except to the extent that a right is limited by a declaration or by any federal law, an
2212 attorney-in-fact has the same right as the declarant to receive information regarding the
2213 proposed mental health treatment and to receive, review, and consent to disclosure of medical
2214 records relating to that treatment. This right of access does not waive any evidentiary privilege.

2215 (d) In exercising authority under the declaration, the attorney-in-fact shall act

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

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

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

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

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

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

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

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

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

2243 (2) A physician or provider may subject a declarant to intrusive treatment in a manner
2244 contrary to the declarant's wishes, as expressed in a declaration for mental health treatment if:

2245 (a) the declarant has been committed to the custody of a local mental health authority
2246 in accordance with [~~Part 6, Utah State Hospital and Other Mental Health Facilities~~] this part; or

2247 (b) in cases of emergency endangering life or health.

2248 (3) A declaration does not limit any authority provided in [~~Part 6, Utah State Hospital
2249 and Other Mental Health Facilities~~] this part, to take a person into custody, or admit or retain a
2250 person in the custody of a local mental health authority.

2251 (4) A declaration may be revoked in whole or in part by the declarant at any time so
2252 long as the declarant is not incapable. That revocation is effective when the declarant
2253 communicates the revocation to the attending physician or other provider. The attending
2254 physician or other provider shall note the revocation as part of the declarant's medical record.

2255 (5) A physician who administers or does not administer mental health treatment
2256 according to and in good faith reliance upon the validity of a declaration is not subject to
2257 criminal prosecution, civil liability, or professional disciplinary action resulting from a
2258 subsequent finding that a declaration is invalid.

2259 (6) None of the following persons may serve as an attorney-in-fact or as witnesses to
2260 the signing of a declaration:

2261 (a) the declarant's attending physician or mental health treatment provider, or an
2262 employee of that physician or provider;

2263 (b) an employee of the division; or

2264 (c) an employee of a local mental health authority or any organization that contracts
2265 with a local mental health authority.

2266 (7) An attorney-in-fact may withdraw by giving notice to the declarant. If a declarant
2267 is incapable, the attorney-in-fact may withdraw by giving notice to the attending physician or
2268 provider. The attending physician shall note the withdrawal as part of the declarant's medical
2269 record.

2270 Section 44. Section **26B-5-315**, which is renumbered from Section 62A-15-1004 is
2271 renumbered and amended to read:

2272 ~~[62A-15-1004]~~. **26B-5-315**. **Declaration for mental health treatment -- Form.**

2273 A declaration for mental health treatment shall be in substantially the following form:

2274 DECLARATION FOR MENTAL HEALTH TREATMENT

2275 I, _____, being an adult of sound mind, willfully and
2276 voluntarily make this declaration for mental health treatment, to be followed if it is determined
2277 by a court or by two physicians that my ability to receive and evaluate information effectively
2278 or to communicate my decisions is impaired to such an extent that I lack the capacity to refuse
2279 or consent to mental health treatment. "Mental health treatment" means convulsive treatment,
2280 treatment with psychoactive medication, and admission to and retention in a mental health
2281 facility for a period up to 17 days.

2282 I understand that I may become incapable of giving or withholding informed consent
2283 for mental health treatment due to the symptoms of a diagnosed mental disorder. These
2284 symptoms may include:

2285 _____
2286 _____
2287 _____

2288 PSYCHOACTIVE MEDICATIONS

2289 If I become incapable of giving or withholding informed consent for mental health
2290 treatment, my wishes regarding psychoactive medications are as follows:

2291 _____ I consent to the administration of the following medications:

2292 _____
2293 _____

2294 in the dosages:

2295 _____ considered appropriate by my attending physician.

2296 _____ approved by _____

2297 _____ as I hereby direct: _____

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

2299 _____

2300 _____

2301 _____

2302 _____

2303 CONVULSIVE TREATMENT

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

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

2307 _____, the number of treatments to be:

2308 _____ determined by my attending physician.

2309 _____ approved by _____

2310 _____ as follows: _____

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

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

2313 _____

2314 _____

2315 _____

2316 _____

2317 ADMISSION TO AND RETENTION IN A MENTAL HEALTH FACILITY

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

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

2322 _____

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

2324 _____ determined by my attending physician.

2325 _____ approved by _____

2326 _____ no longer than _____

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

2328 **ADDITIONAL REFERENCES OR INSTRUCTIONS**

2329 _____

2330 _____

2331 _____

2332 _____

2333 **ATTORNEY-IN-FACT**

2334 I hereby appoint:

2335 NAME _____

2336 ADDRESS _____

2337 TELEPHONE # _____

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

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

2343 NAME _____

2344 ADDRESS _____

2345 TELEPHONE # _____

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

2349 _____

2350 (Signature of Declarant/Date)

2351

AFFIRMATION OF WITNESSES

2352

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.

2360

Witnessed By:

2361

2362

2363

(Signature of Witness/Date)

(Printed Name of Witness)

2364

2365

2366

(Signature of Witness/Date)

(Printed Name of Witness)

2367

ACCEPTANCE OF APPOINTMENT AS ATTORNEY-IN-FACT

2368

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

2375

2376

2377

(Signature of Attorney-in-fact/Date)

(Printed name)

2378 _____

2379 _____

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

2381 NOTICE TO PERSON MAKING A

2382 DECLARATION FOR MENTAL HEALTH TREATMENT

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

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

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

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

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

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

2405 (6) if there is anything in this document that you do not understand, you should ask an
2406 attorney to explain it to you. This declaration is not valid unless it is signed by two qualified
2407 witnesses who are personally known to you and who are present when you sign or
2408 acknowledge your signature.

2409 Section 45. Section **26B-5-316**, which is renumbered from Section 62A-15-607 is
2410 renumbered and amended to read:

2411 ~~[62A-15-607]~~. **26B-5-316. Responsibility for cost of care.**

2412 (1) The division shall estimate and determine, as nearly as possible, the actual expense
2413 per annum of caring for and maintaining a patient in the state hospital, and that amount or
2414 portion of that amount shall be assessed to and paid by the applicant, patient, spouse, parents,
2415 child or children who are of sufficient financial ability to do so, or by the guardian of the
2416 patient who has funds of the patient that may be used for that purpose.

2417 (2) In addition to the expenses described in Subsection (1), parents are responsible for
2418 the support of their child while the child is in the care of the state hospital pursuant to Title
2419 78B, Chapter 12, Utah Child Support Act, and ~~[Title 62A, Chapter 11, Recovery Services]~~
2420 Title 26B, Chapter 9, Recovery Services and Administration of Child Support.

2421 Section 46. Section **26B-5-317**, which is renumbered from Section 62A-15-617 is
2422 renumbered and amended to read:

2423 ~~[62A-15-617]~~. **26B-5-317. Expenses of voluntary patients.**

2424 The expense for the care and treatment of voluntary patients shall be assessed to and
2425 paid in the same manner and to the same extent as is provided for involuntary patients under
2426 the provisions of Section ~~[62A-15-607]~~ 26B-5-316.

2427 Section 47. Section **26B-5-318**, which is renumbered from Section 62A-15-619 is
2428 renumbered and amended to read:

2429 ~~[62A-15-619]~~. **26B-5-318. Liability of estate of person with a mental illness.**

2430 The provisions made in this part for the support of persons with a mental illness at
2431 public expense do not release the estates of those persons from liability for their care and

2432 treatment, and the division is authorized and empowered to collect from the estates of those
2433 persons any sums paid by the state in their behalf.

2434 Section 48. Section **26B-5-319**, which is renumbered from Section 62A-15-604 is
2435 renumbered and amended to read:

2436 ~~[62A-15-604]~~. **26B-5-319**. **Receipt of gift and personal property related to**
2437 **the transfer of persons from other institutions.**

2438 (1) The division may take and hold by gift, devise, or bequest real and personal
2439 property required for the use of the state hospital. With the approval of the governor the
2440 division may convert that property that is not suitable for the state hospital's use into money or
2441 property that is suitable for the state hospital's use.

2442 (2) The state hospital is authorized to receive from any other institution within the
2443 department an individual committed to that institution, when a careful evaluation of the
2444 treatment needs of the individual and of the treatment programs available at the state hospital
2445 indicates that the transfer would be in the interest of that individual.

2446 (3) (a) For the purposes of this Subsection (3), "contributions" means gifts, grants,
2447 devises, and donations.

2448 (b) Notwithstanding the provisions of Subsection [~~62A-1-111~~] 26B-1-202(10), the
2449 state hospital is authorized to receive contributions and deposit the contributions into an
2450 interest-bearing restricted special revenue fund. The state treasurer may invest the fund, and all
2451 interest will remain in the fund.

2452 (c) (i) Single expenditures from the fund in amounts of \$5,000 or less shall be
2453 approved by the superintendent.

2454 (ii) Single expenditures exceeding \$5,000 must be preapproved by the superintendent
2455 and the division director.

2456 (iii) Expenditures described in this Subsection (3) shall be used for the benefit of
2457 patients at the state hospital.

2458 (d) Money and interest in the fund may not be used for items normally paid for by

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

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

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

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

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

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

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

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

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

2480 Any person committed to the state hospital under the provisions of Title 77, Chapter 15,
2481 Inquiry into Sanity of Defendant, or Chapter 16a, Commitment and Treatment of Persons with
2482 a Mental Illness, who escapes or leaves the state hospital without proper legal authority is
2483 guilty of a class A misdemeanor.

2484 Section 52. Section **26B-5-323**, which is renumbered from Section 62A-15-624 is
2485 renumbered and amended to read:

2486 ~~[62A-15-624]~~. **26B-5-323**. **Violations of this part -- Penalty.**

2487 Any person who willfully and knowingly violates any provision of this part, except
2488 where another penalty is provided by law, is guilty of a class C misdemeanor.

2489 Section 53. Section **26B-5-324**, which is renumbered from Section 62A-15-608 is
2490 renumbered and amended to read:

2491 ~~[62A-15-608]~~. **26B-5-324**. **Local mental health authority -- Supervision and**
2492 **treatment of persons with a mental illness.**

2493 (1) Each local mental health authority has responsibility for supervision and treatment
2494 of persons with a mental illness who have been committed to its custody under the provisions
2495 of this part, whether residing in the state hospital or elsewhere.

2496 (2) The division, in administering and supervising the security responsibilities of the
2497 state hospital under its authority provided by Section [~~62A-15-603~~] 26B-5-303, shall enforce
2498 Sections [~~62A-15-620 through 62A-15-624~~] 26B-5-320 through 26B-5-323 and Section
2499 26B-5-342 to the extent they pertain to the state hospital.

2500 Section 54. Section **26B-5-325**, which is renumbered from Section 62A-15-609 is
2501 renumbered and amended to read:

2502 ~~[62A-15-609]~~. **26B-5-325**. **Responsibility for education of school-aged**
2503 **children at the hospital -- Responsibility for noninstructional services.**

2504 (1) The State Board of Education is responsible for the education of school-aged
2505 children committed to the division.

2506 (2) In order to fulfill its responsibility under Subsection (1), the board may contract
2507 with local school districts or other appropriate agencies to provide educational and related
2508 administrative services.

2509 (3) Medical, residential, and other noninstructional services at the state hospital are the
2510 responsibility of the division.

2511 Section 55. Section **26B-5-326**, which is renumbered from Section 62A-15-611 is
2512 renumbered and amended to read:

2513 ~~[62A-15-611]~~. **26B-5-326. Allocation of state hospital beds -- Formula.**

2514 (1) As used in this section:

2515 (a) "Adult beds" means the total number of patient beds located in the adult general
2516 psychiatric unit and the geriatric unit at the state hospital, as determined by the superintendent
2517 of the state hospital.

2518 (b) "Mental health catchment area" means a county or group of counties governed by a
2519 local mental health authority.

2520 (2) (a) The division shall establish by rule a formula to separately allocate to local
2521 mental health authorities adult beds for persons who meet the requirements of Subsection
2522 ~~[62A-15-610]~~ 26B-5-306(2)(a). Beginning on May 10, 2011, and ending on June 30, 2011, 152
2523 beds shall be allocated to local mental health authorities under this section.

2524 (b) The number of beds shall be reviewed and adjusted as necessary:

2525 (i) on July 1, 2011, to restore the number of beds allocated to 212 beds as funding
2526 permits; and

2527 (ii) on July 1, 2011, and every three years after July 1, 2011, according to the state's
2528 population.

2529 (c) All population figures utilized shall reflect the most recent available population
2530 estimates from the Utah Population Committee.

2531 (3) The formula established under Subsection (2) shall provide for allocation of beds
2532 based on:

2533 (a) the percentage of the state's adult population located within a mental health
2534 catchment area; and

2535 (b) a differential to compensate for the additional demand for hospital beds in mental
2536 health catchment areas that are located in urban areas.

2537 (4) A local mental health authority may sell or loan its allocation of beds to another
2538 local mental health authority.

2539 (5) The division shall allocate adult beds at the state hospital to local mental health

2540 authorities for their use in accordance with the formula established under this section. If a local
2541 mental health authority is unable to access a bed allocated to it under the formula established
2542 under Subsection (2), the division shall provide that local mental health authority with funding
2543 equal to the reasonable, average daily cost of an acute care bed purchased by the local mental
2544 health authority.

2545 (6) The board shall periodically review and make changes in the formula established
2546 under Subsection (2) as necessary to accurately reflect changes in population.

2547 Section 56. Section **26B-5-327**, which is renumbered from Section 62A-15-612 is
2548 renumbered and amended to read:

2549 ~~[62A-15-612]~~. **26B-5-327. Allocation of pediatric state hospital beds --**

2550 **Formula.**

2551 (1) As used in this section:

2552 (a) "Mental health catchment area" means a county or group of counties governed by a
2553 local mental health authority.

2554 (b) "Pediatric beds" means the total number of patient beds located in the children's
2555 unit and the youth units at the state hospital, as determined by the superintendent of the state
2556 hospital.

2557 (2) On July 1, 1996, 72 pediatric beds shall be allocated to local mental health
2558 authorities under this section. The division shall review and adjust the number of pediatric beds
2559 as necessary every three years according to the state's population of persons under 18 years [~~of~~
2560 ~~age~~] old. All population figures utilized shall reflect the most recent available population
2561 estimates from the Governor's Office of Planning and Budget.

2562 (3) The allocation of beds shall be based on the percentage of the state's population of
2563 persons under [~~the age of~~] 18 years old located within a mental health catchment area. Each
2564 community mental health center shall be allocated at least one bed.

2565 (4) A local mental health authority may sell or loan its allocation of beds to another
2566 local mental health authority.

2567 (5) The division shall allocate 72 pediatric beds at the state hospital to local mental
2568 health authorities for their use in accordance with the formula established under this section. If
2569 a local mental health authority is unable to access a bed allocated to it under that formula, the
2570 division shall provide that local mental health authority with funding equal to the reasonable,
2571 average daily cost of an acute care bed purchased by the local mental health authority.

2572 Section 57. Section **26B-5-330**, which is renumbered from Section 62A-15-628 is
2573 renumbered and amended to read:

2574 ~~[62A-15-628]~~. **26B-5-330. Involuntary commitment -- Procedures.**

2575 (1) An adult may not be involuntarily committed to the custody of a local mental health
2576 authority except under the following provisions:

2577 (a) emergency procedures for temporary commitment upon medical or designated
2578 examiner certification, as provided in Subsection ~~[62A-15-629]~~ 26B-5-331(1)(a);

2579 (b) emergency procedures for temporary commitment without endorsement of medical
2580 or designated examiner certification, as provided in Subsection ~~[62A-15-629]~~ 26B-5-331(1)(b);
2581 or

2582 (c) commitment on court order, as provided in Section ~~[62A-15-631]~~ 26B-5-332.

2583 (2) A person under 18 years ~~[of age]~~ old may be committed to the physical custody of a
2584 local mental health authority only in accordance with the provisions of ~~[Part 7, Commitment of~~
2585 ~~Persons Under Age 18 to Division of Substance Abuse and Mental Health]~~ Part 4,
2586 Commitment of Persons Under Age 18.

2587 Section 58. Section **26B-5-331**, which is renumbered from Section 62A-15-629 is
2588 renumbered and amended to read:

2589 ~~[62A-15-629]~~. **26B-5-331. Temporary commitment -- Requirements and**
2590 **procedures -- Rights.**

2591 (1) An adult shall be temporarily, involuntarily committed to a local mental health
2592 authority upon:

2593 (a) a written application that:

2594 (i) is completed by a responsible individual who has reason to know, stating a belief
2595 that the adult, due to mental illness, is likely to pose substantial danger to self or others if not
2596 restrained and stating the personal knowledge of the adult's condition or circumstances that
2597 lead to the individual's belief; and

2598 (ii) includes a certification by a licensed physician, licensed physician assistant,
2599 licensed nurse practitioner, or designated examiner stating that the physician, physician
2600 assistant, nurse practitioner, or designated examiner has examined the adult within a three-day
2601 period immediately preceding the certification, and that the physician, physician assistant,
2602 nurse practitioner, or designated examiner is of the opinion that, due to mental illness, the adult
2603 poses a substantial danger to self or others; or

2604 (b) a peace officer or a mental health officer:

2605 (i) observing an adult's conduct that gives the peace officer or mental health officer
2606 probable cause to believe that:

2607 (A) the adult has a mental illness; and

2608 (B) because of the adult's mental illness and conduct, the adult poses a substantial
2609 danger to self or others; and

2610 (ii) completing a temporary commitment application that:

2611 (A) is on a form prescribed by the division;

2612 (B) states the peace officer's or mental health officer's belief that the adult poses a
2613 substantial danger to self or others;

2614 (C) states the specific nature of the danger;

2615 (D) provides a summary of the observations upon which the statement of danger is
2616 based; and

2617 (E) provides a statement of the facts that called the adult to the peace officer's or
2618 mental health officer's attention.

2619 (2) If at any time a patient committed under this section no longer meets the
2620 commitment criteria described in Subsection (1), the local mental health authority or the local

2621 mental health authority's designee shall document the change and release the patient.

2622 (3) (a) A patient committed under this section may be held for a maximum of 24 hours
2623 after commitment, excluding Saturdays, Sundays, and legal holidays, unless:

2624 (i) as described in Section [~~62A-15-631~~] [26B-5-332](#), an application for involuntary
2625 commitment is commenced, which may be accompanied by an order of detention described in
2626 Subsection [~~62A-15-631~~] [26B-5-332](#)(4);

2627 (ii) the patient makes a voluntary application for admission; or

2628 (iii) before expiration of the 24 hour period, a licensed physician, licensed physician
2629 assistant, licensed nurse practitioner, or designated examiner examines the patient and certifies
2630 in writing that:

2631 (A) the patient, due to mental illness, poses a substantial danger to self or others;

2632 (B) additional time is necessary for evaluation and treatment of the patient's mental
2633 illness; and

2634 (C) there is no appropriate less-restrictive alternative to commitment to evaluate and
2635 treat the patient's mental illness.

2636 (b) A patient described in Subsection (3)(a)(iii) may be held for a maximum of 48
2637 hours after the 24 hour period described in Subsection (3)(a) expires, excluding Saturdays,
2638 Sundays, and legal holidays.

2639 (c) Subsection (3)(a)(iii) applies to an adult patient.

2640 (4) Upon a written application described in Subsection (1)(a) or the observation and
2641 belief described in Subsection (1)(b)(i), the adult shall be:

2642 (a) taken into a peace officer's protective custody, by reasonable means, if necessary for
2643 public safety; and

2644 (b) transported for temporary commitment to a facility designated by the local mental
2645 health authority, by means of:

2646 (i) an ambulance, if the adult meets any of the criteria described in Section [~~26-8a-305~~]
2647 [26B-4-119](#);

2648 (ii) an ambulance, if a peace officer is not necessary for public safety, and
2649 transportation arrangements are made by a physician, physician assistant, nurse practitioner,
2650 designated examiner, or mental health officer;

2651 (iii) the city, town, or municipal law enforcement authority with jurisdiction over the
2652 location where the adult is present, if the adult is not transported by ambulance;

2653 (iv) the county sheriff, if the designated facility is outside of the jurisdiction of the law
2654 enforcement authority described in Subsection (4)(b)(iii) and the adult is not transported by
2655 ambulance; or

2656 (v) nonemergency secured behavioral health transport as that term is defined in Section
2657 ~~[26-8a-102]~~ [26B-4-101](#).

2658 (5) Notwithstanding Subsection (4):

2659 (a) an individual shall be transported by ambulance to an appropriate medical facility
2660 for treatment if the individual requires physical medical attention;

2661 (b) if an officer has probable cause to believe, based on the officer's experience and
2662 de-escalation training that taking an individual into protective custody or transporting an
2663 individual for temporary commitment would increase the risk of substantial danger to the
2664 individual or others, a peace officer may exercise discretion to not take the individual into
2665 custody or transport the individual, as permitted by policies and procedures established by the
2666 officer's law enforcement agency and any applicable federal or state statute, or case law; and

2667 (c) if an officer exercises discretion under Subsection (4)(b) to not take an individual
2668 into protective custody or transport an individual, the officer shall document in the officer's
2669 report the details and circumstances that led to the officer's decision.

2670 (6) (a) The local mental health authority shall inform an adult patient committed under
2671 this section of the reason for commitment.

2672 (b) An adult patient committed under this section has the right to:

2673 (i) within three hours after arrival at the local mental health authority, make a
2674 telephone call, at the expense of the local mental health authority, to an individual of the

2675 patient's choice; and

2676 (ii) see and communicate with an attorney.

2677 (7) (a) Title 63G, Chapter 7, Governmental Immunity Act of Utah, applies to this
2678 section.

2679 (b) This section does not create a special duty of care.

2680 Section 59. Section **26B-5-332**, which is renumbered from Section 62A-15-631 is
2681 renumbered and amended to read:

2682 ~~[62A-15-631]~~. **26B-5-332. Involuntary commitment under court order --**
2683 **Examination -- Hearing -- Power of court -- Findings required -- Costs.**

2684 (1) A responsible individual who has credible knowledge of an adult's mental illness
2685 and the condition or circumstances that have led to the adult's need to be involuntarily
2686 committed may initiate an involuntary commitment court proceeding by filing, in the [district]
2687 court in the county where the proposed patient resides or is found, a written application that
2688 includes:

2689 (a) unless the court finds that the information is not reasonably available, the proposed
2690 patient's:

2691 (i) name;

2692 (ii) date of birth; and

2693 (iii) social security number;

2694 (b) (i) a certificate of a licensed physician or a designated examiner stating that within
2695 the seven-day period immediately preceding the certification, the physician or designated
2696 examiner examined the proposed patient and is of the opinion that the proposed patient has a
2697 mental illness and should be involuntarily committed; or

2698 (ii) a written statement by the applicant that:

2699 (A) the proposed patient has been requested to, but has refused to, submit to an
2700 examination of mental condition by a licensed physician or designated examiner;

2701 (B) is sworn to under oath; and

2702 (C) states the facts upon which the application is based; and
2703 (c) a statement whether the proposed patient has previously been under an assisted
2704 outpatient treatment order, if known by the applicant.

2705 (2) Before issuing a judicial order, the court:
2706 (a) shall require the applicant to consult with the appropriate local mental health
2707 authority at or before the hearing; and
2708 (b) may direct a mental health professional from the local mental health authority to
2709 interview the applicant and the proposed patient to determine the existing facts and report the
2710 existing facts to the court.

2711 (3) The court may issue an order, directed to a mental health officer or peace officer, to
2712 immediately place a proposed patient in the custody of a local mental health authority or in a
2713 temporary emergency facility, as described in Section [~~62A-15-634~~] 26B-5-334, to be detained
2714 for the purpose of examination if:
2715 (a) the court finds from the application, any other statements under oath, or any reports
2716 from a mental health professional that there is a reasonable basis to believe that the proposed
2717 patient has a mental illness that poses a danger to self or others and requires involuntary
2718 commitment pending examination and hearing; or
2719 (b) the proposed patient refuses to submit to an interview with a mental health
2720 professional as directed by the court or to go to a treatment facility voluntarily.

2721 (4) (a) The court shall provide notice of commencement of proceedings for involuntary
2722 commitment, setting forth the allegations of the application and any reported facts, together
2723 with a copy of any official order of detention, to a proposed patient before, or upon, placement
2724 of the proposed patient in the custody of a local mental health authority or, with respect to any
2725 proposed patient presently in the custody of a local mental health authority whose status is
2726 being changed from voluntary to involuntary, upon the filing of an application for that purpose
2727 with the court.
2728 (b) The place of detention shall maintain a copy of the order of detention.

2729 (5) (a) The court shall provide notice of commencement of proceedings for involuntary
2730 commitment as soon as practicable to the applicant, any legal guardian, any immediate adult
2731 family members, legal counsel for the parties involved, the local mental health authority or the
2732 local mental health authority's designee, and any other persons whom the proposed patient or
2733 the court designates.

2734 (b) Except as provided in Subsection (5)(c), the notice under Subsection (5)(a) shall
2735 advise the persons that a hearing may be held within the time provided by law.

2736 (c) If the proposed patient refuses to permit release of information necessary for
2737 provisions of notice under this subsection, the court shall determine the extent of notice.

2738 (6) Proceedings for commitment of an individual under 18 years old to a local mental
2739 health authority may be commenced in accordance with [~~Part 7, Commitment of Persons Under~~
2740 ~~Age 18 to Division of Substance Abuse and Mental Health]~~ Part 4, Commitment of Persons
2741 Under Age 18.

2742 (7) (a) The [~~district]~~ court may, in the [~~district]~~ court's discretion, transfer the case to
2743 any other district court within this state, if the transfer will not be adverse to the interest of the
2744 proposed patient.

2745 (b) If a case is transferred under Subsection (7)(a), the parties to the case may be
2746 transferred and the local mental health authority may be substituted in accordance with Utah
2747 Rules of Civil Procedure, Rule 25.

2748 (8) Within 24 hours, excluding Saturdays, Sundays, and legal holidays, of the issuance
2749 of a judicial order, or after commitment of a proposed patient to a local mental health authority
2750 or the local mental health authority's designee under court order for detention or examination,
2751 the court shall appoint two designated examiners:

2752 (a) who did not sign the civil commitment application nor the civil commitment
2753 certification under Subsection (1);

2754 (b) one of whom is a licensed physician; and

2755 (c) one of whom may be designated by the proposed patient or the proposed patient's

2756 counsel, if that designated examiner is reasonably available.

2757 (9) The court shall schedule a hearing to be held within 10 calendar days after the day
2758 on which the designated examiners are appointed.

2759 (10) (a) The designated examiners shall:

2760 (i) conduct the examinations separately;

2761 (ii) conduct the examinations at the home of the proposed patient, at a hospital or other
2762 medical facility, or at any other suitable place, including through telehealth, that is not likely to
2763 have a harmful effect on the proposed patient's health;

2764 (iii) inform the proposed patient, if not represented by an attorney:

2765 (A) that the proposed patient does not have to say anything;

2766 (B) of the nature and reasons for the examination;

2767 (C) that the examination was ordered by the court;

2768 (D) that any information volunteered could form part of the basis for the proposed
2769 patient's involuntary commitment;

2770 (E) that findings resulting from the examination will be made available to the court;

2771 and

2772 (F) that the designated examiner may, under court order, obtain the proposed patient's
2773 mental health records; and

2774 (iv) within 24 hours of examining the proposed patient, report to the court, orally or in
2775 writing, whether the proposed patient is mentally ill, has agreed to voluntary commitment, as
2776 described in Section [~~62A-15-625~~] [26B-5-360](#), or has acceptable programs available to the
2777 proposed patient without court proceedings.

2778 (b) If a designated examiner reports orally under Subsection (10)(a), the designated
2779 examiner shall immediately send a written report to the clerk of the court.

2780 (11) If a designated examiner is unable to complete an examination on the first attempt
2781 because the proposed patient refuses to submit to the examination, the court shall fix a
2782 reasonable compensation to be paid to the examiner.

2783 (12) If the local mental health authority, the local mental health authority's designee, or
2784 a medical examiner determines before the court hearing that the conditions justifying the
2785 findings leading to a commitment hearing no longer exist, the local mental health authority, the
2786 local mental health authority's designee, or the medical examiner shall immediately report the
2787 determination to the court.

2788 (13) The court may terminate the proceedings and dismiss the application at any time,
2789 including before the hearing, if the designated examiners or the local mental health authority or
2790 the local mental health authority's designee informs the court that the proposed patient:

2791 (a) does not meet the criteria in Subsection (16);

2792 (b) has agreed to voluntary commitment, as described in Section [~~62A-15-625~~]
2793 [26B-5-360](#);

2794 (c) has acceptable options for treatment programs that are available without court
2795 proceedings; or

2796 (d) meets the criteria for assisted outpatient treatment described in Section
2797 [~~62A-15-630.5~~] [26B-5-351](#).

2798 (14) (a) Before the hearing, the court shall provide the proposed patient an opportunity
2799 to be represented by counsel, and if neither the proposed patient nor others provide counsel, the
2800 court shall appoint counsel and allow counsel sufficient time to consult with the proposed
2801 patient before the hearing.

2802 (b) In the case of an indigent proposed patient, the county in which the proposed
2803 patient resides or is found shall make payment of reasonable attorney fees for counsel, as
2804 determined by the court.

2805 (15) (a) (i) The court shall afford the proposed patient, the applicant, and any other
2806 person to whom notice is required to be given an opportunity to appear at the hearing, to
2807 testify, and to present and cross-examine witnesses.

2808 (ii) The court may, in the court's discretion, receive the testimony of any other person.

2809 (iii) The court may allow a waiver of the proposed patient's right to appear for good

2810 cause, which cause shall be set forth in the record, or an informed waiver by the patient, which
2811 shall be included in the record.

2812 (b) The court is authorized to exclude any person not necessary for the conduct of the
2813 proceedings and may, upon motion of counsel, require the testimony of each designated
2814 examiner to be given out of the presence of any other designated examiners.

2815 (c) The court shall conduct the hearing in as informal a manner as may be consistent
2816 with orderly procedure, and in a physical setting that is not likely to have a harmful effect on
2817 the mental health of the proposed patient, while preserving the due process rights of the
2818 proposed patient.

2819 (d) The court shall consider any relevant historical and material information that is
2820 offered, subject to the rules of evidence, including reliable hearsay under [~~Rule 1102,~~] Utah
2821 Rules of Evidence, Rule 1102.

2822 (e) (i) A local mental health authority or the local mental health authority's designee or
2823 the physician in charge of the proposed patient's care shall, at the time of the hearing, provide
2824 the court with the following information:

2825 (A) the detention order;

2826 (B) admission notes;

2827 (C) the diagnosis;

2828 (D) any doctors' orders;

2829 (E) progress notes;

2830 (F) nursing notes;

2831 (G) medication records pertaining to the current commitment; and

2832 (H) whether the proposed patient has previously been civilly committed or under an
2833 order for assisted outpatient treatment.

2834 (ii) The information described in Subsection (15)(e)(i) shall also be supplied to the
2835 proposed patient's counsel at the time of the hearing, and at any time prior to the hearing upon
2836 request.

2837 (16) (a) The court shall order commitment of an adult proposed patient to a local
2838 mental health authority if, upon completion of the hearing and consideration of the information
2839 presented, the court finds by clear and convincing evidence that:

2840 (i) the proposed patient has a mental illness;

2841 (ii) because of the proposed patient's mental illness the proposed patient poses a
2842 substantial danger to self or others;

2843 (iii) the proposed patient lacks the ability to engage in a rational decision-making
2844 process regarding the acceptance of mental treatment as demonstrated by evidence of inability
2845 to weigh the possible risks of accepting or rejecting treatment;

2846 (iv) there is no appropriate less-restrictive alternative to a court order of commitment;

2847 and

2848 (v) the local mental health authority can provide the proposed patient with treatment
2849 that is adequate and appropriate to the proposed patient's conditions and needs.

2850 (b) (i) If, at the hearing, the court determines that the proposed patient has a mental
2851 illness but does not meet the other criteria described in Subsection (16)(a), the court may
2852 consider whether the proposed patient meets the criteria for assisted outpatient treatment under
2853 Section [~~62A-15-630.5~~] 26B-5-351.

2854 (ii) The court may order the proposed patient to receive assisted outpatient treatment in
2855 accordance with Section [~~62A-15-630.5~~] 26B-5-351 if, at the hearing, the court finds the
2856 proposed patient meets the criteria for assisted outpatient treatment under Section
2857 [~~62A-15-630.5~~] 26B-5-351.

2858 (iii) If the court determines that neither the criteria for commitment under Subsection
2859 (16)(a) nor the criteria for assisted outpatient treatment under Section [~~62A-15-630.5~~]
2860 26B-5-351 are met, the court shall dismiss the proceedings after the hearing.

2861 (17) (a) (i) The order of commitment shall designate the period for which the patient
2862 shall be treated.

2863 (ii) If the patient is not under an order of commitment at the time of the hearing, the

2864 patient's treatment period may not exceed six months without a review hearing.

2865 (iii) Upon a review hearing, to be commenced before the expiration of the previous
2866 order of commitment, an order for commitment may be for an indeterminate period, if the court
2867 finds by clear and convincing evidence that the criteria described in Subsection (16) will last
2868 for an indeterminate period.

2869 (b) (i) The court shall maintain a current list of all patients under the court's order of
2870 commitment and review the list to determine those patients who have been under an order of
2871 commitment for the court designated period.

2872 (ii) At least two weeks before the expiration of the designated period of any order of
2873 commitment still in effect, the court that entered the original order of commitment shall inform
2874 the appropriate local mental health authority or the local mental health authority's designee of
2875 the expiration.

2876 (iii) Upon receipt of the information described in Subsection (17)(b)(ii), the local
2877 mental health authority or the local mental health authority's designee shall immediately
2878 reexamine the reasons upon which the order of commitment was based.

2879 (iv) If, after reexamination under Subsection (17)(b)(iii), the local mental health
2880 authority or the local mental health authority's designee determines that the conditions
2881 justifying commitment no longer exist, the local mental health authority or the local mental
2882 health authority's designee shall discharge the patient from involuntary commitment and
2883 immediately report the discharge to the court.

2884 (v) If, after reexamination under Subsection (17)(b)(iii), the local mental health
2885 authority or the local mental health authority's designee determines that the conditions
2886 justifying commitment continue to exist, the court shall immediately appoint two designated
2887 examiners and proceed under Subsections (8) through (14).

2888 (c) (i) The local mental health authority or the local mental health authority's designee
2889 responsible for the care of a patient under an order of commitment for an indeterminate period
2890 shall, at six-month intervals, reexamine the reasons upon which the order of indeterminate

2891 commitment was based.

2892 (ii) If the local mental health authority or the local mental health authority's designee
2893 determines that the conditions justifying commitment no longer exist, the local mental health
2894 authority or the local mental health authority's designee shall discharge the patient from the
2895 local mental health authority's or the local mental health authority designee's custody and
2896 immediately report the discharge to the court.

2897 (iii) If the local mental health authority or the local mental health authority's designee
2898 determines that the conditions justifying commitment continue to exist, the local mental health
2899 authority or the local mental health authority's designee shall send a written report of the
2900 findings to the court.

2901 (iv) A patient and the patient's counsel of record shall be notified in writing that the
2902 involuntary commitment will be continued under Subsection (17)(c)(iii), the reasons for the
2903 decision to continue, and that the patient has the right to a review hearing by making a request
2904 to the court.

2905 (v) Upon receiving a request under Subsection (17)(c)(iv), the court shall immediately
2906 appoint two designated examiners and proceed under Subsections (8) through (14).

2907 (18) (a) Any patient committed as a result of an original hearing or a patient's legally
2908 designated representative who is aggrieved by the findings, conclusions, and order of the court
2909 entered in the original hearing has the right to a new hearing upon a petition filed with the court
2910 within 30 days after the day on which the court order is entered.

2911 (b) The petition shall allege error or mistake in the findings, in which case the court
2912 shall appoint three impartial designated examiners previously unrelated to the case to conduct
2913 an additional examination of the patient.

2914 (c) Except as provided in Subsection (18)(b), the court shall, in all other respects,
2915 conduct the new hearing in the manner otherwise permitted.

2916 (19) The county in which the proposed patient resides or is found shall pay the costs of
2917 all proceedings under this section.

2918 Section 60. Section **26B-5-333**, which is renumbered from Section 62A-15-632 is
2919 renumbered and amended to read:

2920 ~~[62A-15-632]~~. **26B-5-333**. **Circumstances under which conditions justifying**
2921 **initial involuntary commitment shall be considered to continue to exist.**

2922 (1) When an individual is involuntarily committed to the custody of a local mental
2923 health authority under Subsection [~~62A-15-631~~] 26B-5-332(16), the conditions justifying
2924 commitment under that Subsection shall be considered to continue to exist for purposes of
2925 continued treatment under Subsection [~~62A-15-631~~] 26B-5-332(17) or conditional release
2926 under Section [~~62A-15-637~~] 26B-5-337 if the court finds that:

2927 (a) the patient is still mentally ill;

2928 (b) there is no appropriate less restrictive alternative to a court order of involuntary
2929 commitment; and

2930 (c) absent an order of involuntary commitment, the patient will likely pose a substantial
2931 danger to self or others.

2932 (2) When an individual has been ordered to assisted outpatient treatment under
2933 Subsection [~~62A-15-630.5~~] 26B-5-351(14), the individual may be involuntarily committed to
2934 the custody of a local mental health authority under Subsection [~~62A-15-631~~] 26B-5-332(16)
2935 for purposes of continued treatment under Subsection [~~62A-15-631~~] 26B-5-332(17) or
2936 conditional release under Section [~~62A-15-637~~] 26B-5-337, if the court finds that:

2937 (a) the patient is still mentally ill;

2938 (b) there is no appropriate less-restrictive alternative to a court order of involuntary
2939 commitment; and

2940 (c) based upon the patient's conduct and statements during the preceding six months, or
2941 the patient's failure to comply with treatment recommendations during the preceding six
2942 months, the court finds that absent an order of involuntary commitment, the patient is likely to
2943 pose a substantial danger to self or others.

2944 (3) A patient whose treatment is continued or who is conditionally released under the

2945 terms of this section shall be maintained in the least restrictive environment available that can
2946 provide the patient with treatment that is adequate and appropriate.

2947 Section 61. Section **26B-5-334**, which is renumbered from Section 62A-15-634 is
2948 renumbered and amended to read:

2949 ~~[62A-15-634]~~. **26B-5-334. Detention pending placement in custody.**

2950 Pending commitment to a local mental health authority, a patient taken into custody or
2951 ordered to be committed pursuant to this part may be detained in the patient's home, a licensed
2952 foster home, or any other suitable facility under reasonable conditions prescribed by the local
2953 mental health authority. Except in an extreme emergency, the patient may not be detained in a
2954 nonmedical facility used for the detention of individuals charged with or convicted of criminal
2955 offenses. The local mental health authority shall take reasonable measures, including provision
2956 of medical care, as may be necessary to assure proper care of an individual temporarily
2957 detained pursuant to this section.

2958 Section 62. Section **26B-5-335**, which is renumbered from Section 62A-15-635 is
2959 renumbered and amended to read:

2960 ~~[62A-15-635]~~. **26B-5-335. Notice of commitment.**

2961 Whenever a patient has been temporarily, involuntarily committed to a local mental
2962 health authority under Section ~~[62A-15-629]~~ 26B-5-331 on the application of an individual
2963 other than the patient's legal guardian, spouse, or next of kin, the local mental health authority
2964 or a designee of the local mental health authority shall immediately notify the patient's legal
2965 guardian, spouse, or next of kin, if known.

2966 Section 63. Section **26B-5-336**, which is renumbered from Section 62A-15-636 is
2967 renumbered and amended to read:

2968 ~~[62A-15-636]~~. **26B-5-336. Periodic review -- Discharge.**

2969 Each local mental health authority or its designee shall, as frequently as practicable,
2970 examine or cause to be examined every person who has been committed to it. Whenever the
2971 local mental health authority or its designee determines that the conditions justifying

2972 involuntary commitment no longer exist, it shall discharge the patient. If the patient has been
2973 committed through judicial proceedings, a report describing that determination shall be sent to
2974 the clerk of the court where the proceedings were held.

2975 Section 64. Section **26B-5-337**, which is renumbered from Section 62A-15-637 is
2976 renumbered and amended to read:

2977 ~~[62A-15-637]~~. **26B-5-337. Release of patient to receive other treatment --**
2978 **Placement in more restrictive environment -- Procedures.**

2979 (1) A local mental health authority or a designee of a local mental health authority may
2980 conditionally release an improved patient to less restrictive treatment when:

- 2981 (a) the authority specifies the less restrictive treatment; and
- 2982 (b) the patient agrees in writing to the less restrictive treatment.

2983 (2) (a) Whenever a local mental health authority or a designee of a local mental health
2984 authority determines that the conditions justifying commitment no longer exist, the local
2985 mental health authority or the designee shall discharge the patient.

2986 (b) If the discharged patient has been committed through judicial proceedings, the local
2987 mental health authority or the designee shall prepare a report describing the determination and
2988 shall send the report to the clerk of the court where the proceedings were held.

2989 (3) (a) A local mental health authority or a designee of a local mental health authority
2990 is authorized to issue an order for the immediate placement of a current patient into a more
2991 restrictive environment, if:

2992 (i) the local mental health authority or a designee of a local mental health authority has
2993 reason to believe that the patient's current environment is aggravating the patient's mental
2994 illness; or

2995 (ii) the patient has failed to comply with the specified treatment plan to which the
2996 patient agreed in writing.

2997 (b) An order for a more restrictive environment shall:

2998 (i) state the reasons for the order;

2999 (ii) authorize any peace officer to take the patient into physical custody and transport
3000 the patient to a facility designated by the local mental health authority;

3001 (iii) inform the patient of the right to a hearing, the right to appointed counsel, and the
3002 other procedures described in Subsection [~~62A-15-631~~] 26B-5-332(14); and

3003 (iv) prior to or upon admission to the more restrictive environment, or upon imposition
3004 of additional or different requirements as conditions for continued conditional release from
3005 inpatient care, copies of the order shall be delivered to:

3006 (A) the patient;

3007 (B) the person in whose care the patient is placed;

3008 (C) the patient's counsel of record; and

3009 (D) the court that entered the original order of commitment.

3010 (c) If the patient was in a less restrictive environment for more than 30 days and is
3011 aggrieved by the change to a more restrictive environment, the patient or the patient's
3012 representative may request a hearing within 30 days of the change. Upon receiving the request,
3013 the court shall immediately appoint two designated examiners and proceed pursuant to Section
3014 [~~62A-15-631~~] 26B-5-332, with the exception of Subsection [~~62A-15-631~~] 26B-5-332(16),
3015 unless, by the time set for the hearing, the patient is returned to the less restrictive environment
3016 or the patient withdraws the request for a hearing, in writing.

3017 (d) The court shall:

3018 (i) make findings regarding whether the conditions described in Subsections (3)(a) and
3019 (b) were met and whether the patient is in the least restrictive environment that is appropriate
3020 for the patient's needs; and

3021 (ii) designate, by order, the environment for the patient's care and the period for which
3022 the patient shall be treated, which may not extend beyond expiration of the original order of
3023 commitment.

3024 (4) Nothing contained in this section prevents a local mental health authority or its
3025 designee, pursuant to Section [~~62A-15-636~~] 26B-5-336, from discharging a patient from

3026 commitment or from placing a patient in an environment that is less restrictive than that
3027 ordered by the court.

3028 Section 65. Section **26B-5-338**, which is renumbered from Section 62A-15-638 is
3029 renumbered and amended to read:

3030 ~~[62A-15-638].~~ **26B-5-338. Reexamination of court order for commitment --**
3031 **Procedures -- Costs.**

3032 (1) Any patient committed pursuant to Section [~~62A-15-631~~] [26B-5-332](#) is entitled to a
3033 reexamination of the order for commitment on the patient's own petition, or on that of the legal
3034 guardian, parent, spouse, relative, or friend, to the [~~district~~] court of the county in which the
3035 patient resides or is detained.

3036 (2) Upon receipt of the petition, the court shall conduct or cause to be conducted by a
3037 mental health commissioner proceedings in accordance with Section [~~62A-15-631~~] [26B-5-332](#),
3038 except that those proceedings shall not be required to be conducted if the petition is filed
3039 sooner than six months after the issuance of the order of commitment or the filing of a previous
3040 petition under this section, provided that the court may hold a hearing within a shorter period of
3041 time if good cause appears. The costs of proceedings for such judicial determination shall be
3042 paid by the county in which the patient resided or was found prior to commitment, upon
3043 certification, by the clerk of the [~~district~~] court in the county where the proceedings are held, to
3044 the county legislative body that those proceedings were held and the costs incurred.

3045 Section 66. Section **26B-5-339**, which is renumbered from Section 62A-15-618 is
3046 renumbered and amended to read:

3047 ~~[62A-15-618].~~ **26B-5-339. Designated examiners.**

3048 (1) A designated examiner shall consider a proposed patient's mental health history
3049 when evaluating a proposed patient.

3050 (2) A designated examiner may request a court order to obtain a proposed patient's
3051 mental health records if a proposed patient refuses to share this information with the designated
3052 examiner.

3053 (3) A designated examiner, when evaluating a proposed patient for civil commitment,
3054 shall consider whether:

3055 (a) a proposed patient has been under a court order for assisted outpatient treatment;

3056 (b) the proposed patient complied with the terms of the assisted outpatient treatment
3057 order, if any; and

3058 (c) whether assisted outpatient treatment is sufficient to meet the proposed patient's
3059 needs.

3060 (4) A designated examiner shall be allowed a reasonable fee by the county legislative
3061 body of the county in which the proposed patient resides or is found, unless the designated
3062 examiner is otherwise paid.

3063 Section 67. Section **26B-5-340**, which is renumbered from Section 62A-15-630 is
3064 renumbered and amended to read:

3065 ~~[62A-15-630].~~ **26B-5-340. Mental health commissioners.**

3066 The court may appoint a mental health commissioner to assist in conducting
3067 commitment proceedings in accordance with Section [78A-5-107](#).

3068 Section 68. Section **26B-5-341**, which is renumbered from Section 62A-15-626 is
3069 renumbered and amended to read:

3070 ~~[62A-15-626].~~ **26B-5-341. Release from commitment.**

3071 (1) (a) Subject to Subsection (1)(b), a local mental health authority or the mental health
3072 authority's designee shall release from commitment any individual who, in the opinion of the
3073 local mental health authority or the mental health authority's designee, has recovered or no
3074 longer meets the criteria specified in Section [~~62A-15-631~~] [26B-5-332](#).

3075 (b) A local mental health authority's inability to locate a committed individual may not
3076 be the basis for the individual's release, unless the court orders the release of the individual
3077 after a hearing.

3078 (2) A local mental health authority or the mental health authority's designee may
3079 release from commitment any patient whose commitment is determined to be no longer

3080 advisable except as provided by Section [~~62A-15-705~~] 26B-5-405, but an effort shall be made
3081 to assure that any further supportive services required to meet the patient's needs upon release
3082 will be provided.

3083 (3) When a patient has been committed to a local mental health authority by judicial
3084 process, the local mental health authority shall follow the procedures described in Sections
3085 [~~62A-15-636 and 62A-15-637~~] 26B-5-336 and 26B-5-337.

3086 Section 69. Section **26B-5-342**, which is renumbered from Section 62A-15-620 is
3087 renumbered and amended to read:

3088 ~~[62A-15-620].~~ **26B-5-342. Attempt to commit person contrary to**
3089 **requirements -- Penalty.**

3090 Any person who attempts to place another person in the custody of a local mental health
3091 authority contrary to the provisions of this part is guilty of a class B misdemeanor, in addition
3092 to liability in an action for damages, or subject to other criminal charges.

3093 Section 70. Section **26B-5-350**, which is renumbered from Section 62A-15-630.4 is
3094 renumbered and amended to read:

3095 ~~[62A-15-630.4].~~ **26B-5-350. Assisted outpatient treatment services.**

3096 (1) The local mental health authority or [its] the local mental health authority's
3097 designee shall provide assisted outpatient treatment, which shall include:

- 3098 (a) case management; and
3099 (b) an individualized treatment plan, created with input from the proposed patient
3100 when possible.

3101 (2) A court order for assisted outpatient treatment does not create independent
3102 authority to forcibly medicate a patient.

3103 Section 71. Section **26B-5-351**, which is renumbered from Section 62A-15-630.5 is
3104 renumbered and amended to read:

3105 ~~[62A-15-630.5].~~ **26B-5-351. Assisted outpatient treatment proceedings.**

3106 (1) A responsible individual who has credible knowledge of an adult's mental illness

3107 and the condition or circumstances that have led to the adult's need for assisted outpatient
3108 treatment may file, in the [district] court in the county where the proposed patient resides or is
3109 found, a written application that includes:

3110 (a) unless the court finds that the information is not reasonably available, the proposed
3111 patient's:

3112 (i) name;

3113 (ii) date of birth; and

3114 (iii) social security number; and

3115 (b) (i) a certificate of a licensed physician or a designated examiner stating that within
3116 the seven-day period immediately preceding the certification, the physician or designated
3117 examiner examined the proposed patient and is of the opinion that the proposed patient has a
3118 mental illness and should be involuntarily committed; or

3119 (ii) a written statement by the applicant that:

3120 (A) the proposed patient has been requested to, but has refused to, submit to an
3121 examination of mental condition by a licensed physician or designated examiner;

3122 (B) is sworn to under oath; and

3123 (C) states the facts upon which the application is based.

3124 (2) (a) Subject to Subsection (2)(b), before issuing a judicial order, the court may
3125 require the applicant to consult with the appropriate local mental health authority, and the court
3126 may direct a mental health professional from that local mental health authority to interview the
3127 applicant and the proposed patient to determine the existing facts and report them to the court.

3128 (b) The consultation described in Subsection (2)(a):

3129 (i) may take place at or before the hearing; and

3130 (ii) is required if the local mental health authority appears at the hearing.

3131 (3) If the proposed patient refuses to submit to an interview described in Subsection
3132 (2)(a) or an examination described in Subsection (8), the court may issue an order, directed to a
3133 mental health officer or peace officer, to immediately place the proposed patient into the

3134 custody of a local mental health authority or in a temporary emergency facility, as provided in
3135 Section [~~62A-15-634~~] [26B-5-334](#), to be detained for the purpose of examination.

3136 (4) Notice of commencement of proceedings for assisted outpatient treatment, setting
3137 forth the allegations of the application and any reported facts, together with a copy of any
3138 official order of detention, shall:

3139 (a) be provided by the court to a proposed patient before, or upon, placement into the
3140 custody of a local mental health authority or, with respect to any proposed patient presently in
3141 the custody of a local mental health authority;

3142 (b) be maintained at the proposed patient's place of detention, if any;

3143 (c) be provided by the court as soon as practicable to the applicant, any legal guardian,
3144 any immediate adult family members, legal counsel for the parties involved, the local mental
3145 health authority or its designee, and any other person whom the proposed patient or the court
3146 shall designate; and

3147 (d) advise that a hearing may be held within the time provided by law.

3148 (5) The [~~district~~] court may, in its discretion, transfer the case to any other [~~district~~]
3149 court within this state, provided that the transfer will not be adverse to the interest of the
3150 proposed patient.

3151 (6) Within 24 hours, excluding Saturdays, Sundays, and legal holidays, of the issuance
3152 of a judicial order, or after commitment of a proposed patient to a local mental health authority
3153 or its designee under court order for detention in order to complete an examination, the court
3154 shall appoint two designated examiners:

3155 (a) who did not sign the assisted outpatient treatment application nor the certification
3156 described in Subsection (1);

3157 (b) one of whom is a licensed physician; and

3158 (c) one of whom may be designated by the proposed patient or the proposed patient's
3159 counsel, if that designated examiner is reasonably available.

3160 (7) The court shall schedule a hearing to be held within 10 calendar days of the day on

3161 which the designated examiners are appointed.

3162 (8) The designated examiners shall:

3163 (a) conduct their examinations separately;

3164 (b) conduct the examinations at the home of the proposed patient, at a hospital or other
3165 medical facility, or at any other suitable place that is not likely to have a harmful effect on the
3166 proposed patient's health;

3167 (c) inform the proposed patient, if not represented by an attorney:

3168 (i) that the proposed patient does not have to say anything;

3169 (ii) of the nature and reasons for the examination;

3170 (iii) that the examination was ordered by the court;

3171 (iv) that any information volunteered could form part of the basis for the proposed
3172 patient to be ordered to receive assisted outpatient treatment; and

3173 (v) that findings resulting from the examination will be made available to the court;

3174 and

3175 (d) within 24 hours of examining the proposed patient, report to the court, orally or in
3176 writing, whether the proposed patient is mentally ill. If the designated examiner reports orally,
3177 the designated examiner shall immediately send a written report to the clerk of the court.

3178 (9) If a designated examiner is unable to complete an examination on the first attempt
3179 because the proposed patient refuses to submit to the examination, the court shall fix a
3180 reasonable compensation to be paid to the examiner.

3181 (10) If the local mental health authority, its designee, or a medical examiner determines
3182 before the court hearing that the conditions justifying the findings leading to an assisted
3183 outpatient treatment hearing no longer exist, the local mental health authority, its designee, or
3184 the medical examiner shall immediately report that determination to the court.

3185 (11) The court may terminate the proceedings and dismiss the application at any time,
3186 including prior to the hearing, if the designated examiners or the local mental health authority
3187 or its designee informs the court that the proposed patient does not meet the criteria in

3188 Subsection (14).

3189 (12) Before the hearing, an opportunity to be represented by counsel shall be afforded
3190 to the proposed patient, and if neither the proposed patient nor others provide counsel, the court
3191 shall appoint counsel and allow counsel sufficient time to consult with the proposed patient
3192 before the hearing. In the case of an indigent proposed patient, the payment of reasonable
3193 attorney fees for counsel, as determined by the court, shall be made by the county in which the
3194 proposed patient resides or is found.

3195 (13) (a) All persons to whom notice is required to be given shall be afforded an
3196 opportunity to appear at the hearing, to testify, and to present and cross-examine witnesses. The
3197 court may, in its discretion, receive the testimony of any other individual. The court may allow
3198 a waiver of the proposed patient's right to appear for good cause, which cause shall be set forth
3199 in the record, or an informed waiver by the patient, which shall be included in the record.

3200 (b) The court is authorized to exclude all individuals not necessary for the conduct of
3201 the proceedings and may, upon motion of counsel, require the testimony of each examiner to be
3202 given out of the presence of any other examiners.

3203 (c) The hearing shall be conducted in as informal a manner as may be consistent with
3204 orderly procedure, and in a physical setting that is not likely to have a harmful effect on the
3205 mental health of the proposed patient.

3206 (d) The court shall consider all relevant historical and material information that is
3207 offered, subject to the rules of evidence, including reliable hearsay under Rule 1102, Utah
3208 Rules of Evidence.

3209 (e) (i) A local mental health authority or its designee, or the physician in charge of the
3210 proposed patient's care shall, at the time of the hearing, provide the court with the following
3211 information:

3212 (A) the detention order, if any;

3213 (B) admission notes, if any;

3214 (C) the diagnosis, if any;

3215 (D) doctor's orders, if any;

3216 (E) progress notes, if any;

3217 (F) nursing notes, if any; and

3218 (G) medication records, if any.

3219 (ii) The information described in Subsection (13)(e)(i) shall also be provided to the
3220 proposed patient's counsel:

3221 (A) at the time of the hearing; and

3222 (B) at any time prior to the hearing, upon request.

3223 (14) The court shall order a proposed patient to assisted outpatient treatment if, upon
3224 completion of the hearing and consideration of the information presented, the court finds by
3225 clear and convincing evidence that:

3226 (a) the proposed patient has a mental illness;

3227 (b) there is no appropriate less-restrictive alternative to a court order for assisted
3228 outpatient treatment; and

3229 (c) (i) the proposed patient lacks the ability to engage in a rational decision-making
3230 process regarding the acceptance of mental health treatment, as demonstrated by evidence of
3231 inability to weigh the possible risks of accepting or rejecting treatment; or

3232 (ii) the proposed patient needs assisted outpatient treatment in order to prevent relapse
3233 or deterioration that is likely to result in the proposed patient posing a substantial danger to self
3234 or others.

3235 (15) The court may order the applicant or a close relative of the patient to be the
3236 patient's personal representative, as described in 45 C.F.R. Sec. 164.502(g), for purposes of the
3237 patient's mental health treatment.

3238 (16) In the absence of the findings described in Subsection (14), the court, after the
3239 hearing, shall dismiss the proceedings.

3240 (17) (a) The assisted outpatient treatment order shall designate the period for which the
3241 patient shall be treated, which may not exceed 12 months without a review hearing.

3242 (b) At a review hearing, the court may extend the duration of an assisted outpatient
3243 treatment order by up to 12 months, if:

3244 (i) the court finds by clear and convincing evidence that the patient meets the
3245 conditions described in Subsection (14); or

3246 (ii) (A) the patient does not appear at the review hearing;

3247 (B) notice of the review hearing was provided to the patient's last known address by the
3248 applicant described in Subsection (1) or by a local mental health authority; and

3249 (C) the patient has appeared in court or signed an informed waiver within the previous
3250 18 months.

3251 (c) The court shall maintain a current list of all patients under its order of assisted
3252 outpatient treatment.

3253 (d) At least two weeks prior to the expiration of the designated period of any assisted
3254 outpatient treatment order still in effect, the court that entered the original order shall inform
3255 the appropriate local mental health authority or its designee.

3256 (18) Costs of all proceedings under this section shall be paid by the county in which the
3257 proposed patient resides or is found.

3258 (19) A court may not hold an individual in contempt for failure to comply with an
3259 assisted outpatient treatment order.

3260 (20) As provided in Section [31A-22-651](#), a health insurance provider may not deny an
3261 insured the benefits of the insured's policy solely because the health care that the insured
3262 receives is provided under a court order for assisted outpatient treatment.

3263 Section 72. Section **26B-5-360**, which is renumbered from Section 62A-15-625 is
3264 renumbered and amended to read:

3265 ~~[62A-15-625]~~. **26B-5-360. Voluntary admission of adults.**

3266 (1) A local mental health authority, a designee of a local mental health authority, or
3267 another mental health facility may admit for observation, diagnosis, care, and treatment an
3268 adult who applies for voluntary admission and who has a mental illness or exhibits the

3269 symptoms of a mental illness.

3270 (2) No adult may be committed to a local mental health authority against that adult's
3271 will except as provided in this chapter.

3272 (3) An adult may be voluntarily admitted to a local mental health authority for
3273 treatment at the Utah State Hospital as a condition of probation or stay of sentence only after
3274 the requirements of Section [77-18-106](#) have been met.

3275 Section 73. Section **26B-5-361**, which is renumbered from Section [62A-15-627](#) is
3276 renumbered and amended to read:

3277 ~~[62A-15-627]~~. **26B-5-361. Release of voluntary adult -- Exceptions.**

3278 (1) Except as provided in Subsection (2), a mental health facility shall immediately
3279 release an adult patient:

3280 (a) who is voluntarily admitted, as described in Section ~~[62A-15-625]~~ [26B-5-360](#), and
3281 who requests release, verbally or in writing; or

3282 (b) whose release is requested in writing by the patient's legal guardian, parent, spouse,
3283 or adult next of kin.

3284 (2) (a) An adult patient's release under Subsection (1) may be conditioned upon the
3285 agreement of the patient, if:

3286 (i) the request for release is made by an individual other than the patient; or

3287 (ii) the admitting local mental health authority, the designee of the local mental health
3288 authority, or the admitting mental health facility has cause to believe that release of the patient
3289 would be unsafe for the patient or others.

3290 (b) (i) An adult patient's release may be postponed for up to 48 hours, excluding
3291 weekends and holidays, if the admitting local mental health authority, the designee of the local
3292 mental health authority, or the admitting mental health facility causes involuntary commitment
3293 proceedings to be commenced with the ~~[district]~~ court within the specified time period.

3294 (ii) The admitting local mental health authority, the designee of the local mental health
3295 authority, or the admitting mental health facility shall provide written notice of the

3296 postponement and the reasons for the postponement to the patient without undue delay.

3297 (3) A judicial proceeding for involuntary commitment may not be commenced with
3298 respect to a voluntary patient unless the patient requests release.

3299 Section 74. Section **26B-5-362**, which is renumbered from Section 62A-15-646 is
3300 renumbered and amended to read:

3301 ~~[62A-15-646].~~ **26B-5-362. Commitment and care of criminally insane.**

3302 Nothing contained in this part may be construed to alter or change the method presently
3303 employed for the commitment and care of the criminally insane as provided in Title 77,
3304 Chapter 15, Inquiry into Sanity of Defendant.

3305 Section 75. Section **26B-5-363**, which is renumbered from Section 62A-15-616 is
3306 renumbered and amended to read:

3307 ~~[62A-15-616].~~ **26B-5-363. Persons entering state mentally ill.**

3308 (1) A person who enters this state while mentally ill may be returned by a local mental
3309 health authority to the home of relatives or friends of that person with a mental illness, if
3310 known, or to a hospital in the state where that person with a mental illness is domiciled, in
3311 accordance with ~~[Title 62A, Chapter 15, Part 8,]~~ the Interstate Compact on Mental Health in
3312 Section 26B-5-365.

3313 (2) This section does not prevent commitment of persons who are traveling through or
3314 temporarily residing in this state.

3315 Section 76. Section **26B-5-364**, which is renumbered from Section 62A-15-633 is
3316 renumbered and amended to read:

3317 ~~[62A-15-633].~~ **26B-5-364. Persons eligible for care or treatment by federal**
3318 **agency -- Continuing jurisdiction of state courts.**

3319 (1) If an individual committed pursuant to Section ~~[62A-15-631]~~ 26B-5-332 is eligible
3320 for care or treatment by any agency of the United States, the court, upon receipt of a certificate
3321 from a United States agency, showing that facilities are available and that the individual is
3322 eligible for care or treatment therein, may order the individual to be placed in the custody of

3323 that agency for care.

3324 (2) When admitted to any facility or institution operated by a United States agency,
3325 within or without this state, the individual shall be subject to the rules and regulations of that
3326 agency.

3327 (3) The chief officer of any facility or institution operated by a United States agency
3328 and in which the individual is hospitalized, shall, with respect to that individual, be vested with
3329 the same powers as the superintendent or director of a mental health facility, regarding
3330 detention, custody, transfer, conditional release, or discharge of patients. Jurisdiction is
3331 retained in appropriate courts of this state at any time to inquire into the mental condition of an
3332 individual so hospitalized, and to determine the necessity for continuance of hospitalization,
3333 and every order of hospitalization issued pursuant to this section is so conditioned.

3334 Section 77. Section **26B-5-365**, which is renumbered from Section 62A-15-801 is
3335 renumbered and amended to read:

3336 ~~[62A-15-801]~~. **26B-5-365. Interstate Compact on Mental Health -- Compact**
3337 **provisions.**

3338 The Interstate Compact on Mental Health is hereby enacted and entered into with all
3339 other jurisdictions that legally join in the compact, which is, in form, substantially as follows:

3340 INTERSTATE COMPACT ON MENTAL HEALTH

3341 The contracting states solemnly agree that:

3342 Article I

3343 The proper and expeditious treatment of the mentally ill can be facilitated by
3344 cooperative action, to the benefit of the patients, their families, and society as a whole. Further,
3345 the party states find that the necessity of and desirability of furnishing that care and treatment
3346 bears no primary relation to the residence or citizenship of the patient but that the controlling
3347 factors of community safety and humanitarianism require that facilities and services be made
3348 available for all who are in need of them. Consequently, it is the purpose of this compact and
3349 of the party states to provide the necessary legal and constitutional basis for commitment or

3350 other appropriate care and treatment of the mentally ill under a system that recognizes the
3351 paramount importance of patient welfare and to establish the responsibilities of the party states.

3352 The appropriate authority in this state for making determinations under this compact is
3353 the director of the division or his designee.

3354 Article II

3355 As used in this compact:

3356 (1) "After-care" means care, treatment, and services provided to a patient on
3357 convalescent status or conditional release.

3358 (2) "Institution" means any hospital, program, or facility maintained by a party state or
3359 political subdivision for the care and treatment of persons with a mental illness.

3360 (3) "Mental illness" means a psychiatric disorder as defined by the current Diagnostic
3361 and Statistical Manual of Mental Disorders, that substantially impairs a person's mental,
3362 emotional, behavioral, or related functioning to such an extent that he requires care and
3363 treatment for his own welfare, the welfare of others, or the community.

3364 (4) "Patient" means any person subject to or eligible, as determined by the laws of the
3365 sending state, for institutionalization or other care, treatment, or supervision pursuant to the
3366 provisions of this compact and constitutional due process requirements.

3367 (5) "Receiving state" means a party state to which a patient is transported pursuant to
3368 the provisions of the compact or to which it is contemplated that a patient may be sent.

3369 (6) "Sending state" means a party state from which a patient is transported pursuant to
3370 the provisions of the compact or from which it is contemplated that a patient may be sent.

3371 (7) "State" means any state, territory, or possession of the United States, the District of
3372 Columbia, and the Commonwealth of Puerto Rico.

3373 Article III

3374 (1) Whenever a person physically present in any party state is in need of
3375 institutionalization because of mental illness, he shall be eligible for care and treatment in an
3376 institution in that state, regardless of his residence, settlement, or citizenship qualifications.

3377 (2) Notwithstanding the provisions of Subsection (1) of this article, any patient may be
3378 transferred to an institution in another state whenever there are factors, based upon clinical
3379 determinations, indicating that the care and treatment of that patient would be facilitated or
3380 improved by that action. Any such institutionalization may be for the entire period of care and
3381 treatment or for any portion or portions thereof. The factors to be considered include the
3382 patient's full record with due regard for the location of the patient's family, the character of his
3383 illness and its probable duration, and other factors considered appropriate by authorities in the
3384 party state and the director of the division, or his designee.

3385 (3) No state is obliged to receive any patient pursuant to the provisions of Subsection
3386 (2) of this article unless the sending state has:

- 3387 (a) given advance notice of its intent to send the patient;
- 3388 (b) furnished all available medical and other pertinent records concerning the patient;
- 3389 (c) given the qualified medical or other appropriate clinical authorities of the receiving
3390 state an opportunity to examine the patient; and
- 3391 (d) determined that the receiving state agrees to accept the patient.

3392 (4) In the event that the laws of the receiving state establish a system of priorities for
3393 the admission of patients, an interstate patient under this compact shall receive the same
3394 priority as a local patient and shall be taken in the same order and at the same time that he
3395 would be taken if he were a local patient.

3396 (5) Pursuant to this compact, the determination as to the suitable place of
3397 institutionalization for a patient may be reviewed at any time and further transfer of the patient
3398 may be made as is deemed to be in the best interest of the patient, as determined by appropriate
3399 authorities in the receiving and sending states.

3400 Article IV

3401 (1) Whenever, pursuant to the laws of the state in which a patient is physically present,
3402 it is determined that the patient should receive after-care or supervision, that care or
3403 supervision may be provided in the receiving state. If the medical or other appropriate clinical

3404 authorities who have responsibility for the care and treatment of the patient in the sending state
3405 believe that after-care in another state would be in the best interest of the patient and would not
3406 jeopardize the public safety, they shall request the appropriate authorities in the receiving state
3407 to investigate the desirability of providing the patient with after-care in the receiving state.

3408 That request for investigation shall be accompanied by complete information concerning the
3409 patient's intended place of residence and the identity of the person in whose charge the patient
3410 would be placed, the complete medical history of the patient, and other pertinent documents.

3411 (2) If the medical or other appropriate clinical authorities who have responsibility for
3412 the care and treatment of the patient in the sending state, and the appropriate authorities in the
3413 receiving state find that the best interest of the patient would be served, and if the public safety
3414 would not be jeopardized, the patient may receive after-care or supervision in the receiving
3415 state.

3416 (3) In supervising, treating, or caring for a patient on after-care pursuant to the terms of
3417 this article, a receiving state shall employ the same standards of visitation, examination, care,
3418 and treatment as for similar local patients.

3419 *Article V*

3420 Whenever a dangerous or potentially dangerous patient escapes from an institution in
3421 any party state, that state shall promptly notify all appropriate authorities both within and
3422 without the jurisdiction of the escape in a manner reasonably calculated to facilitate the speedy
3423 apprehension of the escapee. Immediately upon the apprehension and identification of that
3424 patient, he shall be detained in the state where found, pending disposition in accordance with
3425 the laws of that state.

3426 *Article VI*

3427 Accredited officers of any party state, upon the establishment of their authority and the
3428 identity of the patient, shall be permitted to transport any patient being moved pursuant to this
3429 compact through any and all states party to this compact, without interference.

3430 *Article VII*

3431 (1) No person may be deemed a patient of more than one institution at any given time.
3432 Completion of transfer of any patient to an institution in a receiving state has the effect of
3433 making the person a patient of the institution in the receiving state.

3434 (2) The sending state shall pay all costs of and incidental to the transportation of any
3435 patient pursuant to this compact, but any two or more party states may, by making a specific
3436 agreement for that purpose, arrange for a different allocation of costs among themselves.

3437 (3) No provision of this compact may be construed to alter or affect any internal
3438 relationships among the departments, agencies, and officers of a party state, or between a party
3439 state and its subdivisions, as to the payment of costs or responsibilities.

3440 (4) Nothing in this compact may be construed to prevent any party state or any of its
3441 subdivisions from asserting any right against any person, agency, or other entity with regard to
3442 costs for which that party state or its subdivision may be responsible under this compact.

3443 (5) Nothing in this compact may be construed to invalidate any reciprocal agreement
3444 between a party state and a nonparty state relating to institutionalization, care, or treatment of
3445 the mentally ill, or any statutory authority under which those agreements are made.

3446 Article VIII

3447 (1) Nothing in this compact may be construed to abridge, diminish, or in any way
3448 impair the rights, duties, and responsibilities of any patient's guardian on his own behalf or
3449 with respect to any patient for whom he serves, except that when the transfer of a patient to
3450 another jurisdiction makes advisable the appointment of a supplemental or substitute guardian,
3451 a court of competent jurisdiction in the receiving state may make supplemental or substitute
3452 appointments. In that case, the court that appointed the previous guardian shall, upon being
3453 advised of the new appointment and upon the satisfactory completion of accounting and other
3454 acts as the court may require, relieve the previous guardian of power and responsibility to
3455 whatever extent is appropriate in the circumstances.

3456 However, in the case of any patient having settlement in the sending state, a court of
3457 competent jurisdiction in the sending state has the sole discretion to relieve a guardian

3458 appointed by it or to continue his power and responsibility, as it deems advisable. The court in
3459 the receiving state may, in its discretion, confirm or reappoint the person or persons previously
3460 serving as guardian in the sending state in lieu of making a supplemental or substitute
3461 appointment.

3462 (2) The term "guardian" as used in Subsection (1) of this article includes any guardian,
3463 trustee, legal committee, conservator, or other person or agency however denominated, who is
3464 charged by law with power to act for the person or property of a patient.

3465 Article IX

3466 (1) No provision of this compact except Article V applies to any person
3467 institutionalized while under sentence in a penal or correctional institution, while subject to
3468 trial on a criminal charge, or whose institutionalization is due to the commission of an offense
3469 for which, in the absence of mental illness, he would be subject to incarceration in a penal or
3470 correctional institution.

3471 (2) To every extent possible, it shall be the policy of party states that no patient be
3472 placed or detained in any prison, jail, or lockup, but shall, with all expedition, be taken to a
3473 suitable institutional facility for mental illness.

3474 Article X

3475 (1) Each party state shall appoint a "compact administrator" who, on behalf of his state,
3476 shall act as general coordinator of activities under the compact in his state and receive copies of
3477 all reports, correspondence, and other documents relating to any patient processed under the
3478 compact by his state, either in the capacity of sending or receiving state. The compact
3479 administrator, or his designee, shall deal with all matters relating to the compact and patients
3480 processed under the compact. In this state the director of the division, or his designee shall act
3481 as the "compact administrator."

3482 (2) The compact administrators of the respective party states have power to promulgate
3483 reasonable rules and regulations as are necessary to carry out the terms and provisions of this
3484 compact. In this state, the division has authority to establish those rules in accordance with the

3485 Utah Administrative Rulemaking Act.

3486 (3) The compact administrator shall cooperate with all governmental departments,
3487 agencies, and officers in this state and its subdivisions in facilitating the proper administration
3488 of the compact and any supplementary agreement or agreements entered into by this state under
3489 the compact.

3490 (4) The compact administrator is hereby authorized and empowered to enter into
3491 supplementary agreements with appropriate officials of other states pursuant to Articles VII
3492 and XI of this compact. In the event that supplementary agreements require or contemplate the
3493 use of any institution or facility of this state or require or contemplate the provision of any
3494 service by this state, that agreement shall have no force unless approved by the director of the
3495 department or agency under whose jurisdiction the institution or facility is operated, or whose
3496 department or agency will be charged with the rendering of services.

3497 (5) The compact administrator may make or arrange for any payments necessary to
3498 discharge financial obligations imposed upon this state by the compact or by any
3499 supplementary agreement entered into under the compact.

3500 Article XI

3501 Administrative authorities of any two or more party states may enter into supplementary
3502 agreements for the provision of any service or facility, or for the maintenance of any institution
3503 on a joint or cooperative basis whenever the states concerned find that those agreements will
3504 improve services, facilities, or institutional care and treatment of persons who are mentally ill.
3505 A supplementary agreement may not be construed to relieve a party state of any obligation that
3506 it otherwise would have under other provisions of this compact.

3507 Article XII

3508 This compact has full force and effect in any state when it is enacted into law in that
3509 state. Thereafter, that state is a party to the compact with any and all states that have legally
3510 joined.

3511 Article XIII

3512 A party state may withdraw from the compact by enacting a statute repealing the
3513 compact. Withdrawal takes effect one year after notice has been communicated officially and
3514 in writing to the compact administrators of all other party states. However, the withdrawal of a
3515 state does not change the status of any patient who has been sent to that state or sent out of that
3516 state pursuant to the compact.

3517 Article XIV

3518 This compact shall be liberally construed so as to effectuate its purposes. The
3519 provisions of this compact are severable, and if any phrase, clause, sentence or provision is
3520 declared to be contrary to the constitution of the United States or the applicability to any
3521 government, agency, person, or circumstance is held invalid, the validity of the remainder of
3522 this compact and its applicability to any government, agency, person, or circumstance shall not
3523 be affected thereby. If this compact is held to be contrary to the constitution of any party state
3524 the compact shall remain in full force and effect as to the remaining states and in full force and
3525 effect as to the state affected as to all severable matters.

3526 Section 78. Section **26B-5-366**, which is renumbered from Section 62A-15-802 is
3527 renumbered and amended to read:

3528 ~~[62A-15-802]~~. **26B-5-366**. **Interstate compact on mental health --**
3529 **Requirement of conformity with this chapter.**

3530 All actions and proceedings taken under authority of this compact shall be in
3531 accordance with the procedures and constitutional requirements described in [~~Part 6, Utah State~~
3532 ~~Hospital and Other Mental Health Facilities~~] this part.

3533 Section 79. Section **26B-5-367**, which is renumbered from Section 62A-15-647 is
3534 renumbered and amended to read:

3535 ~~[62A-15-647]~~. **26B-5-367**. **Severability.**

3536 If any one or more provision, section, subsection, sentence, clause, phrase, or word of
3537 this part, or the application thereof to any person or circumstance, is found to be
3538 unconstitutional the same is hereby declared to be severable and the balance of this part shall

3539 remain effective notwithstanding that unconstitutionality. The Legislature hereby declares that
3540 it would have passed this part, and each provision, section, subsection, sentence, clause, phrase,
3541 or word thereof, irrespective of the fact that any one or more provision, section, subsection,
3542 sentence, clause, phrase, or word be declared unconstitutional.

3543 Section 80. Section **26B-5-370**, which is renumbered from Section 62A-15-901 is
3544 renumbered and amended to read:

3545 ~~[62A-15-901].~~ **26B-5-370. Establishment of the Utah Forensic Mental**
3546 **Health Facility.**

3547 The Utah Forensic Mental Health Facility is hereby established and shall be located on
3548 state land on the campus of the Utah State Hospital in Provo, Utah County.

3549 Section 81. Section **26B-5-371**, which is renumbered from Section 62A-15-902 is
3550 renumbered and amended to read:

3551 ~~[62A-15-902].~~ **26B-5-371. Utah Forensic Mental Health Facility -- Design**
3552 **and operation -- Security.**

3553 (1) The forensic mental health facility is a secure treatment facility.

3554 (2) (a) The forensic mental health facility accommodates the following populations:

3555 (i) prison inmates displaying mental illness~~[, as defined in Section 62A-15-602,]~~
3556 necessitating treatment in a secure mental health facility;

3557 (ii) criminally adjudicated persons found guilty with a mental illness or guilty with a
3558 mental illness at the time of the offense undergoing evaluation for mental illness under Title
3559 77, Chapter 16a, Commitment and Treatment of Persons with a Mental Illness;

3560 (iii) criminally adjudicated persons undergoing evaluation for competency or found
3561 guilty with a mental illness or guilty with a mental illness at the time of the offense under Title
3562 77, Chapter 16a, Commitment and Treatment of Persons with a Mental Illness, who also have
3563 an intellectual disability;

3564 (iv) persons undergoing evaluation for competency or found by a court to be
3565 incompetent to proceed in accordance with Title 77, Chapter 15, Inquiry into Sanity of

3566 Defendant, or not guilty by reason of insanity under Title 77, Chapter 14, Defenses;
 3567 (v) persons who are civilly committed to the custody of a local mental health authority
 3568 in accordance with [~~Title 62A, Chapter 15, Part 6, Utah State Hospital and Other Mental~~
 3569 ~~Health Facilities~~] this part, and who may not be properly supervised by the Utah State Hospital
 3570 because of a lack of necessary security, as determined by the superintendent or the
 3571 superintendent's designee; and

3572 (vi) persons ordered to commit themselves to the custody of the [~~Division of Substance~~
 3573 ~~Abuse and Mental Health~~] division for treatment at the Utah State Hospital as a condition of
 3574 probation or stay of sentence pursuant to Title 77, Chapter 18, The Judgment.

3575 (b) Placement of an offender in the forensic mental health facility under any category
 3576 described in Subsection (2)(a)(ii), (iii), (iv), or (vi) shall be made on the basis of the offender's
 3577 status as established by the court at the time of adjudication.

3578 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 3579 department shall make rules providing for the allocation of beds to the categories described in
 3580 Subsection (2)(a).

3581 (3) The department shall:

- 3582 (a) own and operate the forensic mental health facility;
- 3583 (b) provide and supervise administrative and clinical staff; and
- 3584 (c) provide security staff who are trained as psychiatric technicians.

3585 (4) Pursuant to Subsection [~~62A-15-603~~] 26B-5-303(3) the executive director shall
 3586 designate individuals to perform security functions for the state hospital.

3587 Section 82. Section **26B-5-372**, which is renumbered from Section 62A-15-605.5 is
 3588 renumbered and amended to read:

3589 [~~62A-15-605.5~~]. **26B-5-372. Admission of person in custody of Department of**
 3590 **Corrections to state hospital -- Retransfer of person to Department of Corrections.**

3591 (1) The executive director of the Department of Corrections may request the director to
 3592 admit a person who is in the custody of the Department of Corrections to the state hospital, if

3593 the clinical director within the Department of Corrections finds that the inmate has mentally
3594 deteriorated to the point that admission to the state hospital is necessary to ensure adequate
3595 mental health treatment. In determining whether that inmate should be placed in the state
3596 hospital, the director of the division shall consider:

- 3597 (a) the mental health treatment needs of the inmate;
- 3598 (b) the treatment programs available at the state hospital; and
- 3599 (c) whether the inmate meets the requirements of Subsection [~~62A-15-610~~]
3600 26B-5-306(2).

3601 (2) If the director denies the admission of an inmate as requested by the clinical
3602 director within the Department of Corrections, the Board of Pardons and Parole shall determine
3603 whether the inmate will be admitted to the state hospital. The Board of Pardons and Parole
3604 shall consider:

- 3605 (a) the mental health treatment needs of the inmate;
- 3606 (b) the treatment programs available at the state hospital; and
- 3607 (c) whether the inmate meets the requirements of Subsection [~~62A-15-610~~]
3608 26B-5-306(2).

3609 (3) The state hospital shall receive any person in the custody of the Department of
3610 Corrections when ordered by either the director or the Board of Pardons and Parole, pursuant to
3611 Subsection (1) or (2). Any person so transferred to the state hospital shall remain in the custody
3612 of the Department of Corrections, and the state hospital shall act solely as the agent of the
3613 Department of Corrections.

3614 (4) Inmates transferred to the state hospital pursuant to this section shall be transferred
3615 back to the Department of Corrections through negotiations between the director and the
3616 director of the Department of Corrections. If agreement between the director and the director of
3617 the Department of Corrections cannot be reached, the Board of Pardons and Parole shall have
3618 final authority in determining whether a person will be transferred back to the Department of
3619 Corrections. In making that determination, that board shall consider:

- 3620 (a) the mental health treatment needs of the inmate;
- 3621 (b) the treatment programs available at the state hospital;
- 3622 (c) whether the person continues to meet the requirements of Subsection [~~62A-15-610~~
- 3623 [26B-5-306](#)(2);
- 3624 (d) the ability of the state hospital to provide adequate treatment to the person, as well
- 3625 as safety and security to the public; and
- 3626 (e) whether, in the opinion of the director, in consultation with the clinical director of
- 3627 the state hospital, the person's treatment needs have been met.

3628 Section 83. Section **26B-5-380**, which is renumbered from Section 62A-1-108.5 is

3629 renumbered and amended to read:

3630 ~~[62A-1-108.5]~~. **26B-5-380. Mental illness and intellectual disability**

3631 **examinations -- Responsibilities of the department.**

3632 (1) In accomplishing the department's duties to conduct a competency evaluation under

3633 Title 77, Utah Code of Criminal Procedure, and a juvenile competency evaluation under

3634 Section [80-6-402](#), the department shall proceed as outlined in this section and within

3635 appropriations authorized by the Legislature.

3636 (2) When the department is ordered by a court to conduct a competency evaluation, the

3637 department shall designate a forensic evaluator, selected under Subsection (4), to evaluate the

3638 defendant in the defendant's current custody or status.

3639 (3) When the department is ordered by the juvenile court to conduct a juvenile

3640 competency evaluation under Section [80-6-402](#), the department shall:

3641 (a) designate an examiner selected pursuant to Subsection (4) to evaluate the minor;

3642 and

3643 (b) upon a finding of good cause and order of the court, designate a second examiner to

3644 evaluate the minor.

3645 (4) The department shall establish criteria, in consultation with the Commission on

3646 Criminal and Juvenile Justice, and shall contract with persons to conduct competency

3647 evaluations and juvenile competency evaluations under Subsections (2) and (3)(b). In making
3648 this selection, the department shall follow the provisions of Title 63G, Chapter 6a, Utah
3649 Procurement Code.

3650 (5) Nothing in this section prohibits the department, at the request of defense counsel
3651 or a prosecuting attorney in a criminal proceeding under Title 77, Utah Code of Criminal
3652 Procedure, and for good cause shown, from proposing a person who has not been previously
3653 selected under Subsection (4) to contract with the department to conduct the evaluation. In
3654 selecting that person, the criteria of the department established under Subsection (4) and the
3655 provisions of Title 63G, Chapter 6a, Utah Procurement Code, shall be met.

3656 Section 84. Section **26B-5-401**, which is renumbered from Section 62A-15-701 is
3657 renumbered and amended to read:

3658 **Part 4. Commitment of Persons Under Age 18**

3659 ~~[62A-15-701].~~ **26B-5-401. Definitions.**

3660 ~~[As]~~ In addition to the definitions in Section 26B-5-301, as used in this part:

3661 (1) "Child" means a person under 18 years ~~[of age]~~ old.

3662 (2) "Commit" and "commitment" mean the transfer of physical custody in accordance
3663 with the requirements of this part.

3664 (3) "Legal custody" means:

3665 (a) the right to determine where and with whom the child shall live;

3666 (b) the right to participate in all treatment decisions and to consent or withhold consent
3667 for treatment in which a constitutionally protected liberty or privacy interest may be affected,
3668 including antipsychotic medication, electroshock therapy, and psychosurgery; and

3669 (c) the right to authorize surgery or other extraordinary medical care.

3670 (4) "Physical custody" means:

3671 (a) placement of a child in any residential or inpatient setting;

3672 (b) the right to physical custody of a child;

3673 (c) the right and duty to protect the child; and

3674 (d) the duty to provide, or insure that the child is provided with, adequate food,
3675 clothing, shelter, and ordinary medical care.

3676 (5) "Residential" means any out-of-home placement made by a local mental health
3677 authority, but does not include out-of-home respite care.

3678 (6) "Respite care" means temporary, periodic relief provided to parents or guardians
3679 from the daily care of children with serious emotional disorders for the limited time periods
3680 designated by the division.

3681 Section 85. Section **26B-5-402**, which is renumbered from Section 62A-15-702 is
3682 renumbered and amended to read:

3683 ~~[62A-15-702]~~. **26B-5-402. Treatment and commitment of minors in the**
3684 **public mental health system.**

3685 A child is entitled to due process proceedings, in accordance with the requirements of
3686 this part, whenever the child:

3687 (1) may receive or receives services through the public mental health system and is
3688 placed, by a local mental health authority, in a physical setting where his liberty interests are
3689 restricted, including residential and inpatient placements; or

3690 (2) receives treatment in which a constitutionally protected privacy or liberty interest
3691 may be affected, including the administration of antipsychotic medication, electroshock
3692 therapy, and psychosurgery.

3693 Section 86. Section **26B-5-403**, which is renumbered from Section 62A-15-703 is
3694 renumbered and amended to read:

3695 ~~[62A-15-703]~~. **26B-5-403. Residential and inpatient settings -- Commitment**
3696 **proceeding -- Child in physical custody of local mental health authority.**

3697 (1) A child may receive services from a local mental health authority in an inpatient or
3698 residential setting only after a commitment proceeding, for the purpose of transferring physical
3699 custody, has been conducted in accordance with the requirements of this section.

3700 (2) That commitment proceeding shall be initiated by a petition for commitment, and

3701 shall be a careful, diagnostic inquiry, conducted by a neutral and detached fact finder, pursuant
3702 to the procedures and requirements of this section. If the findings described in Subsection (4)
3703 exist, the proceeding shall result in the transfer of physical custody to the appropriate local
3704 mental health authority, and the child may be placed in an inpatient or residential setting.

3705 (3) The neutral and detached fact finder who conducts the inquiry:

3706 (a) shall be a designated examiner~~[, as defined in Section 62A-15-602]~~; and

3707 (b) may not profit, financially or otherwise, from the commitment or physical
3708 placement of the child in that setting.

3709 (4) Upon determination by a fact finder that the following circumstances clearly exist,
3710 the fact finder may order that the child be committed to the physical custody of a local mental
3711 health authority:

3712 (a) the child has a mental illness~~[, as defined in Section 62A-15-602]~~;

3713 (b) the child demonstrates a reasonable fear of the risk of substantial danger to self or
3714 others;

3715 (c) the child will benefit from care and treatment by the local mental health authority;
3716 and

3717 (d) there is no appropriate less-restrictive alternative.

3718 (5) (a) The commitment proceeding before the neutral and detached fact finder shall be
3719 conducted in as informal manner as possible and in a physical setting that is not likely to have a
3720 harmful effect on the child.

3721 (b) The child, the child's parent or legal guardian, the petitioner, and a representative of
3722 the appropriate local mental health authority:

3723 (i) shall receive informal notice of the date and time of the proceeding; and

3724 (ii) may appear and address the petition for commitment.

3725 (c) The neutral and detached fact finder may, in the fact finder's discretion, receive the
3726 testimony of any other person.

3727 (d) The fact finder may allow a child to waive the child's right to be present at the

3728 commitment proceeding, for good cause shown. If that right is waived, the purpose of the
3729 waiver shall be made a matter of record at the proceeding.

3730 (e) At the time of the commitment proceeding, the appropriate local mental health
3731 authority, its designee, or the psychiatrist who has been in charge of the child's care prior to the
3732 commitment proceeding, shall provide the neutral and detached fact finder with the following
3733 information, as it relates to the period of current admission:

3734 (i) the petition for commitment;

3735 (ii) the admission notes;

3736 (iii) the child's diagnosis;

3737 (iv) physicians' orders;

3738 (v) progress notes;

3739 (vi) nursing notes; and

3740 (vii) medication records.

3741 (f) The information described in Subsection (5)(e) shall also be provided to the child's
3742 parent or legal guardian upon written request.

3743 (g) (i) The neutral and detached fact finder's decision of commitment shall state the
3744 duration of the commitment. Any commitment to the physical custody of a local mental health
3745 authority may not exceed 180 days. Prior to expiration of the commitment, and if further
3746 commitment is sought, a hearing shall be conducted in the same manner as the initial
3747 commitment proceeding, in accordance with the requirements of this section.

3748 (ii) At the conclusion of the hearing and subsequently in writing, when a decision for
3749 commitment is made, the neutral and detached fact finder shall inform the child and the child's
3750 parent or legal guardian of that decision and of the reasons for ordering commitment.

3751 (iii) The neutral and detached fact finder shall state in writing the basis of the decision,
3752 with specific reference to each of the criteria described in Subsection (4), as a matter of record.

3753 (6) A child may be temporarily committed for a maximum of 72 hours, excluding
3754 Saturdays, Sundays, and legal holidays, to the physical custody of a local mental health

3755 authority in accordance with the procedures described in Section [~~62A-15-629~~] 26B-5-331 and
3756 upon satisfaction of the risk factors described in Subsection (4). A child who is temporarily
3757 committed shall be released at the expiration of the 72 hours unless the procedures and findings
3758 required by this section for the commitment of a child are satisfied.

3759 (7) A local mental health authority shall have physical custody of each child committed
3760 to it under this section. The parent or legal guardian of a child committed to the physical
3761 custody of a local mental health authority under this section, retains legal custody of the child,
3762 unless legal custody has been otherwise modified by a court of competent jurisdiction. In cases
3763 when the Division of Child and Family Services or the Division of Juvenile Justice and Youth
3764 Services has legal custody of a child, that division shall retain legal custody for purposes of this
3765 part.

3766 (8) The cost of caring for and maintaining a child in the physical custody of a local
3767 mental health authority shall be assessed to and paid by the child's parents, according to their
3768 ability to pay. For purposes of this section, the Division of Child and Family Services or the
3769 Division of Juvenile Justice and Youth Services shall be financially responsible, in addition to
3770 the child's parents, if the child is in the legal custody of either of those divisions at the time the
3771 child is committed to the physical custody of a local mental health authority under this section,
3772 unless Medicaid regulation or contract provisions specify otherwise. The Office of Recovery
3773 Services shall assist those divisions in collecting the costs assessed pursuant to this section.

3774 (9) Whenever application is made for commitment of a minor to a local mental health
3775 authority under any provision of this section by a person other than the child's parent or
3776 guardian, the local mental health authority or its designee shall notify the child's parent or
3777 guardian. The parents shall be provided sufficient time to prepare and appear at any scheduled
3778 proceeding.

3779 (10) (a) Each child committed pursuant to this section is entitled to an appeal within 30
3780 days after any order for commitment. The appeal may be brought on the child's own petition or
3781 on petition of the child's parent or legal guardian, to the juvenile court in the district where the

3782 child resides or is currently physically located. With regard to a child in the custody of the
3783 Division of Child and Family Services or the Division of Juvenile Justice and Youth Services,
3784 the attorney general's office shall handle the appeal, otherwise the appropriate county attorney's
3785 office is responsible for appeals brought pursuant to this Subsection (10)(a).

3786 (b) Upon receipt of the petition for appeal, the court shall appoint a designated
3787 examiner previously unrelated to the case, to conduct an examination of the child in accordance
3788 with the criteria described in Subsection (4), and file a written report with the court. The court
3789 shall then conduct an appeal hearing to determine whether the findings described in Subsection
3790 (4) exist by clear and convincing evidence.

3791 (c) Prior to the time of the appeal hearing, the appropriate local mental health authority,
3792 its designee, or the mental health professional who has been in charge of the child's care prior
3793 to commitment, shall provide the court and the designated examiner for the appeal hearing with
3794 the following information, as it relates to the period of current admission:

- 3795 (i) the original petition for commitment;
- 3796 (ii) admission notes;
- 3797 (iii) diagnosis;
- 3798 (iv) physicians' orders;
- 3799 (v) progress notes;
- 3800 (vi) nursing notes; and
- 3801 (vii) medication records.

3802 (d) Both the neutral and detached fact finder and the designated examiner appointed for
3803 the appeal hearing shall be provided with an opportunity to review the most current
3804 information described in Subsection (10)(c) prior to the appeal hearing.

3805 (e) The child, the child's parent or legal guardian, the person who submitted the
3806 original petition for commitment, and a representative of the appropriate local mental health
3807 authority shall be notified by the court of the date and time of the appeal hearing. Those
3808 persons shall be afforded an opportunity to appear at the hearing. In reaching its decision, the

3809 court shall review the record and findings of the neutral and detached fact finder, the report of
3810 the designated examiner appointed pursuant to Subsection (10)(b), and may, in its discretion,
3811 allow or require the testimony of the neutral and detached fact finder, the designated examiner,
3812 the child, the child's parent or legal guardian, the person who brought the initial petition for
3813 commitment, or any other person whose testimony the court deems relevant. The court may
3814 allow the child to waive the right to appear at the appeal hearing, for good cause shown. If that
3815 waiver is granted, the purpose shall be made a part of the court's record.

3816 (11) Each local mental health authority has an affirmative duty to conduct periodic
3817 evaluations of the mental health and treatment progress of every child committed to its physical
3818 custody under this section, and to release any child who has sufficiently improved so that the
3819 criteria justifying commitment no longer exist.

3820 (12) (a) A local mental health authority or its designee, in conjunction with the child's
3821 current treating mental health professional may release an improved child to a less restrictive
3822 environment, as they determine appropriate. Whenever the local mental health authority or its
3823 designee, and the child's current treating mental health professional, determine that the
3824 conditions justifying commitment no longer exist, the child shall be discharged and released to
3825 the child's parent or legal guardian. With regard to a child who is in the physical custody of the
3826 State Hospital, the treating psychiatrist or clinical director of the State Hospital shall be the
3827 child's current treating mental health professional.

3828 (b) A local mental health authority or its designee, in conjunction with the child's
3829 current treating mental health professional, is authorized to issue a written order for the
3830 immediate placement of a child not previously released from an order of commitment into a
3831 more restrictive environment, if the local authority or its designee and the child's current
3832 treating mental health professional has reason to believe that the less restrictive environment in
3833 which the child has been placed is exacerbating the child's mental illness, or increasing the risk
3834 of harm to self or others.

3835 (c) The written order described in Subsection (12)(b) shall include the reasons for

3836 placement in a more restrictive environment and shall authorize any peace officer to take the
3837 child into physical custody and transport the child to a facility designated by the appropriate
3838 local mental health authority in conjunction with the child's current treating mental health
3839 professional. Prior to admission to the more restrictive environment, copies of the order shall
3840 be personally delivered to the child, the child's parent or legal guardian, the administrator of the
3841 more restrictive environment, or the administrator's designee, and the child's former treatment
3842 provider or facility.

3843 (d) If the child has been in a less restrictive environment for more than 30 days and is
3844 aggrieved by the change to a more restrictive environment, the child or the child's
3845 representative may request a review within 30 days of the change, by a neutral and detached
3846 fact finder as described in Subsection (3). The fact finder shall determine whether:

3847 (i) the less restrictive environment in which the child has been placed is exacerbating
3848 the child's mental illness or increasing the risk of harm to self or others; or

3849 (ii) the less restrictive environment in which the child has been placed is not
3850 exacerbating the child's mental illness or increasing the risk of harm to self or others, in which
3851 case the fact finder shall designate that the child remain in the less restrictive environment.

3852 (e) Nothing in this section prevents a local mental health authority or its designee, in
3853 conjunction with the child's current mental health professional, from discharging a child from
3854 commitment or from placing a child in an environment that is less restrictive than that
3855 designated by the neutral and detached fact finder.

3856 (13) Each local mental health authority or its designee, in conjunction with the child's
3857 current treating mental health professional shall discharge any child who, in the opinion of that
3858 local authority, or its designee, and the child's current treating mental health professional, no
3859 longer meets the criteria specified in Subsection (4), except as provided by Section
3860 ~~[62A-15-705]~~ 26B-5-405. The local authority and the mental health professional shall assure
3861 that any further supportive services required to meet the child's needs upon release will be
3862 provided.

3863 (14) Even though a child has been committed to the physical custody of a local mental
3864 health authority under this section, the child is still entitled to additional due process
3865 proceedings, in accordance with Section [~~62A-15-704~~] 26B-5-704, before any treatment that
3866 may affect a constitutionally protected liberty or privacy interest is administered. Those
3867 treatments include, but are not limited to, antipsychotic medication, electroshock therapy, and
3868 psychosurgery.

3869 Section 87. Section **26B-5-404**, which is renumbered from Section 62A-15-704 is
3870 renumbered and amended to read:

3871 [~~62A-15-704~~]. **26B-5-404. Invasive treatment -- Due process proceedings.**

3872 (1) For purposes of this section, "invasive treatment" means treatment in which a
3873 constitutionally protected liberty or privacy interest may be affected, including antipsychotic
3874 medication, electroshock therapy, and psychosurgery.

3875 (2) The requirements of this section apply to all children receiving services or
3876 treatment from a local mental health authority, its designee, or its provider regardless of
3877 whether a local mental health authority has physical custody of the child or the child is
3878 receiving outpatient treatment from the local authority, its designee, or provider.

3879 (3) (a) The division shall promulgate rules, in accordance with Title 63G, Chapter 3,
3880 Utah Administrative Rulemaking Act, establishing due process procedures for children prior to
3881 any invasive treatment as follows:

3882 (i) with regard to antipsychotic medications, if either the parent or child disagrees with
3883 that treatment, a due process proceeding shall be held in compliance with the procedures
3884 established under this Subsection (3);

3885 (ii) with regard to psychosurgery and electroshock therapy, a due process proceeding
3886 shall be conducted pursuant to the procedures established under this Subsection (3), regardless
3887 of whether the parent or child agree or disagree with the treatment; and

3888 (iii) other possible invasive treatments may be conducted unless either the parent or
3889 child disagrees with the treatment, in which case a due process proceeding shall be conducted

3890 pursuant to the procedures established under this Subsection (3).

3891 (b) In promulgating the rules required by Subsection (3)(a), the division shall consider
3892 the advisability of utilizing an administrative law judge, court proceedings, a neutral and
3893 detached fact finder, and other methods of providing due process for the purposes of this
3894 section. The division shall also establish the criteria and basis for determining when invasive
3895 treatment should be administered.

3896 Section 88. Section **26B-5-405**, which is renumbered from Section 62A-15-705 is
3897 renumbered and amended to read:

3898 ~~[62A-15-705].~~ **26B-5-405. Commitment proceedings in juvenile court --**
3899 **Criteria -- Custody.**

3900 (1) (a) Subject to Subsection (1)(b), a commitment proceeding for a child may be
3901 commenced by filing a written application with the juvenile court of the county in which the
3902 child resides or is found, in accordance with the procedures described in Section [~~62A-15-631~~]
3903 [26B-5-332](#).

3904 (b) A commitment proceeding under this section may be commenced only after a
3905 commitment proceeding under Section [~~62A-15-703~~] [26B-5-403](#) has concluded without the
3906 child being committed.

3907 (2) The juvenile court shall order commitment to the physical custody of a local mental
3908 health authority if, upon completion of the hearing and consideration of the record, the juvenile
3909 court finds by clear and convincing evidence that:

3910 (a) the child has a mental illness[~~, as defined in Section 62A-15-602~~];

3911 (b) the child demonstrates a risk of harm to the child or others;

3912 (c) the child is experiencing significant impairment in the child's ability to perform
3913 socially;

3914 (d) the child will benefit from the proposed care and treatment; and

3915 (e) there is no appropriate less restrictive alternative.

3916 (3) The juvenile court may not commit a child under Subsection (1) directly to the

3917 Utah State Hospital.

3918 (4) The local mental health authority has an affirmative duty to:

3919 (a) conduct periodic reviews of children committed to the local mental health
3920 authority's custody in accordance with this section; and

3921 (b) release any child who has sufficiently improved so that the local mental health
3922 authority, or the local mental authority's designee, determines that commitment is no longer
3923 appropriate.

3924 (5) If a child is committed to the custody of a local mental health authority, or the local
3925 mental health authority's designee, by the juvenile court, the local mental health authority, or
3926 the local mental health authority's designee, shall give the juvenile court written notice of the
3927 intention to release the child not fewer than five days before the day on which the child is
3928 released.

3929 Section 89. Section **26B-5-406**, which is renumbered from Section 62A-15-706 is
3930 renumbered and amended to read:

3931 ~~[62A-15-706].~~ **26B-5-406. Parent advocate.**

3932 The division shall establish the position of a parent advocate to assist parents of
3933 children with a mental illness who are subject to the procedures required by this part.

3934 Section 90. Section **26B-5-407**, which is renumbered from Section 62A-15-707 is
3935 renumbered and amended to read:

3936 ~~[62A-15-707].~~ **26B-5-407. Confidentiality of information and records --**
3937 **Exceptions -- Penalty.**

3938 (1) Notwithstanding the provisions of Title 63G, Chapter 2, Government Records
3939 Access and Management Act, all certificates, applications, records, and reports made for the
3940 purpose of this part that directly or indirectly identify a patient or former patient or an
3941 individual whose commitment has been sought under this part, shall be kept confidential and
3942 may not be disclosed by any person except as follows:

3943 (a) the individual identified consents after reaching 18 years ~~[of age]~~ old;

3944 (b) the child's parent or legal guardian consents;
3945 (c) disclosure is necessary to carry out any of the provisions of this part; or
3946 (d) a court may direct, upon its determination that disclosure is necessary for the
3947 conduct of proceedings before it, and that failure to make the disclosure would be contrary to
3948 the public interest.

3949 (2) A person who violates any provision of this section is guilty of a class B
3950 misdemeanor.

3951 Section 91. Section **26B-5-408**, which is renumbered from Section 62A-15-708 is
3952 renumbered and amended to read:

3953 ~~[62A-15-708].~~ **26B-5-408. Mechanical restraints -- Clinical record.**

3954 Mechanical restraints may not be applied to a child unless it is determined, by the local
3955 mental health authority or its designee in conjunction with the child's current treating mental
3956 health professional, that they are required by the needs of that child. Every use of a mechanical
3957 restraint and the reasons for that use shall be made a part of the child's clinical record, under the
3958 signature of the local mental health authority, its designee, and the child's current treating
3959 mental health professional.

3960 Section 92. Section **26B-5-409**, which is renumbered from Section 62A-15-709 is
3961 renumbered and amended to read:

3962 ~~[62A-15-709].~~ **26B-5-409. Habeas corpus.**

3963 Any child committed in accordance with Section ~~[62A-15-703]~~ 26B-5-403 is entitled to
3964 a writ of habeas corpus upon proper petition by himself or next of friend to the ~~[district]~~ court
3965 in the district in which he is detained.

3966 Section 93. Section **26B-5-410**, which is renumbered from Section 62A-15-710 is
3967 renumbered and amended to read:

3968 ~~[62A-15-710].~~ **26B-5-410. Restrictions and limitations -- Civil rights and**
3969 **privileges.**

3970 (1) Subject to the specific rules of the division, and except to the extent that the local

3971 mental health authority or its designee, in conjunction with the child's current treating mental
3972 health professional, determines that it is necessary for the welfare of the person to impose
3973 restrictions, every child committed to the physical custody of a local mental health authority
3974 under Section [~~62A-15-703~~] 26B-5-403 is entitled to:

3975 (a) communicate, by sealed mail or otherwise, with persons, including official
3976 agencies, inside or outside of the facility;

3977 (b) receive visitors; and

3978 (c) exercise his civil rights.

3979 (2) When any right of a child is limited or denied, the nature, extent, and reason for that
3980 limitation or denial shall be entered in the child's treatment record. Any continuing denial or
3981 limitation shall be reviewed every 30 days and shall also be entered in that treatment record.
3982 Notice of that continuing denial in excess of 30 days shall be sent to the division.

3983 (3) Notwithstanding any limitations authorized under this section on the right of
3984 communication, each child committed to the physical custody of a local mental health authority
3985 is entitled to communicate by sealed mail with his attorney, the local mental health authority,
3986 its designee, his current treating mental health professional, and the court, if commitment was
3987 court ordered. In no case may the child be denied a visit with the legal counsel or clergy of his
3988 choice.

3989 (4) Each local mental health authority shall provide appropriate and reasonable means
3990 and arrangements for informing children and their parents or legal guardians of their rights as
3991 provided in this part, and for assisting them in making and presenting requests for release.

3992 (5) All local mental health facilities shall post a statement, promulgated by the
3993 division, describing patient's rights under Utah law.

3994 Section 94. Section **26B-5-411**, which is renumbered from Section 62A-15-711 is
3995 renumbered and amended to read:

3996 ~~[62A-15-711]~~. **26B-5-411. Standards for care and treatment.**

3997 Every child is entitled to humane care and treatment and to medical care and treatment

3998 in accordance with the prevailing standards accepted in medical practice, psychiatric nursing
3999 practice, social work practice, and the practice of clinical psychology.

4000 Section 95. Section **26B-5-412**, which is renumbered from Section 62A-15-712 is
4001 renumbered and amended to read:

4002 ~~[62A-15-712]~~. **26B-5-412. Responsibilities of the division.**

4003 (1) The division shall ensure that the requirements of this part are met and applied
4004 uniformly by local mental health authorities across the state.

4005 (2) Because the division must, under Section [~~62A-15-103~~] 26B-5-102, contract with,
4006 review, approve, and oversee local mental health authority plans, and withhold funds from
4007 local mental health authorities and public and private providers for contract noncompliance or
4008 misuse of public funds, the division shall:

4009 (a) require each local mental health authority to submit its plan to the division by May
4010 1 of each year; and

4011 (b) conduct an annual program audit and review of each local mental health authority
4012 in the state, and its contract provider.

4013 (3) The annual audit and review described in Subsection (2)(b) shall, in addition to
4014 items determined by the division to be necessary and appropriate, include a review and
4015 determination regarding whether or not:

4016 (a) public funds allocated to local mental health authorities are consistent with services
4017 rendered and outcomes reported by it or its contract provider; and

4018 (b) each local mental health authority is exercising sufficient oversight and control over
4019 public funds allocated for mental health programs and services.

4020 (4) The Legislature may refuse to appropriate funds to the division if the division fails
4021 to comply with the procedures and requirements of this section.

4022 Section 96. Section **26B-5-413**, which is renumbered from Section 62A-15-713 is
4023 renumbered and amended to read:

4024 ~~[62A-15-713]~~. **26B-5-413. Contracts with local mental health authorities --**

4025 **Provisions.**

4026 When the division contracts with a local mental health authority to provide mental
4027 health programs and services in accordance with the provisions of this chapter and Title 17,
4028 Chapter 43, Part 3, Local Mental Health Authorities, it shall ensure that those contracts include
4029 at least the following provisions:

4030 (1) that an independent auditor shall conduct any audit of the local mental health
4031 authority or its contract provider's programs or services, pursuant to the provisions of Title 51,
4032 Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and
4033 Other Local Entities Act;

4034 (2) in addition to the requirements described in Title 51, Chapter 2a, Accounting
4035 Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, the
4036 division:

4037 (a) shall prescribe guidelines and procedures, in accordance with those formulated by
4038 the state auditor pursuant to Section 67-3-1, for auditing the compensation and expenses of
4039 officers, directors, and specified employees of the private contract provider, to assure the state
4040 that no personal benefit is gained from travel or other expenses; and

4041 (b) may prescribe specific items to be addressed by that audit, depending upon the
4042 particular needs or concerns relating to the local mental health authority or contract provider at
4043 issue;

4044 (3) the local mental health authority or its contract provider shall invite and include all
4045 funding partners in its auditor's pre- and exit conferences;

4046 (4) each member of the local mental health authority shall annually certify that he has
4047 received and reviewed the independent audit and has participated in a formal interview with the
4048 provider's executive officers;

4049 (5) requested information and outcome data will be provided to the division in the
4050 manner and within the timelines defined by the division;

4051 (6) all audit reports by state or county persons or entities concerning the local mental

4052 health authority or its contract provider shall be provided to the executive director of the
4053 department, the local mental health authority, and members of the contract provider's governing
4054 board; and

4055 (7) the local mental health authority or its contract provider will offer and provide
4056 mental health services to residents who are indigent and who meet state criteria for serious and
4057 persistent mental illness or severe emotional disturbance.

4058 Section 97. Section **26B-5-501**, which is renumbered from Section 62A-15-1202 is
4059 renumbered and amended to read:

4060 **Part 5. Essential Treatment and Intervention**

4061 **[62A-15-1202]. 26B-5-501. Definitions.**

4062 [As] In addition to the definitions in Section 26B-5-301, as used in this part:

4063 (1) "Emergency, life saving treatment" means treatment that is:

4064 (a) provided at a licensed health care facility or licensed human services program;

4065 (b) provided by a licensed health care professional;

4066 (c) necessary to save the life of the patient; and

4067 (d) required due to the patient's:

4068 (i) use of an illegal substance; or

4069 (ii) excessive use or misuse of a prescribed medication.

4070 (2) "Essential treatment examiner" means:

4071 (a) a licensed physician, preferably a psychiatrist, who is designated by the division as
4072 specifically qualified by training or experience in the diagnosis of substance use disorder; or

4073 (b) a licensed mental health professional designated by the division as specially
4074 qualified by training and who has at least five years' continual experience in the treatment of
4075 substance use disorder.

4076 (3) "Relative" means an adult who is a spouse, parent, stepparent, grandparent, child,
4077 or sibling of an individual.

4078 (4) "Serious harm" means the individual, due to substance use disorder, is at serious

4079 risk of:

4080 (a) drug overdose;

4081 (b) suicide;

4082 (c) serious bodily self-injury;

4083 (d) serious bodily injury because the individual is incapable of providing the basic
4084 necessities of life, including food, clothing, or shelter; or

4085 (e) causing or attempting to cause serious bodily injury to another individual.

4086 (5) "Substance use disorder" means the same as that term is defined in the current
4087 edition of the Diagnostic and Statistical Manual of Mental Disorders published by the
4088 American Psychiatric Association.

4089 Section 98. Section **26B-5-502**, which is renumbered from Section 62A-15-1201 is
4090 renumbered and amended to read:

4091 ~~[62A-15-1201]~~. **26B-5-502**. **Statement of legislative intent.**

4092 To address the serious public health crisis of substance use disorder related deaths and
4093 life-threatening opioid addiction, and to allow and enable caring relatives to seek essential
4094 treatment and intervention, as may be necessary, on behalf of a sufferer of a substance use
4095 disorder, the Legislature enacts the Essential Treatment and Intervention Act.

4096 Section 99. Section **26B-5-503**, which is renumbered from Section 62A-15-1203 is
4097 renumbered and amended to read:

4098 ~~[62A-15-1203]~~. **26B-5-503**. **Petition for essential treatment -- Contents --**
4099 **Commitment to pay.**

4100 (1) A relative seeking essential treatment and intervention for a sufferer of a substance
4101 use disorder may file a petition with the [district] court of the county in which the sufferer of
4102 the substance use disorder resides or is found.

4103 (2) The petition shall include:

4104 (a) the respondent's:

4105 (i) legal name;

- 4106 (ii) date of birth, if known;
- 4107 (iii) social security number, if known; and
- 4108 (iv) residence and current location, if known;
- 4109 (b) the petitioner's relationship to the respondent;
- 4110 (c) the name and residence of the respondent's legal guardian, if any and if known;
- 4111 (d) a statement that the respondent:
 - 4112 (i) is suffering from a substance use disorder; and
 - 4113 (ii) if not treated for the substance use disorder presents a serious harm to self or
 - 4114 others;
- 4115 (e) the factual basis for the statement described in Subsection (2)(d); and
- 4116 (f) at least one specified local substance abuse authority or approved treatment facility
- 4117 or program where the respondent may receive essential treatment.
- 4118 (3) Any petition filed under this section:
 - 4119 (a) may be accompanied by proof of health insurance to provide for the respondent's
 - 4120 essential treatment;
 - 4121 (b) shall be accompanied by a binding commitment to pay, signed by the petitioner or
 - 4122 another individual, obligating the petitioner or other individual to pay all treatment costs
 - 4123 beyond those covered by the respondent's health insurance policy for court-ordered essential
 - 4124 treatment for the respondent; and
 - 4125 (c) may be accompanied by documentation of emergency, life saving treatment
 - 4126 provided to the respondent.
 - 4127 (4) Nothing in this section alters the contractual relationship between a health insurer
 - 4128 and an insured individual.

4129 Section 100. Section **26B-5-504**, which is renumbered from Section 62A-15-1204 is
4130 renumbered and amended to read:

4131 ~~[62A-15-1204]~~. **26B-5-504. Criteria for essential treatment and intervention.**

4132 A [district] court shall order an individual to undergo essential treatment for a substance

4133 use disorder when the [district] court determines by clear and convincing evidence that the
4134 individual:

- 4135 (1) suffers from a substance use disorder;
- 4136 (2) can reasonably benefit from the essential treatment;
- 4137 (3) is unlikely to substantially benefit from a less-restrictive alternative treatment; and
- 4138 (4) presents a serious harm to self or others.

4139 Section 101. Section **26B-5-505**, which is renumbered from Section 62A-15-1205 is
4140 renumbered and amended to read:

4141 ~~[62A-15-1205]~~. **26B-5-505**. **Proceeding for essential treatment -- Duties of**
4142 **court -- Disposition.**

4143 (1) A [district] court shall review the assertions contained in the verified petition
4144 described in Section [~~62A-15-1203~~] 26B-5-503.

4145 (2) If the court determines that the assertions, if true, are sufficient to order the
4146 respondent to undergo essential treatment, the court shall:

4147 (a) set an expedited date for a time-sensitive hearing to determine whether the court
4148 should order the respondent to undergo essential treatment for a substance use disorder;

4149 (b) provide notice of:

4150 (i) the contents of the petition, including all assertions made;

4151 (ii) a copy of any order for detention or examination;

4152 (iii) the date of the hearing;

4153 (iv) the purpose of the hearing;

4154 (v) the right of the respondent to be represented by legal counsel; and

4155 (vi) the right of the respondent to request a preliminary hearing before submitting to an
4156 order for examination;

4157 (c) provide notice to:

4158 (i) the respondent;

4159 (ii) the respondent's guardian, if any; and

- 4160 (iii) the petitioner; and
- 4161 (d) subject to the right described in Subsection (2)(b)(vi), order the respondent to be
4162 examined before the hearing date:
- 4163 (i) by two essential treatment examiners; or
- 4164 (ii) by one essential treatment examiner, if documentation before the court
4165 demonstrates that the respondent received emergency, life saving treatment:
- 4166 (A) within 30 days before the day on which the petition for essential treatment and
4167 intervention was filed; or
- 4168 (B) during the pendency of the petition for essential treatment and intervention.
- 4169 (3) An essential treatment examiner shall examine the respondent to determine:
- 4170 (a) whether the respondent meets each of the criteria described in Section
4171 ~~[62A-15-1204]~~ [26B-5-504](#);
- 4172 (b) the severity of the respondent's substance use disorder, if any;
- 4173 (c) what forms of treatment would substantially benefit the respondent, if the examiner
4174 determines that the respondent has a substance use disorder; and
- 4175 (d) the appropriate duration for essential treatment, if essential treatment is
4176 recommended.
- 4177 (4) An essential treatment examiner shall certify the examiner's findings to the court
4178 within 24 hours after completion of the examination.
- 4179 (5) The court may, based upon the findings of an essential treatment examiner,
4180 terminate the proceedings and dismiss the petition.
- 4181 (6) The parties may, at any time, make a binding stipulation to an essential treatment
4182 plan and submit that plan to the court for court order.
- 4183 (7) At the hearing, the petitioner and the respondent may testify and may
4184 cross-examine witnesses.
- 4185 (8) If, upon completion of the hearing, the court finds that the criteria in Section
4186 ~~[62A-15-1204]~~ [26B-5-504](#) are met, the court shall order essential treatment for an initial period

4187 that:

4188 (a) does not exceed 360 days, subject to periodic review as provided in Section

4189 [~~62A-15-1206~~] 26B-5-507; and

4190 (b) (i) is recommended by an essential treatment examiner; or

4191 (ii) is otherwise agreed to at the hearing.

4192 (9) The court shall designate the facility for the essential treatment, as:

4193 (a) described in the petition;

4194 (b) recommended by an essential treatment examiner; or

4195 (c) agreed to at the hearing.

4196 (10) The court shall issue an order that includes the court's findings and the reasons for
4197 the court's determination.

4198 (11) The court may order the petitioner to be the respondent's personal representative,
4199 as described in 45 C.F.R. Sec. 164.502(g), for purposes of the respondent's essential treatment.

4200 Section 102. Section **26B-5-506**, which is renumbered from Section 62A-15-1205.5 is
4201 renumbered and amended to read:

4202 [~~62A-15-1205.5~~]. **26B-5-506. Failure to comply with court order.**

4203 (1) The provisions of this section apply after a respondent has been afforded full due
4204 process rights, as provided in this Essential Treatment and Intervention Act, including notice,
4205 an opportunity to respond and appear at a hearing, and, as applicable, the court's finding that
4206 the evidence meets the clear and convincing standard, as described in Section [~~62A-15-1204~~]
4207 26B-5-504, for a court to order essential treatment and intervention.

4208 (2) When a respondent fails to comply with a court order issued under Subsection
4209 [~~62A-15-1205~~] 26B-5-505(2)(d) or (10), the court may:

4210 (a) find the respondent in contempt under Subsection 78B-6-301(5); and

4211 (b) issue a warrant of commitment under Section 78B-6-312.

4212 (3) When a peace officer executes a warrant issued under this section, the officer shall
4213 take the respondent into protective custody and transport the respondent to the location

4214 specified by the court.

4215 (4) Notwithstanding Subsection (3), if a peace officer determines through the peace
4216 officer's experience and training that taking the respondent into protective custody or
4217 transporting the respondent would increase the risk of substantial danger to the respondent or
4218 others, a peace officer may exercise discretion to not take the respondent into custody or
4219 transport the respondent, as permitted by policies and procedures established by the peace
4220 officer's law enforcement agency and any applicable federal or state statute, or case law.

4221 Section 103. Section **26B-5-507**, which is renumbered from Section 62A-15-1206 is
4222 renumbered and amended to read:

4223 ~~[62A-15-1206]~~. **26B-5-507. Periodic review -- Discharge.**

4224 A local substance abuse authority or an approved treatment facility or program that
4225 provides essential treatment shall:

4226 (1) at least every 90 days after the day on which a patient is admitted, unless a court
4227 orders otherwise, examine or cause to be examined a patient who has been ordered to receive
4228 essential treatment;

4229 (2) notify the patient and the patient's personal representative or guardian, if any, of the
4230 substance and results of the examination;

4231 (3) discharge an essential treatment patient if the examination determines that the
4232 conditions justifying essential treatment and intervention no longer exist; and

4233 (4) after discharging an essential treatment patient, send a report describing the reasons
4234 for discharge to the clerk of the court where the proceeding for essential treatment was held and
4235 to the patient's personal representative or guardian, if any.

4236 Section 104. Section **26B-5-508**, which is renumbered from Section 62A-15-1207 is
4237 renumbered and amended to read:

4238 ~~[62A-15-1207]~~. **26B-5-508. Seventy-two-hour emergency treatment pending**
4239 **a final court order.**

4240 (1) A court may order a respondent to be hospitalized for up to 72 hours if:

4241 (a) an essential treatment examiner has examined the respondent and certified that the
4242 respondent meets the criteria described in Section [~~62A-15-1204~~] 26B-5-504; and

4243 (b) the court finds by clear and convincing evidence that the respondent presents an
4244 imminent threat of serious harm to self or others as a result of a substance use disorder.

4245 (2) An individual who is admitted to a hospital under this section shall be released
4246 from the hospital within 72 hours after admittance, unless a treating physician or essential
4247 treatment examiner determines that the individual continues to pose an imminent threat of
4248 serious harm to self or others.

4249 (3) If a treating physician or essential treatment examiner makes the determination
4250 described in Subsection (2), the individual may be detained for as long as the threat of serious
4251 harm remains imminent, but not more than 10 days after the day on which the individual was
4252 hospitalized, unless a court orders otherwise.

4253 (4) A treating physician or an essential treatment examiner shall, as frequently as
4254 practicable, examine an individual hospitalized under this section and release the individual if
4255 it is determined that a threat of imminent serious harm no longer exists.

4256 Section 105. Section **26B-5-509**, which is renumbered from Section 62A-15-1207.5 is
4257 renumbered and amended to read:

4258 [~~62A-15-1207.5~~]. **26B-5-509**. **Emergency, life saving treatment -- Temporary**
4259 **personal representative.**

4260 (1) When an individual receives emergency, life saving treatment:

4261 (a) a licensed health care professional, at the health care facility where the emergency,
4262 life saving treatment is provided, may ask the individual who, if anyone, may be contacted and
4263 informed regarding the individual's treatment;

4264 (b) a treating physician may hold the individual in the health care facility for up to 48
4265 hours, if the treating physician determines that the individual poses a serious harm to self or
4266 others; and

4267 (c) a relative of the individual may petition a court to be designated as the individual's

4268 personal representative, described in 45 C.F.R. Sec. 164.502(g), for the limited purposes of the
4269 individual's medical and mental health care related to a substance use disorder.

4270 (2) The petition described in Subsection (1)(c) shall include:

4271 (a) the respondent's:

4272 (i) legal name;

4273 (ii) date of birth, if known;

4274 (iii) social security number, if known; and

4275 (iv) residence and current location, if known;

4276 (b) the petitioner's relationship to the respondent;

4277 (c) the name and residence of the respondent's legal guardian, if any and if known;

4278 (d) a statement that the respondent:

4279 (i) is suffering from a substance use disorder; and

4280 (ii) has received, within the last 72 hours, emergency, life saving treatment;

4281 (e) the factual basis for the statement described in Subsection (2)(d); and

4282 (f) the name of any other individual, if any, who may be designated as the respondent's
4283 personal representative.

4284 (3) A court shall grant a petition for designation as a personal representative, ex parte,
4285 if it appears from the petition for designation as a court-designated personal representative that:

4286 (a) the respondent is suffering from a substance use disorder;

4287 (b) the respondent received emergency, life saving treatment within 10 days before the
4288 day on which the petition for designation as a personal representative is filed;

4289 (c) the petitioner is a relative of the respondent; and

4290 (d) no other individual is otherwise designated as the respondent's personal
4291 representative.

4292 (4) When a court grants, ex parte, a petition for designation as a personal
4293 representative, the court:

4294 (a) shall provide notice to the respondent;

4295 (b) shall order the petitioner to be the respondent's personal representative for 10 days
4296 after the day on which the court designates the petitioner as the respondent's personal
4297 representative; and

4298 (c) may extend the duration of the order:

4299 (i) for good cause shown, after the respondent has been notified and given a proper and
4300 sufficient opportunity to respond; or

4301 (ii) if the respondent consents to an extension.

4302 Section 106. Section **26B-5-510**, which is renumbered from Section 62A-15-1208 is
4303 renumbered and amended to read:

4304 ~~[62A-15-1208].~~ **26B-5-510. Confidentiality.**

4305 (1) The purpose of [~~Part 12, Essential Treatment and Intervention Act,~~] this part is to
4306 provide a process for essential treatment and intervention to save lives, preserve families, and
4307 reduce substance use disorder, including opioid addiction.

4308 (2) An essential treatment petition and any other document filed in connection with the
4309 petition for essential treatment is confidential and protected.

4310 (3) A hearing on an essential treatment petition is closed to the public, and only the
4311 following individuals and their legal counsel may be admitted to the hearing:

4312 (a) parties to the petition;

4313 (b) the essential treatment examiners who completed the court-ordered examination
4314 under Subsection [~~62A-15-1205~~] 26B-5-505(3);

4315 (c) individuals who have been asked to give testimony; and

4316 (d) individuals to whom notice of the hearing is required to be given under Subsection
4317 [~~62A-15-1205~~] 26B-5-505(2)(c).

4318 (4) Testimony, medical evaluations, the petition, and other documents directly related
4319 to the adjudication of the petition and presented to the court in the interest of the respondent
4320 may not be construed or applied as an admission of guilt to a criminal offense.

4321 (5) A court may, if applicable, enforce a previously existing warrant for a respondent or

4322 a warrant for a charge that is unrelated to the essential treatment petition filed under this part.

4323 Section 107. Section **26B-5-511**, which is renumbered from Section 62A-15-1209 is
4324 renumbered and amended to read:

4325 ~~[62A-15-1209]~~. **26B-5-511**. **Essential treatment for substance use disorder --**
4326 **Rights of patient.**

4327 All applicable rights guaranteed to a patient by Sections [~~62A-15-641 and 62A-15-642~~]
4328 26B-5-310 and 26B-5-311 shall be guaranteed to an individual who is ordered to undergo
4329 essential treatment for a substance use disorder.

4330 Section 108. Section **26B-5-601**, which is renumbered from Section 62A-17-102 is
4331 renumbered and amended to read:

4332 **Part 6. Mental Health Intervention and Treatment Programs**

4333 ~~[62A-17-102]~~. **26B-5-601**. **Definitions.**

4334 As used in this [chapter] part:

4335 (1) "211" means the abbreviated dialing code assigned by the Federal Communications
4336 Commission for consumer access to community information and referral services.

4337 (2) "ACT team personnel" means a licensed psychiatrist or mental health therapist, or
4338 another individual, as determined by the division, who is part of an ACT team.

4339 ~~[(2)]~~ (3) "Approved 211 service provider" means a public or nonprofit agency or
4340 organization designated by the department to provide 211 services.

4341 (4) (a) "Assertive community treatment" means mental health services and on-site
4342 intervention that a person renders to an individual with a mental illness.

4343 (b) "Assertive community treatment" includes the provision of assessment and
4344 treatment plans, rehabilitation, support services, and referrals to other community resources.

4345 (5) "Assertive community treatment team" or "ACT team" means a mobile team of
4346 medical and mental health professionals that provides assertive community outreach treatment
4347 and, based on the individual circumstances of each case, coordinates with other medical
4348 providers and appropriate community resources.

4349 (6) "Mental health therapist" means the same as that term is defined in Section
4350 58-60-102.

4351 (7) "Mental illness" means the same as that term is defined in Section 26B-5-301.

4352 (8) "Psychiatrist" means the same as that term is defined in Section 26B-1-328.

4353 [~~3~~] (9) (a) "Utah 211" means an information and referral system that:

4354 (i) maintains a database of:

4355 (A) providers of health and human services; and

4356 (B) volunteer opportunities and coordinators throughout the state;

4357 (ii) assists individuals, families, and communities at no cost in identifying,

4358 understanding, and accessing the providers of health and human services; and

4359 (iii) works collaboratively with state agencies, local governments, community-based

4360 organizations, not-for-profit organizations, organizations active in disaster relief, and

4361 faith-based organizations.

4362 (b) "Utah 211" does not mean service provided by 911 and first responders.

4363 Section 109. Section **26B-5-602**, which is renumbered from Section 62A-17-103 is

4364 renumbered and amended to read:

4365 ~~[62A-17-103]~~. **26B-5-602**. **Designated approved 211 service provider --**

4366 **Department responsibilities.**

4367 (1) The department shall designate an approved 211 service provider to provide

4368 information to Utah citizens about health and human services available in the citizen's

4369 community.

4370 (2) Only a service provider approved by the department may provide 211 telephone

4371 services in this state.

4372 (3) The department shall approve a 211 service provider after considering the

4373 following:

4374 (a) the ability of the proposed 211 service provider to meet the national 211 standards

4375 recommended by the Alliance of Information and Referral Systems;

- 4376 (b) the financial stability of the proposed 211 service provider;
- 4377 (c) the community support for the proposed 211 service provider;
- 4378 (d) the relationship between the proposed 211 service provider and other information
- 4379 and referral services; and
- 4380 (e) other criteria as the department considers appropriate.

4381 (4) The department shall coordinate with the approved 211 service provider and other
4382 state and local agencies to ensure the joint development and maintenance of a statewide
4383 information database for use by the approved 211 service provider.

4384 Section 110. Section **26B-5-603**, which is renumbered from Section 62A-17-104 is
4385 renumbered and amended to read:

4386 ~~[62A-17-104]~~. **26B-5-603. Utah 211 created -- Responsibilities.**

4387 (1) The designated 211 service provider described in Section ~~[62A-17-102]~~ [26B-5-601](#)
4388 shall be known as Utah 211.

4389 (2) Utah 211 shall, as appropriations allow:

4390 (a) by 2014:

4391 (i) provide the services described in this Subsection (2) 24 hours a day, seven days a
4392 week;

4393 (ii) abide by the key standards for 211 programs, as specified in the Standards for
4394 Professional Information and Referral Requirements for Alliance of Information Systems
4395 Accreditation and Operating 211 systems; and

4396 (iii) be a point of entry for disaster-related information and referral;

4397 (b) track types of calls received and referrals made;

4398 (c) develop, coordinate, and implement a statewide information and referral system
4399 that integrates existing community-based structures with state and local agencies;

4400 (d) provide information relating to:

4401 (i) health and human services; and

4402 (ii) volunteer opportunities;

4403 (e) create an online, searchable database to provide information to the public about the
4404 health and human services provided by public or private entities throughout the state, and
4405 ensure that:

4406 (i) the material on the searchable database is indexed:

4407 (A) geographically to inform an individual about the health and human services
4408 provided in the area where the individual lives; and

4409 (B) by type of service provided; and

4410 (ii) the searchable database contains links to the Internet sites of any local provider of
4411 health and human services, if possible, and include:

4412 (A) the name, address, and phone number of organizations providing health and human
4413 services in a county; and

4414 (B) a description of the type of services provided;

4415 (f) be responsible, in collaboration with state agencies, for raising community
4416 awareness about available health and human services; and

4417 (g) host meetings on a quarterly basis until calendar year 2014, and on a biannual basis
4418 beginning in 2014, to seek input and guidance from state agencies, local governments,
4419 community-based organizations, not-for-profit organizations, and faith-based organizations.

4420 Section 111. Section **26B-5-604**, which is renumbered from Section 62A-17-105 is
4421 renumbered and amended to read:

4422 ~~[62A-17-105]~~. **26B-5-604. Other state agencies and local governments.**

4423 (1) A state agency or local government institution that provides health and human
4424 services, or a public or private entity receiving state-appropriated funds to provide health and
4425 human services, shall provide Utah 211 with information, in a form determined by Utah 211,
4426 about the services the agency or entity provides for inclusion in the statewide information and
4427 referral system.

4428 (2) A state agency or local government institution that provides health and human
4429 services may not establish a new public telephone line or hotline, other than an emergency first

4430 responder hotline, to provide information or referrals unless the agency or institution first:

4431 (a) consults with Utah 211 about using the existing 211 to provide access to the
4432 information or referrals; and

4433 (b) assesses whether a new line or the existing 211 program would be more cost
4434 effective.

4435 (3) Nothing in this section prohibits a state agency or local government institution from
4436 starting a public telephone line or hotline in an emergency situation.

4437 (4) State agencies, local governments, community-based organizations, not-for-profit
4438 organizations, faith-based organizations, and businesses that engage in providing human
4439 services may contract with Utah 211 to provide specialized projects, including:

4440 (a) public health campaigns;

4441 (b) seasonal community services; and

4442 (c) expanded point of entry services.

4443 Section 112. Section **26B-5-605**, which is renumbered from Section 62A-17-106 is
4444 renumbered and amended to read:

4445 ~~[62A-17-106]~~. **26B-5-605. Immunity from liability.**

4446 (1) Except as provided in Subsection (2), Utah 211, its employees, directors, officers,
4447 and information specialists are not liable to any person in a civil action for injury or loss as a
4448 result of an act or omission of Utah 211, its employees, directors, officers, or information
4449 specialists, in connection with:

4450 (a) developing, adopting, implementing, maintaining, or operating the Utah 211
4451 system;

4452 (b) making Utah 211 available for use by the public; or

4453 (c) providing 211 services.

4454 (2) Utah 211, its employees, directors, officers, and information specialists shall be
4455 liable to any person in a civil action for an injury or loss resulting from willful or wanton
4456 misconduct.

4457 Section 113. Section **26B-5-606**, which is renumbered from Section 62A-15-1802 is
4458 renumbered and amended to read:

4459 ~~[62A-15-1802]~~. **26B-5-606**. **Division duties -- ACT team license creation.**

4460 (1) To promote the availability of assertive community treatment, the division shall
4461 make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
4462 that create a certificate for ACT team personnel and ACT teams, that includes:

4463 (a) the standards the division establishes under Subsection (2); and

4464 (b) guidelines for:

4465 (i) required training and experience of ACT team personnel; and

4466 (ii) the coordination of assertive community treatment and other community resources.

4467 (2) (a) The division shall:

4468 (i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
4469 make rules that establish standards that an applicant is required to meet to qualify for the
4470 certifications described in Subsection (1); and

4471 (ii) create a statewide ACT team plan that:

4472 (A) identifies statewide assertive community treatment needs, objectives, and
4473 priorities; and

4474 (B) identifies the equipment, facilities, personnel training, and other resources
4475 necessary to provide assertive community treatment.

4476 (b) The division may delegate the ACT team plan requirement described in Subsection
4477 (2)(a)(ii) to a contractor with whom the division contracts to provide assertive community
4478 outreach treatment.

4479 Section 114. Section **26B-5-607**, which is renumbered from Section 62A-15-1803 is
4480 renumbered and amended to read:

4481 ~~[62A-15-1803]~~. **26B-5-607**. **Grants for development of an ACT team.**

4482 (1) The division shall award grants for the development of one ACT team to provide
4483 assertive community treatment to individuals in the state.

4484 (2) The division shall prioritize the award of a grant described in Subsection (1) to
4485 entities, based on:

- 4486 (a) the number of individuals the proposed ACT team will serve; and
- 4487 (b) the percentage of matching funds the entity will provide to develop the proposed
4488 ACT team.

4489 (3) An entity does not need to have resources already in place to be awarded a grant
4490 described in Subsection (1).

4491 (4) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah
4492 Administrative Rulemaking Act, for the application and award of the grants described in
4493 Subsection (1).

4494 Section 115. Section **26B-5-608**, which is renumbered from Section 62A-15-1804 is
4495 renumbered and amended to read:

4496 ~~[62A-15-1804]~~. **26B-5-608. Housing assistance program for individuals**
4497 **discharged from the Utah State Hospital and receiving assertive community treatment.**

4498 (1) (a) The division shall, within funds appropriated by the Legislature for this purpose,
4499 implement and manage the operation of a housing assistance program in consultation with the
4500 Utah State Hospital, established in Section [~~62A-15-601~~] 26B-5-302, and one or more housing
4501 authorities, associations of governments, or nonprofit entities.

4502 (b) The housing assistance program shall provide the housing assistance described in
4503 Subsection (1)(c) to individuals:

- 4504 (i) who are discharged from the Utah State Hospital; and
- 4505 (ii) who the division determines would benefit from assertive community treatment.

4506 (c) The housing assistance provided under the housing assistance program may
4507 include:

- 4508 (i) subsidizing rent payments for housing;
- 4509 (ii) subsidizing the provision of temporary or transitional housing; or
- 4510 (iii) providing money for one-time housing barrier assistance, including rental housing

4511 application fees, utility hookup fees, or rental housing security deposits.

4512 (2) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah
4513 Administrative Rulemaking Act, to establish procedures for the operation of the housing
4514 assistance program described in Subsection (1).

4515 (3) The division shall report to the Health and Human Services Interim Committee
4516 each year before November 30 regarding:

4517 (a) the entities the division consulted with under Subsection (1)(a);

4518 (b) the number of individuals who are benefitting from the housing assistance program
4519 described in Subsection (1);

4520 (c) the type of housing assistance provided under the housing assistance program
4521 described in Subsection (1);

4522 (d) the average monthly dollar amount provided to individuals under the housing
4523 assistance program described in Subsection (1); and

4524 (e) recommendations regarding improvements or changes to the housing assistance
4525 program described in Subsection (1).

4526 Section 116. Section **26B-5-609**, which is renumbered from Section 62A-15-1402 is
4527 renumbered and amended to read:

4528 ~~[62A-15-1402].~~ **26B-5-609.** **Department and division duties -- MCOT license**
4529 **creation.**

4530 (1) As used in this section:

4531 (a) "Commission" means the Behavioral Health Crisis Response Commission created
4532 in Section [63C-18-202](#).

4533 (b) "Emergency medical service personnel" means the same as that term is defined in
4534 Section [26B-4-101](#).

4535 (c) "Emergency medical services" means the same as that term is defined in Section
4536 [26B-4-101](#).

4537 (d) "MCOT certification" means the certification created in this part for MCOT

4538 personnel and mental health crisis outreach services.

4539 (e) "MCOT personnel" means a licensed mental health therapist or other mental health
4540 professional, as determined by the division, who is a part of a mobile crisis outreach team.

4541 (f) "Mental health crisis" means a mental health condition that manifests itself by
4542 symptoms of sufficient severity that a prudent layperson who possesses an average knowledge
4543 of mental health issues could reasonably expect the absence of immediate attention or
4544 intervention to result in:

4545 (i) serious jeopardy to the individual's health or well-being; or

4546 (ii) a danger to others.

4547 (g) (i) "Mental health crisis services" means mental health services and on-site
4548 intervention that a person renders to an individual suffering from a mental health crisis.

4549 (ii) "Mental health crisis services" includes the provision of safety and care plans,
4550 stabilization services offered for a minimum of 60 days, and referrals to other community
4551 resources.

4552 (h) "Mental health therapist" means the same as that term is defined in Section
4553 [58-60-102](#).

4554 (i) "Mobile crisis outreach team" or "MCOT" means a mobile team of medical and
4555 mental health professionals that provides mental health crisis services and, based on the
4556 individual circumstances of each case, coordinates with local law enforcement, emergency
4557 medical service personnel, and other appropriate state or local resources.

4558 ~~[(1)]~~ (2) To promote the availability of comprehensive mental health crisis services
4559 throughout the state, the division shall make rules, in accordance with Title 63G, Chapter 3,
4560 Utah Administrative Rulemaking Act, that create a certificate for MCOT personnel and
4561 MCOTs, including:

4562 (a) the standards the division establishes under Subsection ~~[(2)]~~ (3); and

4563 (b) guidelines for:

4564 (i) credit for training and experience; and

- 4565 (ii) the coordination of:
- 4566 (A) emergency medical services and mental health crisis services;
- 4567 (B) law enforcement, emergency medical service personnel, and mobile crisis outreach
- 4568 teams; and
- 4569 (C) temporary commitment in accordance with Section [~~62A-15-629~~] 26B-5-331.

4570 ~~[(2)]~~ (3) (a) With recommendations from the commission, the division shall:

4571 (i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,

4572 make rules that establish standards that an applicant is required to meet to qualify for the

4573 MCOT certification described in Subsection ~~[(1)]~~ (2); and

- 4574 (ii) create a statewide MCOT plan that:
- 4575 (A) identifies statewide mental health crisis services needs, objectives, and priorities;
- 4576 and
- 4577 (B) identifies the equipment, facilities, personnel training, and other resources
- 4578 necessary to provide mental health crisis services.

4579 (b) The division may delegate the MCOT plan requirement described in Subsection

4580 ~~[(2)(a)(ii)]~~ (3)(a)(ii) to a contractor with which the division contracts to provide mental health

4581 crisis services.

4582 Section 117. Section **26B-5-610**, which is renumbered from Section 62A-15-1302 is

4583 renumbered and amended to read:

4584 ~~[62A-15-1302]~~. **26B-5-610**. **Contracts for statewide mental health crisis line**

4585 **and statewide warm line -- Crisis worker and certified peer support specialist**

4586 **qualification or certification -- Operational standards.**

4587 (1) As used in this section:

4588 (a) "Certified peer support specialist" means an individual who:

4589 (i) meets the standards of qualification or certification that the division sets, in

4590 accordance with Subsection (3); and

4591 (ii) staffs the statewide warm line under the supervision of at least one mental health

4592 therapist.

4593 (b) "Commission" means the Behavioral Health Crisis Response Commission created
4594 in Section [63C-18-202](#).

4595 (c) "Crisis worker" means an individual who:

4596 (i) meets the standards of qualification or certification that the division sets, in
4597 accordance with Subsection (3); and

4598 (ii) staffs the statewide mental health crisis line, the statewide warm line, or a local
4599 mental health crisis line under the supervision of at least one mental health therapist.

4600 (d) "Local mental health crisis line" means a phone number or other response system
4601 that is:

4602 (i) accessible within a particular geographic area of the state; and

4603 (ii) intended to allow an individual to contact and interact with a qualified mental or
4604 behavioral health professional.

4605 (e) "Mental health crisis" means the same as that term is defined in Section [26B-5-609](#).

4606 (f) "Mental health therapist" means the same as that term is defined in Section
4607 [58-60-102](#).

4608 (g) "Statewide mental health crisis line" means a statewide phone number or other
4609 response system that allows an individual to contact and interact with a qualified mental or
4610 behavioral health professional 24 hours per day, 365 days per year.

4611 (h) "Statewide warm line" means a statewide phone number or other response system
4612 that allows an individual to contact and interact with a qualified mental or behavioral health
4613 professional or a certified peer support specialist.

4614 ~~[(1)]~~ (2) (a) The division shall enter into a new contract or modify an existing contract
4615 to manage and operate, in accordance with this part, the statewide mental health crisis line and
4616 the statewide warm line.

4617 (b) Through the contracts described in Subsection ~~[(1)(a)]~~ (2)(a) and in consultation
4618 with the commission, the division shall set standards of care and practice for:

4619 (i) the mental health therapists and crisis workers who staff the statewide mental health
4620 crisis line; and

4621 (ii) the mental health therapists, crisis workers, and certified peer support specialists
4622 who staff the statewide warm line.

4623 ~~[(2)]~~ (3) (a) The division shall establish training and minimum standards for the
4624 qualification or certification of:

4625 (i) crisis workers who staff the statewide mental health crisis line, the statewide warm
4626 line, and local mental health crisis lines; and

4627 (ii) certified peer support specialists who staff the statewide warm line.

4628 (b) The division may make rules, in accordance with Title 63G, Chapter 3, Utah
4629 Administrative Rulemaking Act, necessary to establish the training and minimum standards
4630 described in Subsection ~~[(2)(a)]~~ (3)(a).

4631 (4) In consultation with the commission, the division shall ensure that:

4632 (a) the following individuals are available to staff and answer calls to the statewide
4633 mental health crisis line 24 hours per day, 365 days per calendar year:

4634 (i) mental health therapists; or

4635 (ii) crisis workers;

4636 (b) a sufficient amount of staff is available to ensure that when an individual calls the
4637 statewide mental health crisis line, regardless of the time, date, or number of individuals trying
4638 to simultaneously access the statewide mental health crisis line, an individual described in
4639 Subsection (4)(a) answers the call without the caller first:

4640 (i) waiting on hold; or

4641 (ii) being screened by an individual other than a mental health therapist or crisis
4642 worker;

4643 (c) the statewide mental health crisis line has capacity to accept all calls that local
4644 mental health crisis lines route to the statewide mental health crisis line;

4645 (d) the following individuals are available to staff and answer calls to the statewide

4646 warm line during the hours and days of operation set by the division under Subsection (5):

4647 (i) mental health therapists;

4648 (ii) crisis workers; or

4649 (iii) certified peer support specialists;

4650 (e) when an individual calls the statewide mental health crisis line, the individual's call

4651 may be transferred to the statewide warm line if the individual is not experiencing a mental

4652 health crisis; and

4653 (f) when an individual calls the statewide warm line, the individual's call may be

4654 transferred to the statewide mental health crisis line if the individual is experiencing a mental

4655 health crisis.

4656 (5) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah

4657 Administrative Rulemaking Act, to establish the hours and days of operation for the statewide

4658 warm line.

4659 Section 118. Section **26B-5-611**, which is renumbered from Section 62A-15-1101 is

4660 renumbered and amended to read:

4661 ~~[62A-15-1101].~~ **26B-5-611. Suicide prevention -- Reporting requirements.**

4662 (1) As used in this section:

4663 (a) "Advisory Council" means the Utah Substance Use and Mental Health Advisory

4664 Council created in Section [63M-7-301](#).

4665 (b) "Bureau" means the Bureau of Criminal Identification created in Section [53-10-201](#)

4666 within the Department of Public Safety.

4667 (c) "Coalition" means the Statewide Suicide Prevention Coalition created under

4668 Subsection (3).

4669 (d) "Coordinator" means the state suicide prevention coordinator appointed under

4670 Subsection (2).

4671 (e) "Fund" means the Governor's Suicide Prevention Fund created in Section

4672 [26B-1-325](#).

- 4673 (f) "Intervention" means an effort to prevent a person from attempting suicide.
- 4674 (g) "Legal intervention" means an incident in which an individual is shot by another
4675 individual who has legal authority to use deadly force.
- 4676 (h) "Postvention" means intervention after a suicide attempt or a suicide death to
4677 reduce risk and promote healing.
- 4678 (i) "Shooter" means an individual who uses a gun in an act that results in the death of
4679 the actor or another individual, whether the act was a suicide, homicide, legal intervention, act
4680 of self-defense, or accident.
- 4681 ~~[(1)]~~ (2) The division shall appoint a state suicide prevention coordinator to administer
4682 a state suicide prevention program composed of suicide prevention, intervention, and
4683 postvention programs, services, and efforts.
- 4684 ~~[(2)]~~ (3) The coordinator shall:
- 4685 (a) establish a Statewide Suicide Prevention Coalition with membership from public
4686 and private organizations and Utah citizens; and
- 4687 (b) appoint a chair and co-chair from among the membership of the coalition to lead
4688 the coalition.
- 4689 ~~[(3)]~~ (4) The state suicide prevention program may include the following components:
- 4690 (a) delivery of resources, tools, and training to community-based coalitions;
- 4691 (b) evidence-based suicide risk assessment tools and training;
- 4692 (c) town hall meetings for building community-based suicide prevention strategies;
- 4693 (d) suicide prevention gatekeeper training;
- 4694 (e) training to identify warning signs and to manage an at-risk individual's crisis;
- 4695 (f) evidence-based intervention training;
- 4696 (g) intervention skills training;
- 4697 (h) postvention training; or
- 4698 (i) a public education campaign to improve public awareness about warning signs of
4699 suicide and suicide prevention resources.

4700 [~~(4)~~] (5) The coordinator shall coordinate with the following to gather statistics, among
4701 other duties:

- 4702 (a) local mental health and substance abuse authorities;
- 4703 (b) the State Board of Education, including the public education suicide prevention
4704 coordinator described in Section [53G-9-702](#);

4705 [~~(c) the Department of Health;~~]

4706 (c) applicable divisions and offices within the department;

- 4707 (d) health care providers, including emergency rooms;
- 4708 (e) federal agencies, including the Federal Bureau of Investigation;
- 4709 (f) other unbiased sources; and
- 4710 (g) other public health suicide prevention efforts.

4711 [~~(5)~~] (6) The coordinator shall provide a written report to the Health and Human
4712 Services Interim Committee, at or before the October meeting every year, on:

4713 (a) implementation of the state suicide prevention program, as described in Subsections
4714 [~~(1) and (3)~~] (2) and (4);

4715 (b) data measuring the effectiveness of each component of the state suicide prevention
4716 program;

4717 (c) funds appropriated for each component of the state suicide prevention program; and

4718 (d) five-year trends of suicides in Utah, including subgroups of youths and adults and
4719 other subgroups identified by the state suicide prevention coordinator.

4720 [~~(6)~~] (7) The coordinator shall, in consultation with the bureau, implement and manage
4721 the operation of the firearm safety program described in Subsection [~~62A-15-103~~]

4722 [26B-5-102](#)(3).

4723 [~~(7)~~] (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
4724 Act, the division shall make rules:

4725 (a) governing the implementation of the state suicide prevention program, consistent
4726 with this section; and

4727 (b) in conjunction with the bureau, defining the criteria for employers to apply for
4728 grants under the Suicide Prevention Education Program described in Section [~~62A-15-103.1~~]
4729 26B-5-110, which shall include:

4730 (i) attendance at the suicide prevention education course described in Subsection
4731 [~~62A-15-103~~] 26B-5-102(3); and

4732 (ii) distribution of the firearm safety brochures or packets created in Subsection
4733 [~~62A-15-103~~] 26B-5-102(3), but does not require the distribution of a cable-style gun lock with
4734 a firearm if the firearm already has a trigger lock or comparable safety mechanism.

4735 [~~(8)~~] (9) As funding by the Legislature allows, the coordinator shall award grants, not
4736 to exceed a total of \$100,000 per fiscal year, to suicide prevention programs that focus on the
4737 needs of children who have been served by the Division of Juvenile Justice and Youth
4738 Services.

4739 [~~(9)~~] (10) The coordinator and the coalition shall submit to the advisory council, no
4740 later than October 1 each year, a written report detailing the previous fiscal year's activities to
4741 fund, implement, and evaluate suicide prevention activities described in this section.

4742 Section 119. Section **26B-5-612**, which is renumbered from Section 26-1-43 is
4743 renumbered and amended to read:

4744 [~~26-1-43~~]. **26B-5-612. Integrated behavioral health care grant program.**

4745 (1) As used in this section:

4746 (a) "Integrated behavioral health care services" means coordinated physical and
4747 behavioral health care services for one patient.

4748 (b) "Local mental health authority" means a local mental health authority described in
4749 Section 17-43-301.

4750 (c) "Project" means a project described in Subsection (2).

4751 (2) Before July 1 of each year, the department shall issue a request for proposals in
4752 accordance with this section to award a grant to a local mental health authority for development
4753 or expansion of a project to provide effective delivery of integrated behavioral health care

4754 services.

4755 (3) To be considered for a grant award under Subsection (2), a local mental health
4756 authority shall submit an application to the department that:

4757 (a) explains the benefits of integrated behavioral health care services to a patient who is
4758 receiving mental health or substance use disorder treatment;

4759 (b) describes the local mental health authority's operational plan for delivery of
4760 integrated behavioral health care services under the proposed project and any data or
4761 evidence-based practices supporting the likely success of the operational plan;

4762 (c) includes:

4763 (i) the number of patients to be served by the local mental health authority's proposed
4764 project; and

4765 (ii) the cost of the local mental health authority's proposed project; and

4766 (d) provides details regarding:

4767 (i) any plan to use funding sources in addition to the grant award under this section for
4768 the local mental health authority's proposed project;

4769 (ii) any existing or planned contracts or partnerships between the local mental health
4770 authority and other individuals or entities to develop or implement the local mental health
4771 authority's proposed project; and

4772 (iii) the sustainability and reliability of the local mental health authority's proposed
4773 project.

4774 (4) In evaluating a local mental health authority's application under Subsection (3) to
4775 determine the grant award under Subsection (2), the department shall consider:

4776 (a) how the local mental health authority's proposed project will ensure effective
4777 provision of integrated behavioral health care services;

4778 (b) the cost of the local mental health authority's proposed project;

4779 (c) the extent to which any existing or planned contracts or partnerships or additional
4780 funding sources described in the local mental health authority's application are likely to benefit

4781 the proposed project; and

4782 (d) the sustainability and reliability of the local mental health authority's proposed
4783 project.

4784 (5) Before July 1, 2025, the department shall report to the Health and Human Services
4785 Interim Committee regarding:

4786 (a) any knowledge gained or obstacles encountered in providing integrated behavioral
4787 health care services under each project;

4788 (b) data gathered in relation to each project; and

4789 (c) recommendations for expanding a project statewide.

4790 Section 120. Section **26B-6-101** is amended to read:

4791 **CHAPTER 6. LONG TERM SERVICES AND SUPPORTS, AGING, AND**
4792 **DISABILITIES**

4793 **Part 1. Aging and Adult Services**

4794 **26B-6-101. Chapter definitions.**

4795 [Reserved] As used in this chapter:

4796 (1) "Adult" or "high risk adult" means a person 18 years old or older who experiences a
4797 condition:

4798 (a) that places the person at a high risk of being unable to care for themselves:

4799 (i) as determined by assessment; and

4800 (ii) due to the onset of a physical or cognitive impairment or frailty; and

4801 (b) for which the person is not eligible to receive services under:

4802 (i) Part 4, Division of Services for People with Disabilities; or

4803 (ii) Chapter 5, Health Care -- Substance Use and Mental Health.

4804 (2) "Aging" and "aged" means a person 60 years old or older.

4805 (3) "Area agency" means an area agency that provides services to the aged, high risk
4806 adults, or both within a planning and service area.

4807 (4) "Area agency on aging" means a public or private nonprofit agency or office

4808 designated by the division to:

4809 (a) operate within a planning and service area of the state; and

4810 (b) develop and implement a broad range of services for the aged in the area described

4811 in Subsection (4)(a).

4812 (5) "Area agency on high risk adults" means a public or private nonprofit agency or
4813 office designated by the division to:

4814 (a) operate within a planning and service area of the state; and

4815 (b) develop and implement services for high risk adults in the area described in

4816 Subsection (5)(a).

4817 (6) "Board" means the Board of Aging and Adult Services created in Section

4818 [26B-1-426](#).

4819 (7) "Director" means the director of the division.

4820 (8) "Division" means the Division of Aging and Adult Services within the department.

4821 (9) "Personal care attendant" means a person who:

4822 (a) is selected by:

4823 (i) an aged person;

4824 (ii) an agent of an aged person;

4825 (iii) a high risk adult; or

4826 (iv) an agent of a high risk adult; and

4827 (b) provides personal services to the:

4828 (i) aged person described in Subsection (9)(a)(i); or

4829 (ii) high risk adult described in Subsection (9)(a)(iii).

4830 (10) "Personal services" means nonmedical care and support, including assisting a
4831 person with:

4832 (a) meal preparation;

4833 (b) eating;

4834 (c) bathing;

- 4835 (d) dressing;
- 4836 (e) personal hygiene; or
- 4837 (f) daily living activities.

4838 (11) "Planning and service area" means a geographical area of the state designated by
4839 the division for purposes of planning, development, delivery, and overall administration of
4840 services for the aged or high risk adults.

4841 (12) (a) "Public funds" means state or federal funds that are disbursed by:

- 4842 (i) the department;
- 4843 (ii) the division;
- 4844 (iii) an area agency; or
- 4845 (iv) an area agency on aging.

4846 (b) "Public funds" includes:

- 4847 (i) Medicaid funds; and
- 4848 (ii) Medicaid waiver funds.

4849 Section 121. Section **26B-6-102**, which is renumbered from Section 62A-3-102 is
4850 renumbered and amended to read:

4851 **[62A-3-102]. 26B-6-102. Division created.**

4852 There is created a Division of Aging and Adult Services within the department, under
4853 the administration and general supervision of the executive director.

4854 Section 122. Section **26B-6-103**, which is renumbered from Section 62A-3-103 is
4855 renumbered and amended to read:

4856 **[62A-3-103]. 26B-6-103. Director of division -- Appointment --**
4857 **Qualifications.**

4858 (1) The director of the division shall be appointed by the executive director with the
4859 concurrence of the board.

4860 (2) The director shall have a bachelor's degree from an accredited university or college,
4861 be experienced in administration, and be knowledgeable in matters concerning the aging and

4862 adult populations.

4863 (3) The director is the administrative head of the division.

4864 Section 123. Section **26B-6-104**, which is renumbered from Section 62A-3-104 is
4865 renumbered and amended to read:

4866 ~~[62A-3-104]~~. **26B-6-104. Authority of division.**

4867 (1) The division is the sole state agency, as defined by the Older Americans Act of
4868 1965, 42 U.S.C. 3001 et seq., to:

4869 (a) serve as an effective and visible advocate for the aging and adult population of this
4870 state;

4871 (b) develop and administer a state plan under the policy direction of the board; and

4872 (c) take primary responsibility for state activities relating to provisions of the Older
4873 Americans Act of 1965, as amended.

4874 (2) (a) The division has authority to designate:

4875 (i) planning and service areas for the state; and

4876 (ii) an area agency on aging within each planning and service area to design and
4877 implement a comprehensive and coordinated system of services and programs for the aged
4878 within appropriations from the Legislature.

4879 (b) Designation as an area agency on aging may be withdrawn:

4880 (i) upon request of the area agency on aging; or

4881 (ii) upon noncompliance with the provisions of the:

4882 (A) Older Americans Act of 1965, 42 U.S.C. Sec. 3001 et seq.;

4883 (B) federal regulations enacted under the Older Americans Act of 1965, 42 U.S.C. Sec.
4884 3001 et seq.;

4885 (C) provisions of this chapter; or

4886 (D) rules, policies, or procedures established by the division.

4887 (3) (a) The division has the authority to designate:

4888 (i) planning and service areas for the state; and

4889 (ii) subject to Subsection (3)(b), an area agency on high risk adults within each
4890 planning and service area to design and implement a comprehensive and coordinated system of
4891 case management and programs for high risk adults within appropriations from the Legislature.

4892 (b) For purposes of Subsection (3)(a)(ii), before October 1, 1998, the division shall
4893 designate as the area agency on high risk adults in a planning and service area:

4894 (i) the area agency on aging that operates within the same geographic area if that
4895 agency requests, before July 1, 1998, to expand that agency's current contract with the division
4896 to include the responsibility of:

4897 (A) being the area agency on high risk adults; or

4898 (B) operating the area agency on high risk adults:

4899 (I) through joint cooperation with one or more existing area agencies on aging; and

4900 (II) without reducing geographical coverage in any service area; or

4901 (ii) a public or private nonprofit agency or office if the area agency on aging that
4902 operates within the same geographic area has not made a request in accordance with Subsection
4903 (3)(b)(i).

4904 (c) (i) Area agencies on high risk adults shall be in operation before July 1, 1999.

4905 (ii) The division's efforts to establish area agencies on high risk adults shall start with
4906 counties with a population of more than 150,000 people.

4907 (d) Designation as an area agency on high risk adults may be withdrawn:

4908 (i) upon request by the area agency; or

4909 (ii) upon noncompliance with:

4910 (A) state law;

4911 (B) federal law; or

4912 (C) rules, policies, or procedures established by the division.

4913 (4) (a) The division may, by following the procedures and requirements of Title 63J,
4914 Chapter 5, Federal Funds Procedures Act:

4915 (i) seek federal grants, loans, or participation in federal programs; and

4916 (ii) receive and distribute state and federal funds for the division's programs and
4917 services to the aging and adult populations of the state.

4918 (b) The division may not disburse public funds to a personal care attendant as payment
4919 for personal services rendered to an aged person or high risk adult, except as provided in
4920 Section [~~62A-3-104.3~~] [26B-6-107](#).

4921 (5) The division has authority to establish, either directly or by contract, programs of
4922 advocacy, monitoring, evaluation, technical assistance, and public education to enhance the
4923 quality of life for aging and adult citizens of the state.

4924 (6) In accordance with the rules of the division and Title 63G, Chapter 6a, Utah
4925 Procurement Code, the division may contract with:

4926 (a) the governing body of an area agency to provide a comprehensive program of
4927 services; or

4928 (b) public and private entities for special services.

4929 (7) The division has authority to provide for collection, compilation, and dissemination
4930 of information, statistics, and reports relating to issues facing aging and adult citizens.

4931 (8) The division has authority to prepare and submit reports regarding the operation
4932 and administration of the division to the department, the Legislature, and the governor, as
4933 requested.

4934 (9) The division shall:

4935 (a) implement and enforce policies established by the board governing all aspects of
4936 the division's programs for aging and adult persons in the state;

4937 (b) in order to ensure compliance with all applicable state and federal statutes, policies,
4938 and procedures, monitor and evaluate programs provided by or under contract with:

4939 (i) the division;

4940 (ii) area agencies; and

4941 (iii) an entity that receives funds from an area agency;

4942 (c) examine expenditures of public funds;

- 4943 (d) withhold funds from programs based on contract noncompliance;
- 4944 (e) review and approve plans of area agencies in order to ensure:
- 4945 (i) compliance with division policies; and
- 4946 (ii) a statewide comprehensive program;
- 4947 (f) in order to further programs for aging and adult persons and prevent duplication of
- 4948 services, promote and establish cooperative relationships with:
- 4949 (i) state and federal agencies;
- 4950 (ii) social and health agencies;
- 4951 (iii) education and research organizations; and
- 4952 (iv) other related groups;
- 4953 (g) advocate for the aging and adult populations;
- 4954 (h) promote and conduct research on the problems and needs of aging and adult
- 4955 persons;
- 4956 (i) submit recommendations for changes in policies, programs, and funding to the:
- 4957 (i) governor; and
- 4958 (ii) Legislature; and
- 4959 (j) (i) accept contributions to and administer the funds contained in the [Out and
- 4960 About] Homebound Transportation Assistance Fund created in Section [62A-3-110]
- 4961 [26B-1-323](#); and
- 4962 (ii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
- 4963 Rulemaking Act, to facilitate the administration of the [Out and About] Homebound
- 4964 Transportation Assistance Fund in accordance with Section [62A-3-110] [26B-1-323](#).
- 4965 Section 124. Section **26B-6-105**, which is renumbered from Section 62A-3-104.1 is
- 4966 renumbered and amended to read:
- 4967 ~~[62A-3-104.1]~~. **26B-6-105. Powers and duties of area agencies --**
- 4968 **Registration as a limited purpose entity.**
- 4969 (1) An area agency that provides services to an aged person, or a high risk adult shall

- 4970 within the area agency's respective jurisdiction:
- 4971 (a) advocate by monitoring, evaluating, and providing input on all policies, programs,
4972 hearings, and levies that affect a person described in this Subsection (1);
- 4973 (b) design and implement a comprehensive and coordinated system of services within a
4974 designated planning and service area;
- 4975 (c) conduct periodic reviews and evaluations of needs and services;
- 4976 (d) prepare and submit to the division plans for funding and service delivery for
4977 services within the designated planning and service area;
- 4978 (e) establish, either directly or by contract, programs licensed under Chapter 2,
4979 [~~Licensure of~~] Part 1, Human Services Programs and Facilities;
- 4980 (f) (i) appoint an area director;
- 4981 (ii) prescribe the area director's duties; and
- 4982 (iii) provide adequate and qualified staff to carry out the area plan described in
4983 Subsection (1)(d);
- 4984 (g) establish rules not contrary to policies of the board and rules of the division,
4985 regulating local services and facilities;
- 4986 (h) operate other services and programs funded by sources other than those
4987 administered by the division;
- 4988 (i) establish mechanisms to provide direct citizen input, including an area agency
4989 advisory council with a majority of members who are eligible for services from the area
4990 agency;
- 4991 (j) establish fee schedules; and
- 4992 (k) comply with the requirements and procedures of:
- 4993 (i) Title 11, Chapter 13, Interlocal Cooperation Act; and
- 4994 (ii) Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal
4995 Organizations, and Other Local Entities Act.
- 4996 (2) Before disbursing any public funds, an area agency shall require that all entities

4997 receiving any public funds agree in writing that:

4998 (a) the division may examine the entity's program and financial records; and

4999 (b) the auditor of the local area agency may examine and audit the entity's program and
5000 financial records, if requested by the local area agency.

5001 (3) An area agency on aging may not disburse public funds to a personal care attendant
5002 as payment for personal services rendered to an aged person or high risk adult, except as
5003 provided in Section [~~62A-3-104.3~~] [26B-6-107](#).

5004 (4) (a) For the purpose of providing services pursuant to this part, a local area agency
5005 may receive:

5006 (i) property;

5007 (ii) grants;

5008 (iii) gifts;

5009 (iv) supplies;

5010 (v) materials;

5011 (vi) any benefit derived from the items described in Subsections (4)(a)(i) through (v);

5012 and

5013 (vii) contributions.

5014 (b) If a gift is conditioned upon the gift's use for a specified service or program, the gift
5015 shall be used for the specific service or program.

5016 (5) (a) Area agencies shall award all public funds in compliance with:

5017 (i) the requirements of Title 63G, Chapter 6a, Utah Procurement Code; or

5018 (ii) a county procurement ordinance that requires procurement procedures similar to
5019 those described in Subsection (5)(a)(i).

5020 (b) (i) If all initial bids on a project are rejected, the area agency shall publish a new
5021 invitation to bid.

5022 (ii) If no satisfactory bid is received by the area agency described in Subsection

5023 (5)(b)(i), when the bids received from the second invitation are opened the area agency may

5024 execute a contract without requiring competitive bidding.

5025 (c) (i) An area agency need not comply with the procurement provisions of this section
5026 when it disburses public funds to another governmental entity.

5027 (ii) For purposes of this Subsection (5)(c), "governmental entity" means any political
5028 subdivision or institution of higher education of the state.

5029 (d) (i) Contracts awarded by an area agency shall be for a:

5030 (A) fixed amount; and

5031 (B) limited period.

5032 (ii) The contracts described in Subsection (5)(d)(i) may be modified due to changes in
5033 available funding for the same contract purpose without competition.

5034 (6) Local area agencies shall comply with:

5035 (a) applicable state and federal:

5036 (i) statutes;

5037 (ii) policies; and

5038 (iii) audit requirements; and

5039 (b) directives resulting from an audit described in Subsection (6)(a)(iii).

5040 (7) (a) Each area agency shall register and maintain the area agency's registration as a
5041 limited purpose entity, in accordance with Section [67-1a-15](#).

5042 (b) An area agency that fails to comply with Subsection (7)(a) or Section [67-1a-15](#) is
5043 subject to enforcement by the state auditor, in accordance with Section [67-3-1](#).

5044 Section 125. Section **26B-6-106**, which is renumbered from Section 62A-3-104.2 is
5045 renumbered and amended to read:

5046 ~~[62A-3-104.2]~~. **26B-6-106. Contracts for services.**

5047 When an area agency has established a plan to provide services authorized by this
5048 chapter, and those services meet standards fixed by rules of the board, the area agency may
5049 enter into a contract with the division for services to be furnished by that area agency for an
5050 agreed compensation to be paid by the division.

5051 Section 126. Section **26B-6-107**, which is renumbered from Section 62A-3-104.3 is
5052 renumbered and amended to read:

5053 ~~[62A-3-104.3].~~ **26B-6-107. Disbursal of public funds -- Background check of**
5054 **a personal care attendant.**

5055 (1) ~~[For purposes of]~~ As used in this section, "office" means [the same as that term is
5056 defined in Section ~~62A-2-101~~] Office of Licensing within the department.

5057 (2) Public funds may not be disbursed to a personal care attendant as payment for
5058 personal services rendered to an aged person or high risk adult unless the office approves the
5059 personal care attendant to have direct access and provide services to children or vulnerable
5060 adults pursuant to Section ~~[62A-2-120]~~ 26B-2-120.

5061 (3) For purposes of Subsection (2), the office shall conduct a background check of a
5062 personal care attendant:

5063 (a) who desires to receive public funds as payment for the personal services described
5064 in Subsection (2); and

5065 (b) using the same procedures established for a background check of an applicant for a
5066 license under Section ~~[62A-2-120]~~ 26B-2-120.

5067 Section 127. Section **26B-6-108**, which is renumbered from Section 62A-3-105 is
5068 renumbered and amended to read:

5069 ~~[62A-3-105].~~ **26B-6-108. Matching requirements for state and federal**
5070 **Older American funds.**

5071 (1) Except as provided in Subsection (2), a local area agency on aging that receives
5072 state or federal Older Americans Act Supportive Services, Older Americans Act Congregate
5073 Meals, or Older Americans Act Home Delivered Meals related funds from the division to
5074 provide programs and services under this chapter shall match those funds in an amount at least
5075 equal to:

5076 (a) 15% of service dollars; and

5077 (b) 25% of administrative dollars.

5078 (2) A local area agency on aging is not required to match cash-in-lieu funds related to
5079 the Home Delivered Meals program or congregate meals.

5080 (3) A local area agency on aging may include services, property, or other in-kind
5081 contributions to meet the administrative dollars match but may only use cash to meet the
5082 service dollars match.

5083 Section 128. Section **26B-6-109**, which is renumbered from Section 62A-3-106 is
5084 renumbered and amended to read:

5085 ~~[62A-3-106].~~ **26B-6-109. Eligibility criteria.**

5086 Eligibility for services provided by the division directly or through contractual
5087 arrangements shall be determined by criteria established by the division and approved by the
5088 board.

5089 Section 129. Section **26B-6-110**, which is renumbered from Section 62A-3-106.5 is
5090 renumbered and amended to read:

5091 ~~[62A-3-106.5].~~ **26B-6-110. Agency responsible to investigate and provide**
5092 **services.**

5093 (1) ~~[For purposes of]~~ As used in this section, "responsible agency" means the agency
5094 responsible to investigate or provide services in a particular case under the rules established
5095 under Subsection (2)(a).

5096 (2) In order to avoid duplication in responding to a report of alleged abuse, neglect, or
5097 exploitation of a vulnerable adult who resides in a long-term care facility, the division shall
5098 make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
5099 that establish procedures to:

5100 (a) determine whether Adult Protective Services or the Long-Term Care Ombudsman
5101 Program will be responsible to investigate or provide services in a particular case; and

5102 (b) determine whether, and under what circumstances, the agency described in
5103 Subsection (2)(a) that is not the responsible agency will provide assistance to the responsible
5104 agency in a particular case.

5105 (3) Notwithstanding Subsection (2), or the rules made pursuant to Subsection (2),
5106 Adult Protective Services shall be the agency within the division that is responsible for
5107 receiving all reports of alleged abuse, neglect, or exploitation of a vulnerable adult as provided
5108 in Section [~~62A-3-305~~] 26B-6-205.

5109 Section 130. Section **26B-6-111**, which is renumbered from Section 62A-3-107 is
5110 renumbered and amended to read:

5111 [~~62A-3-107~~]. **26B-6-111**. **Requirements for establishing division policy.**

5112 (1) The board is the program policymaking body for the division and for programs
5113 funded with state and federal money under Sections [~~62A-3-104.1 and 62A-3-104.2~~]
5114 26B-6-105 and 26B-6-106. In establishing policy and reviewing existing policy, the board
5115 shall seek input from local area agencies, consumers, providers, advocates, division staff, and
5116 other interested parties as determined by the board.

5117 (2) The board shall establish, by rule, procedures for developing its policies which
5118 ensure that local area agencies are given opportunity to comment and provide input on any new
5119 policy of the board and on any proposed changes in the board's existing policy. The board
5120 shall also provide a mechanism for review of its existing policy and for consideration of policy
5121 changes that are proposed by those local area agencies.

5122 (3) A member may not receive compensation or benefits for the member's service, but,
5123 at the executive director's discretion, may receive per diem and travel expenses in accordance
5124 with:

5125 (a) Section 63A-3-106;

5126 (b) Section 63A-3-107; and

5127 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
5128 63A-3-107.

5129 Section 131. Section **26B-6-112**, which is renumbered from Section 62A-3-107.5 is
5130 renumbered and amended to read:

5131 [~~62A-3-107.5~~]. **26B-6-112**. **Allocation of funds to acquire facilities.**

5132 (1) (a) The board may make grants to local area agencies on aging to acquire facilities
5133 to provide community-based services for aged persons. Grants under this section shall be made
5134 solely from appropriations made to the division for implementation of this section.

5135 (b) Acquisition of a facility may include acquisition of real property, construction of a
5136 new facility, acquisition of an existing facility, or alteration, renovation, or improvement of an
5137 existing facility.

5138 (c) The local area agency may allocate grants received under this section to a local
5139 nonprofit or governmental agency that owns or operates a facility to provide community-based
5140 services for aged persons.

5141 (2) A local area agency on aging or the local nonprofit or governmental agency that
5142 owns or operates the facility and receives grant money from the area agency shall provide a
5143 matching contribution of at least 25% of the grant funds it receives under this section. A
5144 matching contribution may include funds, services, property, or other in-kind contributions.

5145 (3) In making grants under this section, the board may consider:

5146 (a) the extent and availability of public and private funding to operate programs in the
5147 facility to be acquired and to provide for maintenance of that facility;

5148 (b) the need for community-based services in the geographical area served by the area
5149 agency on aging;

5150 (c) the availability of private and local funds to assist in acquisition, alteration,
5151 renovation, or improvement of the facility; and

5152 (d) the extent and level of support for acquisition of the facility from local government
5153 officials, private citizens, interest groups, and others.

5154 (4) Grants to local area agencies on aging and any local nonprofit or governmental
5155 agency that owns or operates a facility and receives grant money from the area agency under
5156 this section are subject to the oversight and control by the division described in Subsection
5157 [~~62A-3-104~~] [26B-6-104](#)(8).

5158 (5) It is the intent of the Legislature that the grants made under this section serve the

5159 statewide purpose of providing support for senior citizens throughout the state, and that the
5160 grants shall be made to serve as effectively as possible the facilities in greatest need of
5161 assistance.

5162 Section 132. Section **26B-6-113**, which is renumbered from Section 62A-3-108 is
5163 renumbered and amended to read:

5164 ~~[62A-3-108].~~ **26B-6-113. Allocation of funds to local area agencies --**
5165 **Formulas.**

5166 (1) (a) The board shall establish by rule formulas for allocating funds to local area
5167 agencies through contracts to provide programs and services in accordance with this part based
5168 on need.

5169 (b) Determination of need shall be based on the number of eligible persons located in
5170 the local area which the division is authorized to serve, unless federal regulations require
5171 otherwise or the board establishes, by valid and accepted data, that other defined factors are
5172 relevant and reliable indicators of need.

5173 (c) Formulas established by the board shall include a differential to compensate for
5174 additional costs of providing services in rural areas.

5175 (2) Formulas established under Subsection (1) shall be in effect on or before July 1,
5176 1998, and apply to all state and federal funds appropriated by the Legislature to the division for
5177 local area agencies, but does not apply to:

5178 (a) funds that local area agencies receive from sources other than the division;

5179 (b) funds that local area agencies receive from the division to operate a specific
5180 program within its jurisdiction which is available to all residents of the state;

5181 (c) funds that a local area agency receives from the division to meet a need that exists
5182 only within that local area; and

5183 (d) funds that a local area agency receives from the division for research projects.

5184 Section 133. Section **26B-6-114**, which is renumbered from Section 62A-3-109 is
5185 renumbered and amended to read:

5186 ~~[62A-3-109]~~. 26B-6-114. **Adjudicative proceedings.**

5187 Adjudicative proceedings held by, or relating to, the division or the board shall comply
5188 with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.

5189 Section 134. Section **26B-6-201**, which is renumbered from Section 62A-3-301 is
5190 renumbered and amended to read:

5191 **Part 2. Abuse, Neglect, or Exploitation of a Vulnerable Adult**

5192 ~~[62A-3-301]~~. 26B-6-201. **Definitions.**

5193 As used in this part:

5194 (1) "Abandonment" means any knowing or intentional action or failure to act,
5195 including desertion, by a person acting as a caretaker for a vulnerable adult that leaves the
5196 vulnerable adult without the means or ability to obtain necessary food, clothing, shelter, or
5197 medical or other health care.

5198 (2) "Abuse" means:

5199 (a) knowingly or intentionally:

5200 (i) attempting to cause harm;

5201 (ii) causing harm; or

5202 (iii) placing another in fear of harm;

5203 (b) unreasonable or inappropriate use of physical restraint, medication, or isolation that
5204 causes or is likely to cause harm to a vulnerable adult;

5205 (c) emotional or psychological abuse;

5206 (d) a sexual offense as described in Title 76, Chapter 5, Offenses Against the
5207 Individual; or

5208 (e) deprivation of life sustaining treatment, or medical or mental health treatment,
5209 except:

5210 (i) as provided in Title 75, Chapter 2a, Advance Health Care Directive Act; or

5211 (ii) when informed consent, as defined in Section 76-5-111, has been obtained.

5212 (3) "Adult" means an individual who is 18 years old or older.

5213 (4) "Adult protection case file" means a record, stored in any format, contained in a
5214 case file maintained by Adult Protective Services.

5215 (5) "Adult Protective Services" means the unit within the division responsible to
5216 investigate abuse, neglect, and exploitation of vulnerable adults and provide appropriate
5217 protective services.

5218 (6) "Capacity to consent" means the ability of an individual to understand and
5219 communicate regarding the nature and consequences of decisions relating to the individual, and
5220 relating to the individual's property and lifestyle, including a decision to accept or refuse
5221 services.

5222 (7) "Caretaker" means a person or public institution that is entrusted with or assumes
5223 the responsibility to provide a vulnerable adult with care, food, shelter, clothing, supervision,
5224 medical or other health care, resource management, or other necessities for pecuniary gain, by
5225 contract, or as a result of friendship, or who is otherwise in a position of trust and confidence
5226 with a vulnerable adult, including a relative, a household member, an attorney-in-fact, a
5227 neighbor, a person who is employed or who provides volunteer work, a court-appointed or
5228 voluntary guardian, or a person who contracts or is under court order to provide care.

5229 (8) "Counsel" means an attorney licensed to practice law in this state.

5230 (9) "Database" means the statewide database maintained by the division under Section
5231 ~~[62A-3-311.1]~~ [26B-6-210](#).

5232 (10) (a) "Dependent adult" means an individual 18 years old or older, who has a
5233 physical or mental impairment that restricts the individual's ability to carry out normal
5234 activities or to protect the individual's rights.

5235 (b) "Dependent adult" includes an individual who has physical or developmental
5236 disabilities or whose physical or mental capacity has substantially diminished because of age.

5237 (11) "Elder abuse" means abuse, neglect, or exploitation of an elder adult.

5238 (12) "Elder adult" means an individual 65 years old or older.

5239 (13) "Emergency" means a circumstance in which a vulnerable adult is at an immediate

5240 risk of death, serious physical injury, or serious physical, emotional, or financial harm.

5241 (14) "Emergency protective services" means measures taken by Adult Protective
5242 Services under time-limited, court-ordered authority for the purpose of remediating an
5243 emergency.

5244 (15) (a) "Emotional or psychological abuse" means knowing or intentional verbal or
5245 nonverbal conduct directed at a vulnerable adult that results in the vulnerable adult suffering
5246 mental anguish, emotional distress, fear, humiliation, degradation, agitation, or confusion.

5247 (b) "Emotional or psychological abuse" includes intimidating, threatening, isolating,
5248 coercing, or harassing.

5249 (c) "Emotional or psychological abuse" does not include verbal or non-verbal conduct
5250 by a vulnerable adult who lacks the capacity to intentionally or knowingly:

5251 (i) engage in the conduct; or

5252 (ii) cause mental anguish, emotional distress, fear, humiliation, degradation, agitation,
5253 or confusion.

5254 (16) "Exploitation" means an offense described in Section [76-5-111.3](#), [76-5-111.4](#), or
5255 [76-5b-202](#).

5256 (17) "Harm" means pain, mental anguish, emotional distress, hurt, physical or
5257 psychological damage, physical injury, serious physical injury, suffering, or distress inflicted
5258 knowingly or intentionally.

5259 (18) "Inconclusive" means a finding by the division that there is not a reasonable basis
5260 to conclude that abuse, neglect, or exploitation occurred.

5261 (19) "Intimidation" means communication through verbal or nonverbal conduct which
5262 threatens deprivation of money, food, clothing, medicine, shelter, social interaction,
5263 supervision, health care, or companionship, or which threatens isolation or abuse.

5264 (20) (a) "Isolation" means knowingly or intentionally preventing a vulnerable adult
5265 from having contact with another person, unless the restriction of personal rights is authorized
5266 by court order, by:

5267 (i) preventing the vulnerable adult from communicating, visiting, interacting, or
5268 initiating interaction with others, including receiving or inviting visitors, mail, or telephone
5269 calls, contrary to the expressed wishes of the vulnerable adult, or communicating to a visitor
5270 that the vulnerable adult is not present or does not want to meet with or talk to the visitor,
5271 knowing that communication to be false;

5272 (ii) physically restraining the vulnerable adult in order to prevent the vulnerable adult
5273 from meeting with a visitor; or

5274 (iii) making false or misleading statements to the vulnerable adult in order to induce
5275 the vulnerable adult to refuse to receive communication from visitors or other family members.

5276 (b) "Isolation" does not include an act:

5277 (i) intended in good faith to protect the physical or mental welfare of the vulnerable
5278 adult; or

5279 (ii) performed pursuant to the treatment plan or instructions of a physician or other
5280 professional advisor of the vulnerable adult.

5281 (21) "Lacks capacity to consent" is as defined in Section [76-5-111.4](#).

5282 (22) (a) "Neglect" means:

5283 (i) (A) failure of a caretaker to provide necessary care, including nutrition, clothing,
5284 shelter, supervision, personal care, or dental, medical, or other health care for a vulnerable
5285 adult, unless the vulnerable adult is able to provide or obtain the necessary care without
5286 assistance; or

5287 (B) failure of a caretaker to provide protection from health and safety hazards or
5288 maltreatment;

5289 (ii) failure of a caretaker to provide care to a vulnerable adult in a timely manner and
5290 with the degree of care that a reasonable person in a like position would exercise;

5291 (iii) a pattern of conduct by a caretaker, without the vulnerable adult's informed
5292 consent, resulting in deprivation of food, water, medication, health care, shelter, cooling,
5293 heating, or other services necessary to maintain the vulnerable adult's well being;

5294 (iv) knowing or intentional failure by a caretaker to carry out a prescribed treatment
5295 plan that causes or is likely to cause harm to the vulnerable adult;

5296 (v) self-neglect by the vulnerable adult; or

5297 (vi) abandonment by a caretaker.

5298 (b) "Neglect" does not include conduct, or failure to take action, that is permitted or
5299 excused under Title 75, Chapter 2a, Advance Health Care Directive Act.

5300 (23) "Physical injury" includes the damage and conditions described in Section
5301 [76-5-111](#).

5302 (24) "Protected person" means a vulnerable adult for whom the court has ordered
5303 protective services.

5304 (25) "Protective services" means services to protect a vulnerable adult from abuse,
5305 neglect, or exploitation.

5306 (26) "Self-neglect" means the failure of a vulnerable adult to provide or obtain food,
5307 water, medication, health care, shelter, cooling, heating, safety, or other services necessary to
5308 maintain the vulnerable adult's well being when that failure is the result of the adult's mental or
5309 physical impairment. Choice of lifestyle or living arrangements may not, by themselves, be
5310 evidence of self-neglect.

5311 (27) "Serious physical injury" is as defined in Section [76-5-111](#).

5312 (28) "Supported" means a finding by the division that there is a reasonable basis to
5313 conclude that abuse, neglect, or exploitation occurred.

5314 (29) "Undue influence" occurs when a person:

5315 (a) uses influence to take advantage of a vulnerable adult's mental or physical
5316 impairment; or

5317 (b) uses the person's role, relationship, or power:

5318 (i) to exploit, or knowingly assist or cause another to exploit, the trust, dependency, or
5319 fear of a vulnerable adult; or

5320 (ii) to gain control deceptively over the decision making of the vulnerable adult.

5321 (30) "Vulnerable adult" means an elder adult, or a dependent adult who has a mental or
5322 physical impairment which substantially affects that person's ability to:

- 5323 (a) provide personal protection;
- 5324 (b) provide necessities such as food, shelter, clothing, or mental or other health care;
- 5325 (c) obtain services necessary for health, safety, or welfare;
- 5326 (d) carry out the activities of daily living;
- 5327 (e) manage the adult's own financial resources; or
- 5328 (f) comprehend the nature and consequences of remaining in a situation of abuse,
5329 neglect, or exploitation.

5330 (31) "Without merit" means a finding that abuse, neglect, or exploitation did not occur.

5331 Section 135. Section **26B-6-202**, which is renumbered from Section 62A-3-302 is
5332 renumbered and amended to read:

5333 ~~[62A-3-302]~~. **26B-6-202. Purpose of Adult Protective Services Program.**

5334 Subject to the rules made by the division under Section [~~62A-3-106.5~~] 26B-6-110,
5335 Adult Protective Services:

5336 (1) shall investigate or cause to be investigated reports of alleged abuse, neglect, or
5337 exploitation of vulnerable adults;

5338 (2) shall, where appropriate, provide short-term, limited protective services with the
5339 permission of the affected vulnerable adult or the guardian or conservator of the vulnerable
5340 adult;

5341 (3) shall, subject to Section [~~62A-3-320~~] 26B-6-217, provide emergency protective
5342 services; and

5343 (4) may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative
5344 Rulemaking Act, and develop procedures and policies relating to:

5345 (a) reporting and investigating incidents of abuse, neglect, or exploitation; and

5346 (b) providing protective services to the extent that funds are appropriated by the
5347 Legislature for this purpose.

5348 Section 136. Section **26B-6-203**, which is renumbered from Section 62A-3-303 is
5349 renumbered and amended to read:

5350 ~~[62A-3-303]~~. **26B-6-203. Powers and duties of Adult Protective Services.**

5351 In addition to all other powers and duties that Adult Protective Services is given under
5352 this part, Adult Protective Services:

- 5353 (1) shall maintain an intake system for receiving and screening reports;
- 5354 (2) shall investigate referrals that meet the intake criteria;
- 5355 (3) shall conduct assessments of vulnerability and functional capacity as it relates to an
5356 allegation of abuse, neglect, or exploitation of an adult who is the subject of a report;
- 5357 (4) shall perform assessments based on protective needs and risks for a vulnerable
5358 adult who is the subject of a report;
- 5359 (5) may address any protective needs by making recommendations to and coordinating
5360 with the vulnerable adult or by making referrals to community resources;
- 5361 (6) may provide short-term, limited services to a vulnerable adult when family or
5362 community resources are not available to provide for the protective needs of the vulnerable
5363 adult;
- 5364 (7) shall have access to facilities licensed by, or contracted with, the department [~~or the~~
5365 ~~Department of Health~~] for the purpose of conducting investigations;
- 5366 (8) shall be given access to, or provided with, written statements, documents, exhibits,
5367 and other items related to an investigation, including private, controlled, or protected medical
5368 or financial records of a vulnerable adult who is the subject of an investigation if:
 - 5369 (a) for a vulnerable adult who has the capacity to consent, the vulnerable adult signs a
5370 release of information; or
 - 5371 (b) for a vulnerable adult who lacks capacity to consent, an administrative subpoena is
5372 issued by Adult Protective Services;
- 5373 (9) may initiate proceedings in a court of competent jurisdiction to seek relief
5374 necessary to carry out the provisions of this chapter;

5375 (10) shall, subject to Section [~~62A-3-320~~] 26B-6-217, provide emergency protective
5376 services;

5377 (11) may require all persons, including family members of a vulnerable adult and any
5378 caretaker, to cooperate with Adult Protective Services in carrying out its duties under this
5379 chapter, including the provision of statements, documents, exhibits, and other items that assist
5380 Adult Protective Services in conducting investigations and providing protective services;

5381 (12) may require all officials, agencies, departments, and political subdivisions of the
5382 state to assist and cooperate within their jurisdictional power with the court, the division, and
5383 Adult Protective Services in furthering the purposes of this chapter;

5384 (13) may conduct studies and compile data regarding abuse, neglect, and exploitation;
5385 and

5386 (14) may issue reports and recommendations.

5387 Section 137. Section **26B-6-204**, which is renumbered from Section 62A-3-304 is
5388 renumbered and amended to read:

5389 ~~[62A-3-304].~~ **26B-6-204. Cooperation by caretaker.**

5390 A caretaker, facility, or other institution shall, regardless of the confidentiality standards
5391 of the caretaker, facility, or institution:

5392 (1) report abuse, neglect, or exploitation of a vulnerable adult in accordance with this
5393 chapter;

5394 (2) cooperate with any Adult Protective Services investigation;

5395 (3) provide Adult Protective Services with access to records or documents relating to
5396 the vulnerable adult who is the subject of an investigation; or

5397 (4) provide evidence in any judicial or administrative proceeding relating to a
5398 vulnerable adult who is the subject of an investigation.

5399 Section 138. Section **26B-6-205**, which is renumbered from Section 62A-3-305 is
5400 renumbered and amended to read:

5401 ~~[62A-3-305].~~ **26B-6-205. Reporting requirements -- Investigation --**

5402 **Exceptions -- Immunity -- Penalties -- Nonmedical healing.**

5403 (1) Except as provided in Subsection (4), if an individual has reason to believe that a
5404 vulnerable adult is, or has been, the subject of abuse, neglect, or exploitation, the individual
5405 shall immediately report the suspected abuse, neglect, or exploitation to Adult Protective
5406 Services or to the nearest peace officer or law enforcement agency.

5407 (2) (a) If a peace officer or a law enforcement agency receives a report under
5408 Subsection (1), the peace officer or the law enforcement agency shall immediately notify Adult
5409 Protective Services.

5410 (b) Adult Protective Services and the peace officer or the law enforcement agency shall
5411 coordinate, as appropriate, efforts to investigate the report under Subsection (1) and to provide
5412 protection to the vulnerable adult.

5413 (3) When a report under Subsection (1), or a subsequent investigation by Adult
5414 Protective Services, indicates that a criminal offense may have occurred against a vulnerable
5415 adult:

5416 (a) Adult Protective Services shall notify the nearest local law enforcement agency
5417 regarding the potential offense; and

5418 (b) the law enforcement agency shall initiate an investigation in cooperation with Adult
5419 Protective Services.

5420 (4) Subject to Subsection (5), the reporting requirement described in Subsection (1)
5421 does not apply to:

5422 (a) a member of the clergy, with regard to any confession made to the member of the
5423 clergy while functioning in the ministerial capacity of the member of the clergy and without the
5424 consent of the individual making the confession, if:

5425 (i) the perpetrator made the confession directly to the member of the clergy; and

5426 (ii) the member of the clergy is, under canon law or church doctrine or practice, bound
5427 to maintain the confidentiality of that confession; or

5428 (b) an attorney, or an individual employed by the attorney, if knowledge of the

5429 suspected abuse, neglect, or exploitation of a vulnerable adult arises from the representation of
5430 a client, unless the attorney is permitted to reveal the suspected abuse, neglect, or exploitation
5431 of the vulnerable adult to prevent reasonably certain death or substantial bodily harm in
5432 accordance with Utah Rules of Professional Conduct, Rule 1.6.

5433 (5) (a) When a member of the clergy receives information about abuse, neglect, or
5434 exploitation of a vulnerable adult from any source other than confession of the perpetrator, the
5435 member of the clergy is required to report that information even though the member of the
5436 clergy may have also received information about abuse, neglect, or exploitation from the
5437 confession of the perpetrator.

5438 (b) Exemption of the reporting requirement for an individual described in Subsection
5439 (4) does not exempt the individual from any other efforts required by law to prevent further
5440 abuse, neglect, or exploitation of a vulnerable adult by the perpetrator.

5441 (6) (a) As used in this Subsection (6), "physician" means an individual licensed to
5442 practice as a physician or osteopath in this state under Title 58, Chapter 67, Utah Medical
5443 Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

5444 (b) The physician-patient privilege does not:

5445 (i) excuse a physician from reporting suspected abuse, neglect, or exploitation of a
5446 vulnerable adult under Subsection (1); or

5447 (ii) constitute grounds for excluding evidence regarding a vulnerable adult's injuries, or
5448 the cause of the vulnerable adult's injuries, in any judicial or administrative proceeding
5449 resulting from a report under Subsection (1).

5450 (7) (a) An individual who in good faith makes a report under Subsection (1), or who
5451 otherwise notifies Adult Protective Services or a peace officer or law enforcement agency, is
5452 immune from civil and criminal liability in connection with the report or notification.

5453 (b) A covered provider or covered contractor, as defined in Section ~~[26-21-201]~~
5454 [26B-2-238](#), that knowingly fails to report suspected abuse, neglect, or exploitation of a
5455 vulnerable adult to Adult Protective Services, or to the nearest peace officer or law

5456 enforcement agency, under Subsection (1), is subject to a private right of action and liability for
5457 the abuse, neglect, or exploitation of a vulnerable adult that is committed by the individual who
5458 was not reported to Adult Protective Services or to the nearest peace officer or law enforcement
5459 agency.

5460 (c) This Subsection (7) does not provide immunity with respect to acts or omissions of
5461 a governmental employee except as provided in Title 63G, Chapter 7, Governmental Immunity
5462 Act of Utah.

5463 (8) If Adult Protective Services has substantial grounds to believe that an individual
5464 has knowingly failed to report suspected abuse, neglect, or exploitation of a vulnerable adult in
5465 accordance with this section, Adult Protective Services shall file a complaint with:

5466 (a) the Division of Professional Licensing if the individual is a health care provider, as
5467 defined in Section 80-2-603, or a mental health therapist, as defined in Section 58-60-102;

5468 (b) the appropriate law enforcement agency if the individual is a law enforcement
5469 officer, as defined in Section 53-13-103; and

5470 (c) the State Board of Education if the individual is an educator, as defined in Section
5471 53E-6-102.

5472 (9) (a) An individual is guilty of a class B misdemeanor if the individual willfully fails
5473 to report suspected abuse, neglect, or exploitation of a vulnerable adult to Adult Protective
5474 Services, or to the nearest peace officer or law enforcement agency under Subsection (1).

5475 (b) If an individual is convicted under Subsection (9)(a), the court may order the
5476 individual, in addition to any other sentence the court imposes, to:

5477 (i) complete community service hours; or

5478 (ii) complete a program on preventing abuse, neglect, and exploitation of vulnerable
5479 adults.

5480 (c) In determining whether it would be appropriate to charge an individual with a
5481 violation of Subsection (9)(a), the prosecuting attorney shall take into account whether a
5482 reasonable individual would not have reported suspected abuse, neglect, or exploitation of a

5483 vulnerable adult because reporting would have placed the individual in immediate danger of
5484 death or serious bodily injury.

5485 (d) Notwithstanding any contrary provision of law, a prosecuting attorney may not use
5486 an individual's violation of Subsection (9)(a) as the basis for charging the individual with
5487 another offense.

5488 (e) A prosecution for failure to report under Subsection (9)(a) shall be commenced
5489 within two years after the day on which the individual had knowledge of the suspected abuse,
5490 neglect, or exploitation and willfully failed to report.

5491 (10) Under circumstances not amounting to a violation of Section 76-8-508, an
5492 individual is guilty of a class B misdemeanor if the individual threatens, intimidates, or
5493 attempts to intimidate a vulnerable adult who is the subject of a report under Subsection (1),
5494 the individual who made the report under Subsection (1), a witness, or any other person
5495 cooperating with an investigation conducted in accordance with this chapter.

5496 (11) An adult is not considered abused, neglected, or a vulnerable adult for the reason
5497 that the adult has chosen to rely solely upon religious, nonmedical forms of healing in lieu of
5498 medical care.

5499 Section 139. Section **26B-6-206**, which is renumbered from Section 62A-3-307 is
5500 renumbered and amended to read:

5501 ~~[62A-3-307]~~. **26B-6-206. Photographing, video, and audio taping.**

5502 Law enforcement or Adult Protective Services investigators may collect evidence
5503 regarding alleged abuse, neglect, or exploitation of a vulnerable adult by taking, or causing to
5504 be taken, photographs, video tape recordings, or audio or video tape accounts of a vulnerable
5505 adult, if the vulnerable adult:

5506 (1) consents to the taking of the photographs, video tape recordings, or audio or video
5507 tape accounts; or

5508 (2) lacks the capacity to give the consent described in Subsection (1).

5509 Section 140. Section **26B-6-207**, which is renumbered from Section 62A-3-308 is

5510 renumbered and amended to read:

5511 ~~[62A-3-308]~~. 26B-6-207. **Peace officer's authority to transport --**

5512 **Notification.**

5513 (1) A peace officer may remove and transport, or cause to have transported, a
5514 vulnerable adult to an appropriate medical or shelter facility, if:

5515 (a) the officer has probable cause to believe that:

5516 (i) by reason of abuse, neglect, or exploitation there exist exigent circumstances; and

5517 (ii) the vulnerable adult will suffer serious physical injury or death if not immediately
5518 placed in a safe environment;

5519 (b) the vulnerable adult refuses to consent or lacks capacity to consent; and

5520 (c) there is not time to notify interested parties or to apply for a warrant or other court
5521 order.

5522 (2) A peace officer described in Subsection (1) shall, within four hours after a
5523 vulnerable adult is transported to an appropriate medical or shelter facility:

5524 (a) notify Adult Protective Services intake; and

5525 (b) request that Adult Protective Services or the division file a petition with the court
5526 for an emergency protective order.

5527 Section 141. Section **26B-6-208**, which is renumbered from Section 62A-3-309 is
5528 renumbered and amended to read:

5529 ~~[62A-3-309]~~. 26B-6-208. **Enforcement by division -- Duty of county or**
5530 **district attorney.**

5531 (1) It is the duty of the county or district attorney, as appropriate under Sections
5532 [17-18a-202](#) and [17-18a-203](#), to:

5533 (a) assist and represent the division;

5534 (b) initiate legal proceedings to protect vulnerable adults; and

5535 (c) take appropriate action to prosecute the alleged offenders.

5536 (2) If the county or district attorney fails to act upon the request of the division to

5537 provide legal assistance within five business days after the day on which the request is made:

5538 (a) the division may request the attorney general to act; and

5539 (b) the attorney general may, in the attorney general's discretion, assume the
5540 responsibilities and carry the action forward in place of the county or district attorney.

5541 Section 142. Section **26B-6-209**, which is renumbered from Section 62A-3-311 is
5542 renumbered and amended to read:

5543 ~~[62A-3-311]~~. **26B-6-209**. **Requests for records.**

5544 (1) Requests for records maintained by Adult Protective Services shall be made in
5545 writing to Adult Protective Services.

5546 (2) Classification and disclosure of records shall be made in accordance with Title
5547 63G, Chapter 2, Government Records Access and Management Act.

5548 Section 143. Section **26B-6-210**, which is renumbered from Section 62A-3-311.1 is
5549 renumbered and amended to read:

5550 ~~[62A-3-311.1]~~. **26B-6-210**. **Statewide database -- Restricted use and access.**

5551 (1) The division shall maintain a database for reports of vulnerable adult abuse,
5552 neglect, or exploitation made pursuant to this part.

5553 (2) The database shall include:

5554 (a) the names and identifying data of the alleged abused, neglected, or exploited
5555 vulnerable adult and the alleged perpetrator;

5556 (b) information regarding whether or not the allegation of abuse, neglect, or
5557 exploitation was found to be:

5558 (i) supported;

5559 (ii) inconclusive;

5560 (iii) without merit; or

5561 (iv) for reports for which the finding is made before May 5, 2008:

5562 (A) substantiated; or

5563 (B) unsubstantiated; and

5564 (c) any other information that may be helpful in furthering the purposes of this part, as
5565 determined by the division.

5566 (3) Information obtained from the database may be used only:

5567 (a) for statistical summaries compiled by the department that do not include names or
5568 other identifying data;

5569 (b) where identification of an individual as a perpetrator may be relevant in a
5570 determination regarding whether to grant or deny a license, privilege, or approval made by:

5571 (i) the department;

5572 (ii) the Division of Professional Licensing;

5573 [~~(iii) the Bureau of Licensing, within the Department of Health;~~]

5574 (iii) the Division of Licensing and Background Checks within the department;

5575 (iv) the Bureau of Emergency Medical Services and Preparedness, within the
5576 [~~Department of Health~~] department, or a designee of the Bureau of Emergency Medical
5577 Services and Preparedness;

5578 (v) any government agency specifically authorized by statute to access or use the
5579 information in the database; or

5580 (vi) an agency of another state that performs a similar function to an agency described
5581 in Subsections (3)(b)(i) through (iv); or

5582 (c) as otherwise specifically provided by law.

5583 Section 144. Section **26B-6-211**, which is renumbered from Section 62A-3-311.5 is
5584 renumbered and amended to read:

5585 ~~[62A-3-311.5].~~ **26B-6-211. Notice of supported finding -- Procedure for**
5586 **challenging finding -- Limitations.**

5587 (1) (a) Except as provided in Subsection (1)(b), within 15 days after the day on which
5588 the division makes a supported finding that a person committed abuse, neglect, or exploitation
5589 of a vulnerable adult, the division shall serve the person with a notice of agency action, in
5590 accordance with Subsections (2) and (3).

- 5591 (b) The division may serve the notice described in Subsection (1)(a) within a
5592 reasonable time after the 15 day period described in Subsection (1)(a) if:
- 5593 (i) the delay is necessary in order to:
- 5594 (A) avoid impeding an ongoing criminal investigation or proceeding; or
5595 (B) protect the safety of a person; and
- 5596 (ii) the notice is provided before the supported finding is used as a basis to deny the
5597 person a license or otherwise adversely impact the person.
- 5598 (2) The division shall cause the notice described in Subsection (1)(a) to be served by
5599 personal service or certified mail.
- 5600 (3) The notice described in Subsection (1)(a) shall:
- 5601 (a) indicate that the division has conducted an investigation regarding alleged abuse,
5602 neglect, or exploitation of a vulnerable adult by the alleged perpetrator;
- 5603 (b) indicate that, as a result of the investigation described in Subsection (3)(a), the
5604 division made a supported finding that the alleged perpetrator committed abuse, neglect, or
5605 exploitation of a vulnerable adult;
- 5606 (c) include a summary of the facts that are the basis for the supported finding;
- 5607 (d) indicate that the supported finding may result in disqualifying the person from:
- 5608 (i) being licensed, certified, approved, or employed by a government agency;
5609 (ii) being employed by a service provider, person, or other entity that contracts with, or
5610 is licensed by, a government agency; or
- 5611 (iii) qualifying as a volunteer for an entity described in Subsection (3)(d)(i) or (ii);
- 5612 (e) indicate that, as a result of the supported finding, the alleged perpetrator's
5613 identifying information is listed in the database;
- 5614 (f) indicate that the alleged perpetrator may request a copy of the report of the alleged
5615 abuse, neglect, or exploitation; and
- 5616 (g) inform the alleged perpetrator of:
- 5617 (i) the right described in Subsection (4)(a); and

5618 (ii) the consequences of failing to exercise the right described in Subsection (4)(a) in a
5619 timely manner.

5620 (4) (a) The alleged perpetrator has the right, within 30 days after the day on which the
5621 notice described in Subsection (1)(a) is served, to challenge the supported finding by filing a
5622 request for an informal adjudicative proceeding, under Title 63G, Chapter 4, Administrative
5623 Procedures Act.

5624 (b) If the alleged perpetrator fails to file a request for an informal adjudicative
5625 proceeding within the time described in Subsection (4)(a), the supported finding will become
5626 final and will not be subject to challenge or appeal.

5627 (5) At the hearing described in Subsection (4)(a), the division has the burden of
5628 proving, by a preponderance of the evidence, that the alleged perpetrator committed abuse,
5629 neglect, or exploitation of a vulnerable adult.

5630 (6) Notwithstanding any provision of this section, an alleged perpetrator described in
5631 this section may not challenge a supported finding if a court of competent jurisdiction entered a
5632 finding in a proceeding to which the alleged perpetrator was a party, that the alleged perpetrator
5633 committed the abuse, neglect, or exploitation of a vulnerable adult, upon which the supported
5634 finding is based.

5635 (7) A person who was listed in the database as a perpetrator before May 5, 2008, and
5636 who did not have an opportunity to challenge the division's finding that resulted in the listing,
5637 may at any time:

5638 (a) request that the division reconsider the division's finding; or

5639 (b) request an informal adjudicative proceeding, under Title 63G, Chapter 4,
5640 Administrative Procedures Act, to challenge the finding.

5641 Section 145. Section **26B-6-212**, which is renumbered from Section 62A-3-312 is
5642 renumbered and amended to read:

5643 ~~[62A-3-312]~~. **26B-6-212. Access to information in database.**

5644 The database and the adult protection case file:

5645 (1) shall be made available to law enforcement agencies, the attorney general's office,
5646 city attorneys, the Division of Professional Licensing, and county or district attorney's offices;

5647 (2) shall be released as required under Subsection [63G-2-202\(4\)\(c\)](#); and

5648 (3) may be made available, at the discretion of the division, to:

5649 (a) subjects of a report as follows:

5650 (i) a vulnerable adult named in a report as a victim of abuse, neglect, or exploitation, or
5651 that adult's attorney or legal guardian; and

5652 (ii) a person identified in a report as having abused, neglected, or exploited a
5653 vulnerable adult, or that person's attorney; and

5654 (b) persons involved in an evaluation or assessment of the vulnerable adult as follows:

5655 (i) an employee or contractor of the department who is responsible for the evaluation or
5656 assessment of an adult protection case file;

5657 (ii) a multidisciplinary team approved by the division to assist Adult Protective
5658 Services in the evaluation, assessment, and disposition of a vulnerable adult case;

5659 (iii) an authorized person or agency providing services to, or responsible for, the care,
5660 treatment, assessment, or supervision of a vulnerable adult named in the report as a victim,
5661 when in the opinion of the division, that information will assist in the protection of, or provide
5662 other benefits to, the victim;

5663 (iv) a licensing authority for a facility, program, or person providing care to a victim
5664 named in a report; and

5665 (v) legally authorized protection and advocacy agencies when they represent a victim
5666 or have been requested by the division to assist on a case, including:

5667 (A) the Office of Public Guardian, created in Section [~~62A-14-103~~] [26B-6-302](#); and

5668 (B) the Long-Term Care Ombudsman Program, created in Section [~~62A-3-203~~]
5669 [26B-2-303](#).

5670 Section 146. Section **26B-6-213**, which is renumbered from Section 62A-3-314 is
5671 renumbered and amended to read:

5672 ~~[62A-3-314].~~ 26B-6-213. **Private right of action -- Estate asset -- Attorney**
5673 **fees.**

5674 (1) A vulnerable adult who suffers harm or financial loss as a result of exploitation has
5675 a private right of action against the perpetrator.

5676 (2) Upon the death of a vulnerable adult, any cause of action under this section shall
5677 constitute an asset of the estate of the vulnerable adult.

5678 (3) If the plaintiff prevails in an action brought under this section, the court may order
5679 that the defendant pay the costs and reasonable attorney fees of the plaintiff.

5680 (4) If the defendant prevails in an action brought under this section, the court may
5681 order that the plaintiff pay the costs and reasonable attorney fees of the defendant, if the court
5682 finds that the action was frivolous, unreasonable, or taken in bad faith.

5683 Section 147. Section **26B-6-214**, which is renumbered from Section 62A-3-315 is
5684 renumbered and amended to read:

5685 ~~[62A-3-315].~~ 26B-6-214. **Protective services voluntary unless court**
5686 **ordered.**

5687 (1) Vulnerable adults who receive protective services under this part shall do so
5688 knowingly or voluntarily or upon district court order.

5689 (2) Protective services may be provided without a court order for a vulnerable adult
5690 who has the capacity to consent and who requests or knowingly or voluntarily consents to those
5691 services. Protective services may also be provided for a vulnerable adult whose guardian or
5692 conservator with authority to consent does consent to those services. When short-term, limited
5693 protective services are provided, the division and the recipient, or the recipient's guardian or
5694 conservator, shall execute a written agreement setting forth the purposes and limitations of the
5695 services to be provided. If consent is subsequently withdrawn by the recipient, the recipient's
5696 guardian or conservator, or the court, services, including any investigation, shall cease.

5697 (3) A court may order emergency protective services to be provided to a vulnerable
5698 adult who does not consent or who lacks capacity to consent to protective services in

5699 accordance with Section [~~62A-3-320~~] 26B-6-217.

5700 Section 148. Section **26B-6-215**, which is renumbered from Section 62A-3-316 is
5701 renumbered and amended to read:

5702 ~~[62A-3-316]~~. **26B-6-215. Costs incurred in providing of protective**
5703 **services.**

5704 Costs incurred in providing protective services are the responsibility of the vulnerable
5705 adult when:

5706 (1) the vulnerable adult is financially able to pay for those services, according to rates
5707 established by the division, and that payment is provided for as part of the written agreement
5708 for services described in Section [~~62A-3-315~~] 26B-6-214;

5709 (2) the vulnerable adult to be protected is eligible for those services from another
5710 governmental agency; or

5711 (3) the court appoints a guardian or conservator and orders that the costs be paid from
5712 the vulnerable adult's estate.

5713 Section 149. Section **26B-6-216**, which is renumbered from Section 62A-3-317 is
5714 renumbered and amended to read:

5715 ~~[62A-3-317]~~. **26B-6-216. Venue for protective services proceedings.**

5716 Venue for all proceedings related to protective services and emergency protective
5717 services under this [~~chapter~~] part is in the county where the vulnerable adult resides or is
5718 present.

5719 Section 150. Section **26B-6-217**, which is renumbered from Section 62A-3-320 is
5720 renumbered and amended to read:

5721 ~~[62A-3-320]~~. **26B-6-217. Emergency protective services -- Forcible entry.**

5722 (1) Adult Protective Services shall, immediately upon court order, provide emergency
5723 protective services to a court-designated vulnerable adult.

5724 (2) A court may, without notice, order emergency protective services immediately upon
5725 receipt of a petition for emergency protective services when a court finds that:

- 5726 (a) the subject of the petition is a vulnerable adult;
- 5727 (b) (i) the vulnerable adult does not have a court-appointed guardian or conservator; or
- 5728 (ii) the guardian or conservator is not effectively performing the guardian's or
- 5729 conservator's duties;
- 5730 (c) an emergency exists; and
- 5731 (d) the welfare, safety, or best interests of the vulnerable adult requires emergency
- 5732 protective services.
- 5733 (3) An emergency protective services order shall specifically designate the services that
- 5734 are approved and the facts that support the provision of those services.
- 5735 (4) Services authorized in an emergency protective services order may include
- 5736 hospitalization, nursing, custodial care, or a change in residence.
- 5737 (5) An emergency protective services order expires five business days after the day on
- 5738 which the court issues the order unless an appropriate party petitions for temporary
- 5739 guardianship pursuant to Section 75-5-310 or the division files a new petition for an emergency
- 5740 services order.
- 5741 (6) If a petition for guardianship or an additional emergency protective services petition
- 5742 is filed within five business days after the day on which the court issues the original emergency
- 5743 protective services order, a court may extend the duration of the original order an additional 15
- 5744 business days after the day on which the subsequent petition is filed to allow for a court hearing
- 5745 on the petition.
- 5746 (7) To implement an emergency protective services order, a court may authorize
- 5747 forcible entry by a peace officer into the premises where the vulnerable adult may be found.
- 5748 Section 151. Section **26B-6-218**, which is renumbered from Section 62A-3-321 is
- 5749 renumbered and amended to read:
- 5750 ~~[62A-3-321]~~. **26B-6-218**. **Petition for injunctive relief when caretaker**
- 5751 **refuses to allow protective services.**
- 5752 (1) When a vulnerable adult is in need of protective services and the caretaker refuses

5753 to allow the provision of those services, the division may petition the court for injunctive relief
5754 prohibiting the caretaker from interfering with the provision of protective services.

5755 (2) The division's petition under Subsection (1) shall allege facts sufficient to show that
5756 the vulnerable adult is in need of protective services, that the vulnerable adult either consents
5757 or lacks capacity to consent to those services, and that the caretaker refuses to allow the
5758 provision of those services.

5759 (3) The court may, on appropriate findings and conclusions in accordance with Rule
5760 65A, Utah Rules of Civil Procedure, issue an order enjoining the caretaker from interfering
5761 with the provision of protective services.

5762 (4) The petition under Subsection (1) may be joined with a petition under Section
5763 [~~62A-3-320~~] [26B-6-217](#).

5764 Section 152. Section **26B-6-219**, which is renumbered from Section 62A-3-322 is
5765 renumbered and amended to read:

5766 [~~62A-3-322~~]. **26B-6-219. Medical cannabis use by a vulnerable adult or**
5767 **guardian.**

5768 A peace officer or an employee or agent of the division may not solicit or provide, and a
5769 court may not order, emergency services for a vulnerable adult based solely on:

5770 (1) the vulnerable adult's possession or use of cannabis in accordance with [~~Title 26,~~
5771 ~~Chapter 61a, Utah Medical Cannabis Act~~] Chapter 4, Part 2, Cannabinoid Research and
5772 Medical Cannabis; or

5773 (2) the guardian of the vulnerable adult assisting with the use of or possessing cannabis
5774 in accordance with [~~Title 26, Chapter 61a, Utah Medical Cannabis Act~~] Chapter 4, Part 2,
5775 Cannabinoid Research and Medical Cannabis.

5776 Section 153. Section **26B-6-301**, which is renumbered from Section 62A-14-102 is
5777 renumbered and amended to read:

5778 **Part 3. Office of Public Guardian**

5779 [~~62A-14-102~~]. **26B-6-301. Definitions.**

5780 As used in this ~~chapter~~ part:

5781 (1) "Conservator" is as defined in Section [75-1-201](#).

5782 (2) "Court" is as defined in Section [75-1-201](#).

5783 (3) "Estate" is as defined in Section [75-1-201](#).

5784 (4) "Guardian" is as defined in Section [75-1-201](#).

5785 (5) "Incapacitated" means a person who has been determined by a court, pursuant to
5786 Section [75-5-303](#), to be incapacitated, as defined in Section [75-1-201](#), after the office has
5787 determined that the person is 18 years of age or older and suffers from a mental or physical
5788 impairment as part of the prepetition assessment in Section [~~62A-14-107~~] [26B-6-305](#).

5789 (6) "Office" means the Office of Public Guardian.

5790 (7) "Property" is as defined in Section [75-1-201](#).

5791 (8) "Ward" means an incapacitated person for whom the office has been appointed as
5792 guardian or conservator.

5793 Section 154. Section **26B-6-302**, which is renumbered from Section 62A-14-103 is
5794 renumbered and amended to read:

5795 ~~[62A-14-103]~~. **26B-6-302. Office of Public Guardian -- Creation.**

5796 (1) There is created within the department the Office of Public Guardian which has the
5797 powers and duties provided in this ~~chapter~~ part.

5798 (2) The office is under the administrative and general supervision of the executive
5799 director.

5800 Section 155. Section **26B-6-303**, which is renumbered from Section 62A-14-104 is
5801 renumbered and amended to read:

5802 ~~[62A-14-104]~~. **26B-6-303. Director of the office -- Appointment --**
5803 **Qualifications.**

5804 (1) The director of the office shall be appointed by the executive director.

5805 (2) The director shall have a bachelor's degree from an accredited university or college,
5806 be experienced in administration, and be knowledgeable in matters concerning guardianship

5807 and conservatorship.

5808 (3) The director is the administrative head of the office.

5809 Section 156. Section **26B-6-304**, which is renumbered from Section 62A-14-105 is

5810 renumbered and amended to read:

5811 ~~[62A-14-105]~~. **26B-6-304. Powers and duties of the office.**

5812 (1) The office shall:

5813 (a) develop and operate a statewide program to:

5814 (i) educate the public about the role and function of guardians and conservators;

5815 (ii) educate guardians and conservators on:

5816 (A) the duties of a guardian and a conservator; and

5817 (B) standards set by the National Guardianship Association for guardians and

5818 conservators; and

5819 (iii) serve as a guardian, conservator, or both for a ward upon appointment by a court

5820 when no other person is able and willing to do so and the office petitioned for or agreed in

5821 advance to the appointment;

5822 (b) possess and exercise all the powers and duties specifically given to the office by
5823 virtue of being appointed as guardian or conservator of a ward, including the power to access a
5824 ward's records;

5825 (c) review and monitor the personal and, if appropriate, financial status of each ward
5826 for whom the office has been appointed to serve as guardian or conservator;

5827 (d) train and monitor each employee and volunteer, and monitor each contract provider
5828 to whom the office has delegated a responsibility for a ward;

5829 (e) retain all court-delegated powers and duties for a ward;

5830 (f) report on the personal and financial status of a ward as required by a court in

5831 accordance with Title 75, Chapter 5, Protection of Persons Under Disability and Their

5832 Property;

5833 (g) handle a ward's funds in accordance with the department's trust account system;

5834 (h) request that the department's audit plan, established pursuant to Section [63I-5-401](#),
5835 include the requirement of an annual audit of all funds and property held by the office on behalf
5836 of wards;

5837 (i) maintain accurate records concerning each ward, the ward's property, and office
5838 services provided to the ward;

5839 (j) make reasonable and continuous efforts to find a family member, friend, or other
5840 person to serve as a ward's guardian or conservator;

5841 (k) after termination as guardian or conservator, distribute a ward's property in
5842 accordance with Title 75, Chapter 5, Protection of Persons Under Disability and Their
5843 Property; and

5844 (l) submit recommendations for changes in state law and funding to the governor and
5845 the Legislature and report to the governor and Legislature, upon request.

5846 (2) The office may:

5847 (a) petition a court pursuant to Title 75, Chapter 5, Protection of Persons Under
5848 Disability and Their Property, to be appointed an incapacitated person's guardian, conservator,
5849 or both after conducting a prepetition assessment under Section [~~62A-14-107~~] [26B-6-305](#);

5850 (b) develop and operate a statewide program to recruit, train, supervise, and monitor
5851 volunteers to assist the office in providing guardian and conservator services;

5852 (c) delegate one or more responsibilities for a ward to an employee, volunteer, or
5853 contract provider, except as provided in Subsection [~~62A-14-107~~] [26B-6-305](#)(1);

5854 (d) solicit and receive private donations to provide guardian and conservator services
5855 under this [~~chapter~~] part; and

5856 (e) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative
5857 Rulemaking Act, to:

5858 (i) effectuate policy; and

5859 (ii) carry out the office's role as guardian and conservator of wards as provided in this
5860 chapter.

5861 Section 157. Section **26B-6-305**, which is renumbered from Section 62A-14-107 is
5862 renumbered and amended to read:

5863 ~~[62A-14-107]~~. **26B-6-305. Prepetition assessment and plan.**

5864 (1) Before the office may file a petition in court to be appointed guardian or
5865 conservator of a person, the office shall:

5866 (a) conduct a face-to-face needs assessment, by someone other than a volunteer, to
5867 determine whether the person suffers from a mental or physical impairment that renders the
5868 person substantially incapable of:

5869 (i) caring for his personal safety;

5870 (ii) managing his financial affairs; or

5871 (iii) attending to and providing for such necessities as food, shelter, clothing, and
5872 medical care, to the extent that physical injury or illness may result;

5873 (b) assess the financial resources of the person based on information supplied to the
5874 office at the time of assessment;

5875 (c) inquire and, if appropriate, search to determine whether any other person may be
5876 willing and able to serve as the person's guardian or conservator; and

5877 (d) determine the form of guardianship or conservatorship to request of a court, if any,
5878 giving preference to the least intensive form of guardianship or conservatorship, consistent
5879 with the best interests of the person.

5880 (2) The office shall prepare an individualized guardianship or conservator plan for each
5881 ward within 60 days of appointment.

5882 Section 158. Section **26B-6-306**, which is renumbered from Section 62A-14-108 is
5883 renumbered and amended to read:

5884 ~~[62A-14-108]~~. **26B-6-306. Office volunteers.**

5885 (1) A person who desires to be an office volunteer shall:

5886 (a) possess demonstrated personal characteristics of honesty, integrity, compassion,
5887 and concern for incapacitated persons; and

5888 (b) upon request, submit information for a background check pursuant to Section
5889 [26B-1-211](#).

5890 (2) An office volunteer may not receive compensation or benefits, but may be
5891 reimbursed by the office for expenses actually and reasonably incurred, consistent with Title
5892 67, Chapter 20, Volunteer Government Workers Act.

5893 (3) An office volunteer is immune from civil liability pursuant to Title 63G, Chapter 8,
5894 Immunity for Persons Performing Voluntary Services Act.

5895 Section 159. Section **26B-6-307**, which is renumbered from Section 62A-14-109 is
5896 renumbered and amended to read:

5897 ~~[62A-14-109]~~. **26B-6-307. Contract for services.**

5898 (1) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the office may
5899 contract with one or more providers to perform guardian and conservator duties.

5900 (2) The office shall review and monitor the services provided by a contract provider to
5901 a ward for whom the office has been appointed guardian or conservator.

5902 Section 160. Section **26B-6-308**, which is renumbered from Section 62A-14-110 is
5903 renumbered and amended to read:

5904 ~~[62A-14-110]~~. **26B-6-308. Court, legal, and other costs.**

5905 (1) The office may not be appointed as the guardian or conservator of a person unless
5906 the office petitioned for or agreed in advance to the appointment.

5907 (2) Except as provided in Subsection (4), the court shall order the ward or the ward's
5908 estate to pay for the cost of services rendered under this chapter, including court costs and
5909 reasonable ~~[attorneys']~~ attorney fees.

5910 (3) If the office recovers ~~[attorneys']~~ attorney fees under Subsection (2), the office shall
5911 transmit those fees to the attorneys who represented the ward or the office in connection with
5912 the ward's case.

5913 (4) If a ward is indigent, the office shall provide guardian and conservator services free
5914 of charge and shall make reasonable efforts to secure pro bono legal services for the ward.

5915 (5) Under no circumstances may court costs or [~~attorneys~~] attorney fees be assessed to
5916 the office.

5917 Section 161. Section **26B-6-309**, which is renumbered from Section 62A-14-111 is
5918 renumbered and amended to read:

5919 ~~[62A-14-111]~~. **26B-6-309. Duty of the county attorney or district attorney.**

5920 (1) The attorney general shall advise the office on legal matters and represent the office
5921 in legal proceedings.

5922 (2) Upon the request of the attorney general, a county attorney may represent the office
5923 in connection with the filing of a petition for appointment as guardian or conservator of an
5924 incapacitated person and with routine, subsequent appearances.

5925 Section 162. Section **26B-6-401**, which is renumbered from Section 62A-5-101 is
5926 renumbered and amended to read:

5927 **Part 4. Division of Services for People with Disabilities**

5928 ~~[62A-5-101]~~. **26B-6-401. Definitions.**

5929 As used in this [~~chapter~~] part:

5930 (1) "Approved provider" means a person approved by the division to provide
5931 home-based services.

5932 (2) "Board" means the Utah State Developmental Center Board created under Section
5933 ~~[62A-5-202.5]~~ 26B-1-429.

5934 (3) (a) "Brain injury" means an acquired injury to the brain that is neurological in
5935 nature, including a cerebral vascular accident.

5936 (b) "Brain injury" does not include a deteriorating disease.

5937 (4) "Designated intellectual disability professional" means:

5938 (a) a psychologist licensed under Title 58, Chapter 61, Psychologist Licensing Act,
5939 who:

5940 (i) (A) has at least one year of specialized training in working with persons with an
5941 intellectual disability; or

5942 (B) has at least one year of clinical experience with persons with an intellectual
5943 disability; and

5944 (ii) is designated by the division as specially qualified, by training and experience, in
5945 the treatment of an intellectual disability; or

5946 (b) a clinical social worker, certified social worker, marriage and family therapist, or
5947 professional counselor, licensed under Title 58, Chapter 60, Mental Health Professional
5948 Practice Act, who:

5949 (i) has at least two years of clinical experience with persons with an intellectual
5950 disability; and

5951 (ii) is designated by the division as specially qualified, by training and experience, in
5952 the treatment of an intellectual disability.

5953 (5) "Deteriorating disease" includes:

5954 (a) multiple sclerosis;

5955 (b) muscular dystrophy;

5956 (c) Huntington's chorea;

5957 (d) Alzheimer's disease;

5958 (e) ataxia; or

5959 (f) cancer.

5960 (6) "Developmental center" means the Utah State Developmental Center, established in
5961 accordance with Part [2] 5, Utah State Developmental Center.

5962 (7) "Director" means the director of the Division of Services for People with
5963 Disabilities.

5964 (8) "Direct service worker" means a person who provides services to a person with a
5965 disability:

5966 (a) when the services are rendered in:

5967 (i) the physical presence of the person with a disability; or

5968 (ii) a location where the person rendering the services has access to the physical

5969 presence of the person with a disability; and
5970 (b) (i) under a contract with the division;
5971 (ii) under a grant agreement with the division; or
5972 (iii) as an employee of the division.
5973 (9) (a) "Disability" means a severe, chronic disability that:
5974 (i) is attributable to:
5975 (A) an intellectual disability;
5976 (B) a condition that qualifies a person as a person with a related condition, as defined
5977 in 42 C.F.R. Sec. 435.1010;
5978 (C) a physical disability; or
5979 (D) a brain injury;
5980 (ii) is likely to continue indefinitely;
5981 (iii) (A) for a condition described in Subsection (9)(a)(i)(A), (B), or (C), results in a
5982 substantial functional limitation in three or more of the following areas of major life activity:
5983 (I) self-care;
5984 (II) receptive and expressive language;
5985 (III) learning;
5986 (IV) mobility;
5987 (V) self-direction;
5988 (VI) capacity for independent living; or
5989 (VII) economic self-sufficiency; or
5990 (B) for a condition described in Subsection (9)(a)(i)(D), results in a substantial
5991 limitation in three or more of the following areas:
5992 (I) memory or cognition;
5993 (II) activities of daily life;
5994 (III) judgment and self-protection;
5995 (IV) control of emotions;

- 5996 (V) communication;
- 5997 (VI) physical health; or
- 5998 (VII) employment; and
- 5999 (iv) requires a combination or sequence of special interdisciplinary or generic care,
- 6000 treatment, or other services that:
 - 6001 (A) may continue throughout life; and
 - 6002 (B) must be individually planned and coordinated.
- 6003 (b) "Disability" does not include a condition due solely to:
 - 6004 (i) mental illness;
 - 6005 (ii) personality disorder;
 - 6006 (iii) deafness or being hard of hearing;
 - 6007 (iv) visual impairment;
 - 6008 (v) learning disability;
 - 6009 (vi) behavior disorder;
 - 6010 (vii) substance abuse; or
 - 6011 (viii) the aging process.
- 6012 (10) "Division" means the Division of Services for People with Disabilities.
- 6013 (11) "Eligible to receive division services" or "eligibility" means qualification, based
- 6014 on criteria established by the division, to receive services that are administered by the division.
- 6015 (12) "Endorsed program" means a facility or program that:
 - 6016 (a) is operated:
 - 6017 (i) by the division; or
 - 6018 (ii) under contract with the division; or
 - 6019 (b) provides services to a person committed to the division under Part [3] 6, Admission
 - 6020 to an Intermediate Care Facility for People with an Intellectual Disability.
- 6021 (13) "Licensed physician" means:
 - 6022 (a) an individual licensed to practice medicine under:

6023 (i) Title 58, Chapter 67, Utah Medical Practice Act; or
6024 (ii) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or
6025 (b) a medical officer of the United States Government while in this state in the
6026 performance of official duties.

6027 (14) "Limited support services" means services that are administered by the division to
6028 individuals with a disability:

6029 (a) under a waiver authorized under 42 U.S.C. Sec. 1396n(c) by the Centers for
6030 Medicare and Medicaid Services that permits the division to limit services to an individual who
6031 is eligible to receive division services; and

6032 (b) through a program that:

6033 (i) was not operated by the division on or before January 1, 2020; and
6034 (ii) (A) limits the kinds of services that an individual may receive; or
6035 (B) sets a maximum total dollar amount for program services provided to each
6036 individual.

6037 (15) "Physical disability" means a medically determinable physical impairment that has
6038 resulted in the functional loss of two or more of a person's limbs.

6039 (16) "Public funds" means state or federal funds that are disbursed by the division.

6040 (17) "Resident" means an individual under observation, care, or treatment in an
6041 intermediate care facility for people with an intellectual disability.

6042 (18) "Sustainability fund" means the Utah State Developmental Center Long-Term
6043 Sustainability Fund created in Section ~~[62A-5-206.7]~~ [26B-1-331](#).

6044 Section 163. Section **26B-6-402**, which is renumbered from Section 62A-5-102 is
6045 renumbered and amended to read:

6046 ~~[62A-5-102]~~. **26B-6-402. Division of Services for People with Disabilities --**
6047 **Creation -- Authority -- Direction -- Provision of services.**

6048 (1) There is created within the department the Division of Services for People with
6049 Disabilities, under the administrative direction of the executive director of the department.

6050 (2) In accordance with this ~~chapter~~ part, the division has the responsibility to plan and
6051 deliver an appropriate array of services and supports to persons with disabilities and their
6052 families in this state.

6053 (3) Within appropriations from the Legislature, the division shall provide services to
6054 any individual with a disability who is eligible to receive division services.

6055 (4) (a) Except as provided in Subsection (4)(c), any new appropriations designated to
6056 serve eligible individuals waiting for services from the division shall be allocated, as
6057 determined by the division by rule based on the:

- 6058 (i) severity of the disability;
- 6059 (ii) urgency of the need for services;
- 6060 (iii) ability of a parent or guardian to provide the individual with appropriate care and
6061 supervision; and

6062 (iv) length of time during which the individual has not received services from the
6063 division.

6064 (b) Funds from Subsection (4)(a) that are not spent by the division at the end of the
6065 fiscal year may be used as set forth in Subsection (7).

6066 (c) Subsections (4)(a) and (b) do not apply to any new appropriations designated to
6067 provide limited support services.

6068 (5) The division:

6069 (a) has the functions, powers, duties, rights, and responsibilities described in Section
6070 ~~[62A-5-103]~~ 26B-6-403; and

6071 (b) is authorized to work in cooperation with other state, governmental, and private
6072 agencies to carry out the responsibilities described in Subsection (5)(a).

6073 (6) Within appropriations authorized by the Legislature, and to the extent allowed
6074 under Title XIX of the Social Security Act, the division shall ensure that the services and
6075 support that the division provides to an individual with a disability:

6076 (a) are provided in the least restrictive and most enabling environment;

- 6077 (b) ensure opportunities to access employment; and
- 6078 (c) enable reasonable personal choice in selecting services and support that:
- 6079 (i) best meet individual needs; and
- 6080 (ii) promote:
- 6081 (A) independence;
- 6082 (B) productivity; and
- 6083 (C) integration in community life.
- 6084 (7) (a) Appropriations to the division are nonlapsing.
- 6085 (b) After an individual stops receiving services under this section, the division shall use
- 6086 the funds that paid for the individual's services to provide services under this section to another
- 6087 eligible individual in an intermediate care facility transitioning to division services, if the funds
- 6088 were allocated under a program established under Section [~~26-18-3~~] [26B-3-108](#) to transition
- 6089 individuals with intellectual disabilities from an intermediate care facility.
- 6090 (c) Except as provided in Subsection (7)(b), if an individual receiving services under
- 6091 Subsection (4)(a) ceases to receive those services, the division shall use the funds that were
- 6092 allocated to that individual to provide services to another eligible individual waiting for
- 6093 services as described in Subsection (4)(a).
- 6094 (d) Funds unexpended by the division at the end of the fiscal year may be used only for
- 6095 one-time expenditures unless otherwise authorized by the Legislature.
- 6096 (e) A one-time expenditure under this section:
- 6097 (i) is not an entitlement;
- 6098 (ii) may be withdrawn at any time; and
- 6099 (iii) may provide short-term, limited services, including:
- 6100 (A) respite care;
- 6101 (B) service brokering;
- 6102 (C) family skill building and preservation classes;
- 6103 (D) after school group services; and

6104 (E) other professional services.

6105 Section 164. Section **26B-6-403**, which is renumbered from Section 62A-5-103 is
6106 renumbered and amended to read:

6107 ~~[62A-5-103]~~. **26B-6-403. Responsibility and authority of division.**

6108 (1) For purposes of this section "administer" means to:

6109 (a) plan;

6110 (b) develop;

6111 (c) manage;

6112 (d) monitor; and

6113 (e) conduct certification reviews.

6114 (2) The division has the authority and responsibility to:

6115 (a) administer an array of services and supports for persons with disabilities and their
6116 families throughout the state;

6117 (b) make rules in accordance with Title 63G, Chapter 3, Utah Administrative
6118 Rulemaking Act, that establish eligibility criteria for the services and supports described in
6119 Subsection (2)(a);

6120 (c) consistent with Section [~~62A-5-206~~] 26B-6-506, supervise the programs and
6121 facilities of the Developmental Center;

6122 (d) in order to enhance the quality of life for a person with a disability, establish either
6123 directly, or by contract with private, nonprofit organizations, programs of:

6124 (i) outreach;

6125 (ii) information and referral;

6126 (iii) prevention;

6127 (iv) technical assistance; and

6128 (v) public awareness;

6129 (e) supervise the programs and facilities operated by, or under contract with, the
6130 division;

6131 (f) cooperate with other state, governmental, and private agencies that provide services
6132 to a person with a disability;

6133 (g) subject to Subsection (3), ensure that a person with a disability is not deprived of
6134 that person's constitutionally protected rights without due process procedures designed to
6135 minimize the risk of error when a person with a disability is admitted to an intermediate care
6136 facility for people with an intellectual disability, including:

6137 (i) the developmental center; and

6138 (ii) facilities within the community;

6139 (h) determine whether to approve providers;

6140 (i) monitor and sanction approved providers, as specified in the providers' contract;

6141 (j) subject to Section [~~62A-5-103.5~~] [26B-6-410](#), receive and disburse public funds;

6142 (k) review financial actions of a provider who is a representative payee appointed by
6143 the Social Security Administration;

6144 (l) establish standards and rules for the administration and operation of programs
6145 conducted by, or under contract with, the division;

6146 (m) approve and monitor division programs to insure compliance with the board's rules
6147 and standards;

6148 (n) establish standards and rules necessary to fulfill the division's responsibilities under
6149 Part [2] 5, Utah State Developmental Center, and Part [3] 6, Admission to an Intermediate Care
6150 Facility for People with an Intellectual Disability, with regard to an intermediate care facility
6151 for people with an intellectual disability;

6152 (o) assess and collect equitable fees for a person who receives services provided under
6153 this chapter;

6154 (p) maintain records of, and account for, the funds described in Subsection (2)(o);

6155 (q) establish and apply rules to determine whether to approve, deny, or defer the
6156 division's services to a person who is:

6157 (i) applying to receive the services; or

- 6158 (ii) currently receiving the services;
- 6159 (r) in accordance with state law, establish rules:
- 6160 (i) relating to an intermediate care facility for people with an intellectual disability that
- 6161 is an endorsed program; and
- 6162 (ii) governing the admission, transfer, and discharge of a person with a disability;
- 6163 (s) manage funds for a person residing in a facility operated by the division:
- 6164 (i) upon request of a parent or guardian of the person; or
- 6165 (ii) under administrative or court order; and
- 6166 (t) fulfill the responsibilities described in [~~Chapter 5a, Coordinating Council for~~
- 6167 ~~Persons with Disabilities~~] [Section 26B-1-430](#).
- 6168 (3) The due process procedures described in Subsection (2)(g):
- 6169 (a) shall include initial and periodic reviews to determine the constitutional
- 6170 appropriateness of the placement; and
- 6171 (b) with regard to facilities in the community, do not require commitment to the
- 6172 division.

6173 Section 165. Section **26B-6-404**, which is renumbered from Section 62A-5-104 is

6174 renumbered and amended to read:

6175 ~~[62A-5-104]~~. **26B-6-404. Director -- Qualifications -- Responsibilities.**

- 6176 (1) The director of the division shall be appointed by the executive director.
- 6177 (2) The director shall have a bachelor's degree from an accredited university or college,
- 6178 be experienced in administration, and be knowledgeable in developmental disabilities,
- 6179 intellectual disabilities, and other disabilities.
- 6180 (3) The director is the administrative head of the division.
- 6181 (4) The director shall appoint the superintendent of the developmental center and the
- 6182 necessary and appropriate administrators for other facilities operated by the division with the
- 6183 concurrence of the executive director.

6184 Section 166. Section **26B-6-405**, which is renumbered from Section 62A-5-105 is

6185 renumbered and amended to read:

6186 ~~[62A-5-105]~~. **26B-6-405. Division responsibilities -- Policy mediation.**

6187 (1) The division shall establish its rules in accordance with:

6188 (a) the policy of the Legislature as set forth by this ~~[chapter]~~ part; and

6189 (b) Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

6190 (2) The division shall:

6191 (a) establish program policy for the division, the developmental center, and programs
6192 and facilities operated by or under contract with the division;

6193 (b) establish rules for the assessment and collection of fees for programs within the
6194 division;

6195 (c) no later than July 1, 2003, establish a graduated fee schedule based on ability to pay
6196 and implement the schedule with respect to service recipients and their families where not
6197 otherwise prohibited by federal law or regulation or not otherwise provided for in Section
6198 ~~[62A-5-109]~~ 26B-6-411;

6199 (d) establish procedures to ensure that private citizens, consumers, private contract
6200 providers, allied state and local agencies, and others are provided with an opportunity to
6201 comment and provide input regarding any new policy or proposed revision to an existing
6202 policy;

6203 (e) provide a mechanism for systematic and regular review of existing policy and for
6204 consideration of policy changes proposed by the persons and agencies described under
6205 Subsection (2)(d);

6206 (f) establish and periodically review the criteria used to determine who may receive
6207 services from the division and how the delivery of those services is prioritized within available
6208 funding;

6209 (g) review implementation and compliance by the division with policies established by
6210 the board to ensure that the policies established by the Legislature in this chapter are carried
6211 out; and

6212 (h) annually report to the executive director.

6213 (3) The executive director shall mediate any differences which arise between the
6214 policies of the division and those of any other policy board or division in the department.

6215 Section 167. Section **26B-6-406**, which is renumbered from Section 62A-5-106 is
6216 renumbered and amended to read:

6217 ~~[62A-5-106]~~. **26B-6-406**. **Powers of other state agencies -- Severability.**

6218 Nothing in this part shall be construed to supersede or limit the authority granted by law
6219 to any other state agency. If any provision of this part, or the application of any provision to
6220 the person or circumstance, is held invalid, the remainder of this part shall not be affected.

6221 Section 168. Section **26B-6-407**, which is renumbered from Section 62A-5-103.1 is
6222 renumbered and amended to read:

6223 ~~[62A-5-103.1]~~. **26B-6-407**. **Program for provision of supported employment**
6224 **services.**

6225 (1) There is established a program for the provision of supported employment services
6226 to be administered by the division.

6227 (2) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah
6228 Administrative Rulemaking Act, as necessary for the implementation and administration of the
6229 program described in this section.

6230 (3) In accordance with Subsection (4), within funds appropriated by the Legislature for
6231 the program described in this section, the division shall provide supported employment
6232 services to a person with a disability who:

6233 (a) is eligible to receive services from the division;

6234 (b) has applied for, and is waiting to, receive services from the division;

6235 (c) is not receiving other ongoing services from the division;

6236 (d) is not able to receive sufficient supported employment services from other sources;

6237 (e) the division determines would substantially benefit from the provision of supported
6238 employment services; and

6239 (f) does not require the provision of other ongoing services from the division in order
6240 to substantially benefit from the provision of supported employment services.

6241 (4) (a) The division shall provide supported employment services under this section
6242 outside of the prioritization criteria established by the division for the receipt of other services
6243 from the division.

6244 (b) The division shall establish criteria to determine the priority, between persons
6245 eligible for services under this section, for receiving services under this section.

6246 (5) It is the intent of the Legislature that the services provided under the program
6247 described in this section:

6248 (a) shall be provided separately from the Medicaid program described in Title XIX of
6249 the Social Security Act;

6250 (b) may not be supported with Medicaid funds;

6251 (c) may not be provided as part of a Medicaid waiver;

6252 (d) do not constitute an entitlement of any kind; and

6253 (e) may be withdrawn from a person at any time.

6254 Section 169. Section **26B-6-408**, which is renumbered from Section 62A-5-103.2 is
6255 renumbered and amended to read:

6256 **[62A-5-103.2]. 26B-6-408. Pilot Program for the Provision of Family**
6257 **Preservation Services.**

6258 (1) There is established a pilot program for the provision of family preservation
6259 services to a person with a disability and that person's family, beginning on July 1, 2007, and
6260 ending on July 1, 2009.

6261 (2) The family preservation services described in Subsection (1) may include:

6262 (a) family skill building classes;

6263 (b) respite hours for class attendance; or

6264 (c) professional intervention.

6265 (3) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah

6266 Administrative Rulemaking Act, as necessary for the implementation and administration of this
6267 section.

6268 (4) In accordance with Subsection (5), within funds appropriated by the Legislature for
6269 the pilot program described in this section, the division shall provide family preservation
6270 services to a person with a disability, and that person's family, if that person:

- 6271 (a) is eligible to receive services from the division;
- 6272 (b) has applied for, and is willing to receive, services from the division;
- 6273 (c) is not receiving other ongoing services from the division;
- 6274 (d) is not able to receive sufficient family preservation services from other sources;
- 6275 (e) is determined by the division to be a person who would substantially benefit from
6276 the provision of family preservation services; and
- 6277 (f) does not require the provision of other ongoing services from the division in order
6278 to substantially benefit from the provision of family preservation services.

6279 (5) (a) The division shall provide family preservation services under this section
6280 outside of the prioritization criteria established by the division for the receipt of other services
6281 from the division.

6282 (b) The division shall establish criteria to determine the priority, between persons
6283 eligible for services under this section, for receiving services under this section.

6284 (6) It is the intent of the Legislature that the services provided under the pilot program
6285 described in this section:

- 6286 (a) shall be provided separately from the Medicaid program described in Title XIX of
6287 the Social Security Act;
- 6288 (b) may not be supported with Medicaid funds;
- 6289 (c) may not be provided as part of a Medicaid waiver;
- 6290 (d) do not constitute an entitlement of any kind; and
- 6291 (e) may be withdrawn from a person at any time.

6292 Section 170. Section **26B-6-409**, which is renumbered from Section 62A-5-103.3 is

6293 renumbered and amended to read:

6294 ~~[62A-5-103.3]~~. 26B-6-409. **Employment first emphasis on the provision of**
6295 **services.**

6296 (1) When providing services to a person with a disability under this chapter, the
6297 division shall, within funds appropriated by the Legislature and in accordance with the
6298 requirements of federal and state law, give priority to providing services that assist the person
6299 in obtaining and retaining meaningful and gainful employment that enables the person to:

- 6300 (a) purchase goods and services;
- 6301 (b) establish self-sufficiency; and
- 6302 (c) exercise economic control of the person's life.

6303 (2) The division shall develop a written plan to implement the policy described in
6304 Subsection (1) that includes:

- 6305 (a) assessing the strengths and needs of a person with a disability;
- 6306 (b) customizing strength-based approaches to obtaining employment;
- 6307 (c) expecting, encouraging, providing, and rewarding:
 - 6308 (i) integrated employment in the workplace at competitive wages and benefits; and
 - 6309 (ii) self-employment;
- 6310 (d) developing partnerships with potential employers;
- 6311 (e) maximizing appropriate employment training opportunities;
- 6312 (f) coordinating services with other government agencies and community resources;
- 6313 (g) to the extent possible, eliminating practices and policies that interfere with the

6314 policy described in Subsection (1); and

- 6315 (h) arranging sub-minimum wage work or volunteer work when employment at market
6316 rates cannot be obtained.

6317 (3) The division shall, on an annual basis:

- 6318 (a) set goals to implement the policy described in Subsection (1) and the plan described
6319 in Subsection (2);

6320 (b) determine whether the goals for the previous year have been met; and

6321 (c) modify the plan described in Subsection (2) as needed.

6322 Section 171. Section **26B-6-410**, which is renumbered from Section 62A-5-103.5 is
6323 renumbered and amended to read:

6324 ~~[62A-5-103.5]~~. **26B-6-410**. **Disbursal of public funds -- Background check of**
6325 **a direct service worker.**

6326 (1) For purposes of this section, "office" means the same as that term is defined in
6327 Section ~~[62A-2-101]~~ 26B-2-101.

6328 (2) Public funds may not be disbursed to pay a direct service worker for personal
6329 services rendered to a person unless the office approves the direct service worker to have direct
6330 access and provide services to a child or a vulnerable adult pursuant to Section ~~[62A-2-120]~~
6331 26B-2-120.

6332 (3) For purposes of Subsection (2), the office shall conduct a background check of a
6333 direct service worker:

6334 (a) before public funds are disbursed to pay the direct service worker for the personal
6335 services described in Subsection (2); and

6336 (b) using the same procedures established for a background check of an applicant for a
6337 license under Section ~~[62A-2-120]~~ 26B-2-120.

6338 (4) A child who is in the legal custody of the department or any of the department's
6339 divisions may not be placed with a direct service worker unless, before the child is placed with
6340 the direct service worker, the direct service worker passes a background check, pursuant to the
6341 requirements of Subsection ~~[62A-2-120]~~ 26B-2-120(14).

6342 (5) If a public transit district, as described in Title 17B, Chapter 2a, Part 8, Public
6343 Transit District Act, contracts with the division to provide services:

6344 (a) the provisions of this section are not applicable to a direct service worker employed
6345 by the public transit district; and

6346 (b) the division may not reimburse the public transit district for services provided

6347 unless a direct service worker hired or transferred internally after July 1, 2013, by the public
6348 transit district to drive a paratransit route:

6349 (i) is approved by the office to have direct access to children and vulnerable adults in
6350 accordance with Section [~~62A-2-120~~] 26B-2-120; and

6351 (ii) is subject to a background check established in a statute or rule governing a public
6352 transit district or other public transit district policy.

6353 Section 172. Section **26B-6-411**, which is renumbered from Section 62A-5-109 is
6354 renumbered and amended to read:

6355 [~~62A-5-109~~]. **26B-6-411**. **Parent liable for cost and support of minor --**
6356 **Guardian liable for costs.**

6357 (1) Parents of a person who receives services or support from the division, who are
6358 financially responsible, are liable for the cost of the actual care and maintenance of that person
6359 and for the support of the child in accordance with Title 78B, Chapter 12, Utah Child Support
6360 Act, and [~~Title 62A, Chapter 11,~~] Chapter 9, Part 1, Office of Recovery Services, until the
6361 person reaches 18 years [~~of age~~] old.

6362 (2) A guardian of a person who receives services or support from the division is liable
6363 for the cost of actual care and maintenance of that person, regardless of his age, where funds
6364 are available in the guardianship estate established on his behalf for that purpose. However, if
6365 the person who receives services is a beneficiary of a trust created in accordance with Section
6366 [~~62A-5-110~~] 26B-6-412, or if the guardianship estate meets the requirements of a trust
6367 described in that section, the trust income prior to distribution to the beneficiary, and the trust
6368 principal are not subject to payment for services or support for that person.

6369 (3) If, at the time a person who receives services or support from the division is
6370 discharged from a facility or program owned or operated by or under contract with the division,
6371 or after the death and burial of a resident of the developmental center, there remains in the
6372 custody of the division or the superintendent any money paid by a parent or guardian for the
6373 support or maintenance of that person, it shall be repaid upon demand.

6374 Section 173. Section **26B-6-412**, which is renumbered from Section 62A-5-110 is
6375 renumbered and amended to read:

6376 ~~[62A-5-110]~~. **26B-6-412**. **Discretionary trust for an individual with a**
6377 **disability -- Impact on state services.**

6378 (1) For purposes of this section:

6379 (a) "Discretionary trust for an individual with a disability" means a trust:

6380 (i) that is established for the benefit of an individual who, at the time the trust is
6381 created, is under [~~age~~] 65 years old and has a disability, as defined in 42 U.S.C. Sec. 1382c;

6382 (ii) under which the trustee has discretionary power to determine distributions;

6383 (iii) under which the individual may not control or demand payments unless an abuse
6384 of the trustee's duties or discretion is shown;

6385 (iv) that contains the assets of the individual and is established for the benefit of the
6386 individual by the individual, a court, or a parent, grandparent, or legal guardian of the
6387 individual;

6388 (v) that is irrevocable, except that the trust document may provide that the trust be
6389 terminated if the individual no longer has a disability, as defined in 42 U.S.C. Sec. 1382c;

6390 (vi) that is invalid as to any portion funded by property that is or may be subject to a
6391 lien by the state; and

6392 (vii) that provides that, upon the death of the individual, the state will receive all
6393 amounts remaining in the trust, up to an amount equal to the total medical assistance paid on
6394 behalf of the individual.

6395 (b) "Medical assistance" means the same as that term is defined in Section [~~26-18-2~~]
6396 26B-3-101.

6397 (2) A state agency providing services or support to an individual with a disability may:

6398 (a) waive application of Subsection (1)(a)(v) with respect to that individual if the state
6399 agency determines that application of the criteria would place an undue hardship upon that
6400 individual; and

6401 (b) define, by rule, what constitutes "undue hardship" for purposes of this section.

6402 (3) A discretionary trust for an individual with a disability is not liable for
6403 reimbursement or payment to the state or any state agency, for financial aid or services
6404 provided to that individual except:

6405 (a) to the extent that the trust property has been distributed directly to or is otherwise
6406 under the control of the beneficiary with a disability; or

6407 (b) as provided in Subsection (1)(a)(vi).

6408 (4) Property, goods, and services that are purchased or owned by a discretionary trust
6409 for an individual with a disability and that are used or consumed by a beneficiary with a
6410 disability shall not be considered trust property that is distributed to or under the control of the
6411 beneficiary.

6412 (5) The benefits that an individual with a disability is otherwise legally entitled to may
6413 not be reduced, impaired, or diminished in any way because of contribution to a discretionary
6414 trust for that individual.

6415 (6) All state agencies shall disregard a discretionary trust for an individual with a
6416 disability as a resource when determining eligibility for services or support except as, and only
6417 to the extent that it is otherwise prohibited by federal law.

6418 (7) This section applies to all discretionary trusts that meet the requirements contained
6419 in Subsection (1) created before, on, or after July 1, 1994.

6420 Section 174. Section **26B-6-413**, which is renumbered from Section 62A-5-402 is
6421 renumbered and amended to read:

6422 ~~[62A-5-402]~~. **26B-6-413. Scope of home based services -- Purpose --**
6423 **Principles -- Services for individuals younger than 11 years old.**

6424 (1) The purpose of this section is to provide support to families in their role as primary
6425 caregivers for family members with disabilities.

6426 [(+)] (2) (a) To enable a person with a disability and the person's family to select
6427 services and supports that best suit their needs and preferences, the division shall, within

6428 appropriations from the Legislature, provide services and supports under this part by giving
6429 direct financial assistance to the parent or guardian of a person with a disability who resides at
6430 home.

6431 (b) The dollar value of direct financial assistance is determined by the division based
6432 on:

6433 (i) appropriations from the Legislature; and

6434 (ii) the needs of the person with a disability.

6435 (c) In determining whether to provide direct financial assistance to the family, the
6436 division shall consider:

6437 (i) the family's preference; and

6438 (ii) the availability of approved providers in the area where the family resides.

6439 (d) If the division provides direct financial assistance, the division:

6440 (i) shall require the family to account for the use of that financial assistance; and

6441 (ii) shall tell the person with a disability or the person's parent or guardian how long the
6442 direct financial assistance is intended to provide services and supports before additional direct
6443 financial assistance is issued.

6444 (e) Except for eligibility determination services directly connected to the provision of
6445 direct financial assistance, service coordination is not provided under this part by the division
6446 unless the person with a disability or the person's parent or guardian uses the direct financial
6447 assistance to purchase such services.

6448 ~~[(2)]~~ (3) The following principles shall be used as the basis for supporting families who
6449 care for family members with disabilities:

6450 (a) all children, regardless of disability, should reside in a family-like environment;

6451 (b) families should receive the support they need to care for their children at home;

6452 (c) services should:

6453 (i) focus on the person with a disability;

6454 (ii) take into consideration the family of the person described in Subsection ~~[(2)]~~

6455 (3)(c)(i);

6456 (iii) be sensitive to the unique needs, preferences, and strengths of individual families;

6457 and

6458 (iv) complement and reinforce existing sources of help and support that are available to
6459 each family.

6460 (4) Except as provided in Subsection (5), after June 30, 1996, the division may not
6461 provide residential services to persons with disabilities who are under 11 years old.

6462 (5) The prohibition of Subsection (4) does not include residential services that are
6463 provided:

6464 (a) for persons in the custody of the Division of Child and Family Services;

6465 (b) under a plan for home-based services, including respite and temporary residential
6466 care or services provided by a professional parent under contract with the division; or

6467 (c) after a written finding by the director that out-of-home residential placement is the
6468 most appropriate way to meet the needs of the person with disabilities and his family.

6469 Section 175. Section **26B-6-501** is enacted to read:

6470 **Part 5. Utah State Developmental Center**

6471 **26B-6-501. Definitions.**

6472 The definitions in Section [26B-6-401](#) apply to this part.

6473 Section 176. Section **26B-6-502**, which is renumbered from Section 62A-5-201 is
6474 renumbered and amended to read:

6475 ~~[62A-5-201].~~ **26B-6-502. Utah State Developmental Center.**

6476 (1) The intermediate care facility for people with an intellectual disability located in
6477 American Fork City, Utah County, shall be known as the "Utah State Developmental Center."

6478 (2) Within appropriations authorized by the Legislature, the role and function of the
6479 developmental center is to:

6480 (a) provide care, services, and treatment to persons described in Subsection (3); and

6481 (b) provide the following services and support to persons with disabilities who do not

6482 reside at the developmental center:

- 6483 (i) psychiatric testing;
- 6484 (ii) specialized medical treatment and evaluation;
- 6485 (iii) specialized dental treatment and evaluation;
- 6486 (iv) family and client special intervention;
- 6487 (v) crisis management;
- 6488 (vi) occupational, physical, speech, and audiology services; and
- 6489 (vii) professional services, such as education, evaluation, and consultation, for families,
- 6490 public organizations, providers of community and family support services, and courts.

6491 (3) Except as provided in Subsection (6), within appropriations authorized by the
6492 Legislature, and notwithstanding the provisions of Part [3] 6, Admission to an Intermediate
6493 Care Facility for People with an Intellectual Disability, only the following persons may be
6494 residents of, be admitted to, or receive care, services, or treatment at the developmental center:

- 6495 (a) persons with an intellectual disability;
- 6496 (b) persons who receive services and supports under Subsection (2)(b); and
- 6497 (c) persons who require at least one of the following services from the developmental
6498 center:

 - 6499 (i) continuous medical care;
 - 6500 (ii) intervention for conduct that is dangerous to self or others; or
 - 6501 (iii) temporary residential assessment and evaluation.

6502 (4) (a) Except as provided in Subsection (6), the division shall, in the division's
6503 discretion:

- 6504 (i) place residents from the developmental center into appropriate less restrictive
6505 placements; and
- 6506 (ii) determine each year the number to be placed based upon the individual assessed
6507 needs of the residents.

6508 (b) The division shall confer with parents and guardians to ensure the most appropriate

6509 placement for each resident.

6510 (5) Except as provided in Subsection (7), within appropriations authorized by the
6511 Legislature, and notwithstanding the provisions of Subsection (3) and Part [3] 6, Admission to
6512 an Intermediate Care Facility for People with an Intellectual Disability, a person who is under
6513 18 years [~~of age~~] old may be a resident of, admitted to, or receive care, services, or treatment at
6514 the developmental center only if the director certifies in writing that the developmental center
6515 is the most appropriate placement for that person.

6516 (6) (a) If the division determines, pursuant to Utah's Community Supports Waiver for
6517 Individuals with Intellectual Disabilities and Other Related Conditions, that a person who
6518 otherwise qualifies for placement in an intermediate care facility for people with an intellectual
6519 disability should receive services in a home or community-based setting, the division shall:

6520 (i) if the person does not have a legal representative or legal guardian:

6521 (A) inform the person of any feasible alternatives under the waiver; and

6522 (B) give the person the choice of being placed in an intermediate care facility for
6523 people with an intellectual disability or receiving services in a home or community-based
6524 setting; or

6525 (ii) if the person has a legal representative or legal guardian:

6526 (A) inform the legal representative or legal guardian of any feasible alternatives under
6527 the waiver; and

6528 (B) give the legal representative or legal guardian the choice of having the person
6529 placed in an intermediate care facility for people with an intellectual disability or receiving
6530 services in a home or community-based setting.

6531 (b) If a person chooses, under Subsection (6)(a)(i), to be placed in an intermediate care
6532 facility for people with an intellectual disability instead of receiving services in a home or
6533 community-based setting, the division shall:

6534 (i) ask the person whether the person prefers to be placed in the developmental center
6535 rather than a private intermediate care facility for people with an intellectual disability; and

- 6536 (ii) if the person expresses a preference to be placed in the developmental center:
- 6537 (A) place the person in the developmental center if the cost of placing the person in the
- 6538 developmental center is equal to, or less than, the cost of placing the person in a private
- 6539 intermediate care facility for people with an intellectual disability; or
- 6540 (B) (I) strongly consider the person's preference to be placed in the developmental
- 6541 center if the cost of placing the person in the developmental center exceeds the cost of placing
- 6542 the person in a private intermediate care facility for people with an intellectual disability; and
- 6543 (II) place the person in the developmental center or a private intermediate care facility
- 6544 for people with an intellectual disability.
- 6545 (c) If a legal representative or legal guardian chooses, under Subsection (6)(a)(ii), to
- 6546 have the person placed in an intermediate care facility for people with an intellectual disability
- 6547 instead of receiving services in a home or community-based setting, the division shall:
- 6548 (i) ask the legal representative or legal guardian whether the legal representative or
- 6549 legal guardian prefers to have the person placed in the developmental center rather than a
- 6550 private intermediate care facility for people with an intellectual disability; and
- 6551 (ii) if the legal representative or legal guardian expresses a preference to have the
- 6552 person placed in the developmental center:
- 6553 (A) place the person in the developmental center if the cost of placing the person in the
- 6554 developmental center is equal to, or less than, the cost of placing the person in a private
- 6555 intermediate care facility for people with an intellectual disability; or
- 6556 (B) (I) strongly consider the legal representative's or legal guardian's preference for the
- 6557 person's placement if the cost of placing the person in the developmental center exceeds the
- 6558 cost of placing the person in a private intermediate care facility for people with an intellectual
- 6559 disability; and
- 6560 (II) place the person in the developmental center or a private intermediate care facility
- 6561 for people with an intellectual disability.
- 6562 (7) The certification described in Subsection (5) is not required for a person who

6563 receives services and support under Subsection (2)(b).

6564 Section 177. Section **26B-6-503**, which is renumbered from Section 62A-5-202 is
6565 renumbered and amended to read:

6566 ~~[62A-5-202]~~. **26B-6-503. Developmental center within division.**

6567 The programs and facilities of the developmental center are within the division, and
6568 under the policy direction of the division.

6569 Section 178. Section **26B-6-504**, which is renumbered from Section 62A-5-203 is
6570 renumbered and amended to read:

6571 ~~[62A-5-203]~~. **26B-6-504. Operation, maintenance, and repair of
6572 developmental center buildings and grounds.**

6573 (1) The division shall operate, maintain, and repair the buildings, grounds, and physical
6574 properties of the developmental center. However, the roads and driveways on the grounds of
6575 the developmental center shall be maintained by the Department of Transportation.

6576 (2) The division has authority to make improvements to the buildings, grounds, and
6577 physical properties of the developmental center, as it deems necessary for the care and safety of
6578 the residents.

6579 Section 179. Section **26B-6-505**, which is renumbered from Section 62A-5-205 is
6580 renumbered and amended to read:

6581 ~~[62A-5-205]~~. **26B-6-505. State Board of Education -- Education of
6582 children at developmental center.**

6583 (1) The State Board of Education is responsible for the education of school-aged
6584 children at the developmental center.

6585 (2) In order to fulfill its responsibility under Subsection (1), the State Board of
6586 Education shall, where feasible, contract with local school districts or other appropriate
6587 agencies to provide educational and related administrative services.

6588 (3) Medical, residential, and other services that are not the responsibility of the State
6589 Board of Education or other state agencies are the responsibility of the division.

6590 Section 180. Section **26B-6-506**, which is renumbered from Section 62A-5-206 is
6591 renumbered and amended to read:

6592 ~~[62A-5-206]~~. **26B-6-506. Powers and duties of division.**

6593 The powers and duties of the division, with respect to the developmental center are as
6594 follows:

6595 (1) to establish rules, not inconsistent with law, for the government of the
6596 developmental center;

6597 (2) to establish rules governing the admission and discharge of persons with an
6598 intellectual disability in accordance with state law;

6599 (3) to employ necessary medical and other professional personnel to assist in
6600 establishing rules relating to the developmental center and to the treatment and training of
6601 persons with an intellectual disability at the center;

6602 (4) to transfer a person who has been committed to the developmental center under
6603 Part [3] 6, Admission to an Intermediate Care Facility for People with an Intellectual
6604 Disability, to any other facility or program operated by or under contract with the division, after
6605 careful evaluation of the treatment needs of that person, if the facilities or programs available
6606 meet the needs indicated, and if transfer would be in the best interest of that person. A person
6607 transferred shall remain under the jurisdiction of the division;

6608 (5) the developmental center may receive a person who meets the requirements of
6609 Subsection [~~62A-5-201~~] 26B-6-502(3) from any other facility or program operated by or under
6610 contract with the division, after careful evaluation of the treatment needs of that person, if the
6611 facility or programs of the developmental center meet those needs, and if transfer would be in
6612 the best interest of that person. A person so received by the developmental center remains
6613 under the jurisdiction of the division;

6614 (6) to manage funds for a person residing in the developmental center, upon request by
6615 that person's parent or guardian, or upon administrative or court order;

6616 (7) to charge and collect a fair and equitable fee from developmental center residents,

6617 parents who have the ability to pay, or guardians where funds for that purpose are available;
6618 and

6619 (8) supervision and administration of security responsibilities for the developmental
6620 center is vested in the division. The executive director may designate, as special function
6621 officers, individuals to perform special security functions for the developmental center that
6622 require peace officer authority. Those special function officers may not become or be
6623 designated as members of the Public Safety Retirement System.

6624 Section 181. Section **26B-6-507**, which is renumbered from Section 62A-5-206.6 is
6625 renumbered and amended to read:

6626 ~~[62A-5-206.6].~~ **26B-6-507. Utah State Developmental Center land and water**
6627 **rights.**

6628 (1) As used in this section, "long-term lease" means:

6629 (a) a lease with a term of five years or more; or

6630 (b) a lease with a term of less than five years that may be unilaterally renewed by the
6631 lessee.

6632 (2) (a) Notwithstanding Section [65A-4-1](#), any sale, long-term lease, or other disposition
6633 of real property, water rights, or water shares associated with the developmental center shall be
6634 conducted as provided in this Subsection (2).

6635 (b) The board shall:

6636 (i) approve the sale, long-term lease, or other disposition of real property, water rights,
6637 or water shares associated with the developmental center;

6638 (ii) secure the approval of the Legislature before offering the real property, water
6639 rights, or water shares for sale, long-term lease, or other disposition; and

6640 (iii) if the Legislature's approval is secured, as described in Subsection (2)(b)(ii), direct
6641 the Division of Facilities Construction and Management to convey, lease, or dispose of the real
6642 property, water rights, or water shares associated with the developmental center according to
6643 the board's determination.

6644 Section 182. Section **26B-6-508**, which is renumbered from Section 62A-5-207 is
6645 renumbered and amended to read:

6646 ~~[62A-5-207]~~. **26B-6-508. Superintendent -- Qualifications.**

6647 The superintendent of the developmental center, appointed in accordance with
6648 Subsection [~~62A-5-104~~] 26B-6-404(4), shall have a bachelor's degree from an accredited
6649 university or college, be experienced in administration, and be knowledgeable in
6650 developmental disabilities and intellectual disability.

6651 Section 183. Section **26B-6-509**, which is renumbered from Section 62A-5-208 is
6652 renumbered and amended to read:

6653 ~~[62A-5-208]~~. **26B-6-509. Powers and duties of superintendent.**

6654 The chief administrative officer of the developmental center is the superintendent, and
6655 has the following powers and duties:

6656 (1) to manage the developmental center and administer the division's rules governing
6657 the developmental center;

6658 (2) to hire, control, and remove all employees, and to fix their compensation according
6659 to state law; and

6660 (3) with the approval of the division, to make any expenditures necessary in the
6661 performance of his duties.

6662 Section 184. Section **26B-6-510**, which is renumbered from Section 62A-5-211 is
6663 renumbered and amended to read:

6664 ~~[62A-5-211]~~. **26B-6-510. Dental services reporting.**

6665 The superintendent of the developmental center shall provide to the Health and Human
6666 Services Interim Committee an annual report that contains:

6667 (1) a statewide assessment of resources that provide dental services for individuals
6668 with intellectual disabilities;

6669 (2) an accounting of the funds appropriated to provide specialized dental treatment and
6670 evaluation under Subsection [~~62A-5-201~~] 26B-6-502(2)(b)(iii), including the number of

6671 individuals served and the services provided; and

6672 (3) the progress toward the establishment of a financially independent dental clinic
6673 that:

6674 (a) has a full-time dentist who has specialized training to treat an individual with an
6675 intellectual disability; and

6676 (b) has the facility, equipment, and staff necessary to legally and safely perform dental
6677 procedures and examinations and to administer general anesthesia.

6678 Section 185. Section **26B-6-601** is enacted to read:

6679 **Part 6. Admission to an Intermediate Care Facility for People with an Intellectual**
6680 **Disability**

6681 **26B-6-601. Definitions.**

6682 The definitions in Section [26B-6-401](#) apply to this part.

6683 Section 186. Section **26B-6-602**, which is renumbered from Section 62A-5-302 is
6684 renumbered and amended to read:

6685 ~~[62A-5-302].~~ **26B-6-602. Division responsibility.**

6686 The division is responsible:

6687 (1) for the supervision, care, and treatment of persons with an intellectual disability in
6688 this state who are committed to the division's jurisdiction under the provisions of this part; and

6689 (2) to evaluate and determine the most appropriate, least restrictive setting for an
6690 individual with an intellectual disability.

6691 Section 187. Section **26B-6-603**, which is renumbered from Section 62A-5-305 is
6692 renumbered and amended to read:

6693 ~~[62A-5-305].~~ **26B-6-603. Residency requirements -- Transportation of**
6694 **person to another state.**

6695 (1) A person with an intellectual disability who has a parent or guardian residing in this
6696 state may be admitted to an intermediate care facility for people with an intellectual disability
6697 in accordance with the provisions of this part.

6698 (2) If a person with an intellectual disability enters Utah from another state, the
6699 division may have that person transported to the home of a relative or friend located outside of
6700 this state, or to an appropriate facility in the state where the person with the intellectual
6701 disability is domiciled.

6702 (3) This section does not prevent a person with an intellectual disability who is
6703 temporarily located in this state from being temporarily admitted or committed to an
6704 intermediate care facility for people with an intellectual disability in this state.

6705 Section 188. Section **26B-6-604**, which is renumbered from Section 62A-5-308 is
6706 renumbered and amended to read:

6707 ~~[62A-5-308].~~ **26B-6-604. Commitment -- Individual who is under 18 years**
6708 **old.**

6709 (1) The director of the division, or the director's designee, may commit an individual
6710 under 18 years old who has an intellectual disability or symptoms of an intellectual disability,
6711 to the division for observation, diagnosis, care, and treatment if that commitment is based on:

6712 (a) an emergency commitment in accordance with Section ~~[62A-5-311]~~ 26B-6-607; or
6713 (b) involuntary commitment in accordance with Section ~~[62A-5-312]~~ 26B-6-608.

6714 (2) A proceeding for involuntary commitment under Subsection (1)(a) may be
6715 commenced by filing a written petition with the juvenile court under Section ~~[62A-5-312]~~
6716 26B-6-608.

6717 (3) (a) A juvenile court has jurisdiction over the proceeding under Subsection (2) as
6718 described in Subsection ~~78A-6-103(2)(f)~~.

6719 (b) A juvenile court shall proceed with the written petition in the same manner and
6720 with the same authority as the district court.

6721 (4) If an individual who is under 18 years old is committed to the custody of the Utah
6722 State Developmental Center by the juvenile court, the director or the director's designee shall
6723 give the juvenile court written notice of the intention to release the individual not fewer than
6724 five days before the day on which the individual is released.

6725 Section 189. Section **26B-6-605**, which is renumbered from Section 62A-5-309 is
6726 renumbered and amended to read:

6727 ~~[62A-5-309]~~. **26B-6-605**. **Commitment -- Individual who is 18 years old or**
6728 **older.**

6729 (1) The director, or the director's designee may commit to the division an individual 18
6730 years old or older who has an intellectual disability, for observation, diagnosis, care, and
6731 treatment if that commitment is based on:

6732 (a) involuntary commitment in accordance with Section [~~62A-5-312~~] 26B-6-608; or

6733 (b) temporary emergency commitment in accordance with Section [~~62A-5-311~~]
6734 26B-6-607.

6735 (2) If an individual who is 18 years old or older is committed to the custody of the Utah
6736 State Developmental Center by the juvenile court, the director or the director's designee shall
6737 give the juvenile court written notice of the intention to release the individual not fewer than
6738 five days before the day on which the individual is released.

6739 Section 190. Section **26B-6-606**, which is renumbered from Section 62A-5-310 is
6740 renumbered and amended to read:

6741 ~~[62A-5-310]~~. **26B-6-606**. **Involuntary commitment.**

6742 An individual may not be involuntarily committed to an intermediate care facility for
6743 people with an intellectual disability except in accordance with Sections [~~62A-5-311 and~~
6744 ~~62A-5-312~~] 26B-6-607 and 26B-6-608.

6745 Section 191. Section **26B-6-607**, which is renumbered from Section 62A-5-311 is
6746 renumbered and amended to read:

6747 ~~[62A-5-311]~~. **26B-6-607**. **Temporary emergency commitment --**
6748 **Observation and evaluation.**

6749 (1) The director of the division or his designee may temporarily commit an individual
6750 to the division and therefore, as a matter of course, to an intermediate care facility for people
6751 with an intellectual disability for observation and evaluation upon:

6752 (a) written application by a responsible person who has reason to know that the
6753 individual is in need of commitment, stating:

6754 (i) a belief that the individual has an intellectual disability and is likely to cause serious
6755 injury to self or others if not immediately committed;

6756 (ii) personal knowledge of the individual's condition; and

6757 (iii) the circumstances supporting that belief; or

6758 (b) certification by a licensed physician or designated intellectual disability

6759 professional stating that the physician or designated intellectual disability professional:

6760 (i) has examined the individual within a three-day period immediately preceding the
6761 certification; and

6762 (ii) is of the opinion that the individual has an intellectual disability, and that because
6763 of the individual's intellectual disability is likely to injure self or others if not immediately
6764 committed.

6765 (2) If the individual in need of commitment is not placed in the custody of the director
6766 or the director's designee by the person submitting the application, the director's or the
6767 director's designee may certify, either in writing or orally that the individual is in need of
6768 immediate commitment to prevent injury to self or others.

6769 (3) Upon receipt of the application required by Subsection (1)(a) and the certifications
6770 required by Subsections (1)(b) and (2), a peace officer may take the individual named in the
6771 application and certificates into custody, and may transport the individual to a designated
6772 intermediate care facility for people with an intellectual disability.

6773 (4) (a) An individual committed under this section may be held for a maximum of 24
6774 hours, excluding Saturdays, Sundays, and legal holidays. At the expiration of that time, the
6775 individual shall be released unless proceedings for involuntary commitment have been
6776 commenced under Section [~~62A-5-312~~] [26B-6-608](#).

6777 (b) After proceedings for involuntary commitment have been commenced the
6778 individual shall be released unless an order of detention is issued in accordance with Section

6779 [~~62A-5-312~~] 26B-6-608.

6780 (5) If an individual is committed to the division under this section on the application of
6781 any person other than the individual's legal guardian, spouse, parent, or next of kin, the director
6782 or his designee shall immediately give notice of the commitment to the individual's legal
6783 guardian, spouse, parent, or next of kin, if known.

6784 Section 192. Section **26B-6-608**, which is renumbered from Section 62A-5-312 is
6785 renumbered and amended to read:

6786 [~~62A-5-312~~]. **26B-6-608. Involuntary commitment -- Procedures --**
6787 **Necessary findings -- Periodic review.**

6788 (1) Any responsible person who has reason to know that an individual is in need of
6789 commitment, who has a belief that the individual has an intellectual disability, and who has
6790 personal knowledge of the conditions and circumstances supporting that belief, may commence
6791 proceedings for involuntary commitment by filing a written petition with the district court, or if
6792 the subject of the petition is less than 18 years [~~of age~~] old with the juvenile court, of the
6793 county in which the individual to be committed is physically located at the time the petition is
6794 filed. The application shall be accompanied by:

6795 (a) a certificate of a licensed physician or a designated intellectual disability
6796 professional, stating that within a seven-day period immediately preceding the certification, the
6797 physician or designated intellectual disability professional examined the individual and
6798 believes that the individual has an intellectual disability and is in need of involuntary
6799 commitment; or

6800 (b) a written statement by the petitioner that:

6801 (i) states that the individual was requested to, but refused to, submit to an examination
6802 for an intellectual disability by a licensed physician or designated intellectual disability
6803 professional, and that the individual refuses to voluntarily go to the division or an intermediate
6804 care facility for people with an intellectual disability recommended by the division for
6805 treatment;

6806 (ii) is under oath; and

6807 (iii) sets forth the facts on which the statement is based.

6808 (2) Before issuing a detention order, the court may require the petitioner to consult
6809 with personnel at the division or at an intermediate care facility for people with an intellectual
6810 disability and may direct a designated intellectual disability professional to interview the
6811 petitioner and the individual to be committed, to determine the existing facts, and to report
6812 them to the court.

6813 (3) The court may issue a detention order and may direct a peace officer to immediately
6814 take the individual to an intermediate care facility for people with an intellectual disability to
6815 be detained for purposes of an examination if the court finds from the petition, from other
6816 statements under oath, or from reports of physicians or designated intellectual disability
6817 professionals that there is a reasonable basis to believe that the individual to be committed:

6818 (a) poses an immediate danger of physical injury to self or others;

6819 (b) requires involuntary commitment pending examination and hearing;

6820 (c) the individual was requested but refused to submit to an examination by a licensed
6821 physician or designated intellectual disability professional; or

6822 (d) the individual refused to voluntarily go to the division or to an intermediate care
6823 facility for people with an intellectual disability recommended by the division.

6824 (4) (a) If the court issues a detention order based on an application that did not include
6825 a certification by a designated intellectual disability professional or physician in accordance
6826 with Subsection (1)(a), the director or his designee shall within 24 hours after issuance of the
6827 detention order, excluding Saturdays, Sundays, and legal holidays, examine the individual,
6828 report the results of the examination to the court and inform the court:

6829 (i) whether the director or his designee believes that the individual has an intellectual
6830 disability; and

6831 (ii) whether appropriate treatment programs are available and will be used by the
6832 individual without court proceedings.

6833 (b) If the report of the director or his designee is based on an oral report of the
6834 examiner, the examiner shall immediately send the results of the examination in writing to the
6835 clerk of the court.

6836 (5) Immediately after an individual is involuntarily committed under a detention order
6837 or under Section [~~62A-5-311~~] 26B-6-607, the director or his designee shall inform the
6838 individual, orally and in writing, of his right to communicate with an attorney. If an individual
6839 desires to communicate with an attorney, the director or his designee shall take immediate steps
6840 to assist the individual in contacting and communicating with an attorney.

6841 (6) (a) Immediately after commencement of proceedings for involuntary commitment,
6842 the court shall give notice of commencement of the proceedings to:

- 6843 (i) the individual to be committed;
- 6844 (ii) the applicant;
- 6845 (iii) any legal guardian of the individual;
- 6846 (iv) adult members of the individual's immediate family;
- 6847 (v) legal counsel of the individual to be committed, if any;
- 6848 (vi) the division; and
- 6849 (vii) any other person to whom the individual requests, or the court designates, notice
6850 to be given.

6851 (b) If an individual cannot or refuses to disclose the identity of persons to be notified,
6852 the extent of notice shall be determined by the court.

6853 (7) That notice shall:

- 6854 (a) set forth the allegations of the petition and all supporting facts;
- 6855 (b) be accompanied by a copy of any detention order issued under Subsection (3); and
- 6856 (c) state that a hearing will be held within the time provided by law, and give the time
6857 and place for that hearing.

6858 (8) The court may transfer the case and the custody of the individual to be committed
6859 to any other district court within the state, if:

6860 (a) there are no appropriate facilities for persons with an intellectual disability within
6861 the judicial district; and

6862 (b) the transfer will not be adverse to the interests of the individual.

6863 (9) (a) Within 24 hours, excluding Saturdays, Sundays, and legal holidays, after any
6864 order or commitment under a detention order, the court shall appoint two designated
6865 intellectual disability professionals to examine the individual. If requested by the individual's
6866 counsel, the court shall appoint a reasonably available, qualified person designated by counsel
6867 to be one of the examining designated intellectual disability professionals. The examinations
6868 shall be conducted:

6869 (i) separately;

6870 (ii) at the home of the individual to be committed, a hospital, an intermediate care
6871 facility for people with an intellectual disability, or any other suitable place not likely to have a
6872 harmful effect on the individual; and

6873 (iii) within a reasonable period of time after appointment of the examiners by the court.

6874 (b) The court shall set a time for a hearing to be held within 10 court days of the
6875 appointment of the examiners. However, the court may immediately terminate the proceedings
6876 and dismiss the application if, prior to the hearing date, the examiners, the director, or his
6877 designee informs the court that:

6878 (i) the individual does not have an intellectual disability; or

6879 (ii) treatment programs are available and will be used by the individual without court
6880 proceedings.

6881 (10) (a) Each individual has the right to be represented by counsel at the commitment
6882 hearing and in all preliminary proceedings. If neither the individual nor others provide counsel,
6883 the court shall appoint counsel and allow sufficient time for counsel to consult with the
6884 individual prior to any hearing.

6885 (b) If the individual is indigent, the county in which the individual was physically
6886 located when taken into custody shall pay reasonable attorney fees as determined by the court.

6887 (11) The division or a designated intellectual disability professional in charge of the
6888 individual's care shall provide all documented information on the individual to be committed
6889 and to the court at the time of the hearing. The individual's attorney shall have access to all
6890 documented information on the individual at the time of and prior to the hearing.

6891 (12) (a) The court shall provide an opportunity to the individual, the petitioner, and all
6892 other persons to whom notice is required to be given to appear at the hearing, to testify, and to
6893 present and cross-examine witnesses.

6894 (b) The court may, in its discretion:

6895 (i) receive the testimony of any other person;

6896 (ii) allow a waiver of the right to appear only for good cause shown;

6897 (iii) exclude from the hearing all persons not necessary to conduct the proceedings; and

6898 (iv) upon motion of counsel, require the testimony of each examiner to be given out of
6899 the presence of any other examiner.

6900 (c) The hearing shall be conducted in as informal a manner as may be consistent with
6901 orderly procedure, and in a physical setting that is not likely to have a harmful effect on the
6902 individual. The Utah Rules of Evidence apply, and the hearing shall be a matter of court
6903 record. A verbatim record of the proceedings shall be maintained.

6904 (13) The court may order commitment if, upon completion of the hearing and
6905 consideration of the record, it finds by clear and convincing evidence that all of the following
6906 conditions are met:

6907 (a) the individual to be committed has an intellectual disability;

6908 (b) because of the individual's intellectual disability one or more of the following
6909 conditions exist:

6910 (i) the individual poses an immediate danger of physical injury to self or others;

6911 (ii) the individual lacks the capacity to provide the basic necessities of life, such as
6912 food, clothing, or shelter; or

6913 (iii) the individual is in immediate need of habilitation, rehabilitation, care, or

6914 treatment to minimize the effects of the condition which poses a threat of serious physical or
6915 psychological injury to the individual, and the individual lacks the capacity to engage in a
6916 rational decision-making process concerning the need for habilitation, rehabilitation, care, or
6917 treatment, as evidenced by an inability to weigh the possible costs and benefits of the care or
6918 treatment and the alternatives to it;

6919 (c) there is no appropriate, less restrictive alternative reasonably available; and

6920 (d) the division or the intermediate care facility for people with an intellectual
6921 disability recommended by the division in which the individual is to be committed can provide
6922 the individual with treatment, care, habilitation, or rehabilitation that is adequate and
6923 appropriate to the individual's condition and needs.

6924 (14) In the absence of any of the required findings by the court, described in Subsection
6925 (13), the court shall dismiss the proceedings.

6926 (15) (a) The order of commitment shall designate the period for which the individual
6927 will be committed. An initial commitment may not exceed six months. Before the end of the
6928 initial commitment period, the administrator of the intermediate care facility for people with an
6929 intellectual disability shall commence a review hearing on behalf of the individual.

6930 (b) At the conclusion of the review hearing, the court may issue an order of
6931 commitment for up to a one-year period.

6932 (16) An individual committed under this part has the right to a rehearing, upon filing a
6933 petition with the court within 30 days after entry of the court's order. If the petition for
6934 rehearing alleges error or mistake in the court's findings, the court shall appoint one impartial
6935 licensed physician and two impartial designated intellectual disability professionals who have
6936 not previously been involved in the case to examine the individual. The rehearing shall, in all
6937 other respects, be conducted in accordance with this part.

6938 (17) (a) The court shall maintain a current list of all individuals under its orders of
6939 commitment. That list shall be reviewed in order to determine those patients who have been
6940 under an order of commitment for the designated period.

6941 (b) At least two weeks prior to the expiration of the designated period of any
6942 commitment order still in effect, the court that entered the original order shall inform the
6943 director of the division of the impending expiration of the designated commitment period.

6944 (c) The staff of the division shall immediately:

6945 (i) reexamine the reasons upon which the order of commitment was based and report
6946 the results of the examination to the court;

6947 (ii) discharge the resident from involuntary commitment if the conditions justifying
6948 commitment no longer exist; and

6949 (iii) immediately inform the court of any discharge.

6950 (d) If the director of the division reports to the court that the conditions justifying
6951 commitment no longer exist, and the administrator of the intermediate care facility for people
6952 with an intellectual disability does not discharge the individual at the end of the designated
6953 period, the court shall order the immediate discharge of the individual, unless involuntary
6954 commitment proceedings are again commenced in accordance with this section.

6955 (e) If the director of the division, or the director's designee reports to the court that the
6956 conditions designated in Subsection (13) still exist, the court may extend the commitment order
6957 for up to one year. At the end of any extension, the individual must be reexamined in
6958 accordance with this section, or discharged.

6959 (18) When a resident is discharged under this subsection, the division shall provide any
6960 further support services available and required to meet the resident's needs.

6961 Section 193. Section **26B-6-609**, which is renumbered from Section 62A-5-313 is
6962 renumbered and amended to read:

6963 **[62A-5-313]. 26B-6-609. Transfer -- Procedures.**

6964 (1) The director of the division, or the director's designee, may place an involuntarily
6965 committed resident in appropriate care or treatment outside the intermediate care facility for
6966 people with an intellectual disability. During that placement, the order of commitment shall
6967 remain in effect, until the resident is discharged or the order is terminated.

6968 (2) If the resident, or the resident's parent or guardian, objects to a proposed placement
6969 under this section, the resident may appeal the decision to the executive director or the
6970 executive director's designee. Those appeals shall be conducted in accordance with the
6971 procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act. If an
6972 objection is made, the proposed placement may not take effect until the committee holds that
6973 hearing and the executive director makes a final decision on the placement.

6974 Section 194. Section **26B-6-610**, which is renumbered from Section 62A-5-315 is
6975 renumbered and amended to read:

6976 ~~[62A-5-315]~~. **26B-6-610**. **Petition for reexamination.**

6977 (1) A resident committed under Section ~~[62A-5-312]~~ 26B-6-608, or his parent, spouse,
6978 legal guardian, relative, or attorney, may file a petition for reexamination with the district court
6979 of the county in which the resident is domiciled or detained.

6980 (2) Upon receipt of that petition, the court shall conduct proceedings under Section
6981 ~~[62A-5-312]~~ 26B-6-608.

6982 Section 195. Section **26B-6-611**, which is renumbered from Section 62A-5-316 is
6983 renumbered and amended to read:

6984 ~~[62A-5-316]~~. **26B-6-611**. **Temporary detention.**

6985 (1) Pending removal to an intermediate care facility for people with an intellectual
6986 disability, an individual taken into custody or ordered to be committed under this part may be
6987 detained in the individual's home, or in some other suitable facility.

6988 (2) The individual shall not, however, be detained in a nonmedical facility used for
6989 detention of individuals charged with or convicted of penal offenses, except in a situation of
6990 extreme emergency.

6991 (3) The division shall take reasonable measures, as may be necessary, to assure proper
6992 care of an individual temporarily detained under this part.

6993 Section 196. Section **26B-6-612**, which is renumbered from Section 62A-5-317 is
6994 renumbered and amended to read:

6995 ~~[62A-5-317]~~. 26B-6-612. **Authority to transfer resident.**

6996 (1) The administrator of an intermediate care facility for people with an intellectual
6997 disability, or the administrator's designee, may transfer or authorize the transfer of a resident to
6998 another intermediate care facility for people with an intellectual disability if, before the
6999 transfer, the administrator conducts a careful evaluation of the resident and the resident's
7000 treatment needs, and determines that a transfer would be in the best interest of that resident. If
7001 a resident is transferred, the administrator shall give immediate notice of the transfer to the
7002 resident's spouse, guardian, parent, or advocate or, if none of those persons are known, to the
7003 resident's nearest known relative.

7004 (2) If a resident, or the resident's parent or guardian, objects to a proposed transfer
7005 under this section, the administrator shall conduct a hearing on the objection before a
7006 committee composed of persons selected by the administrator. That committee shall hear all
7007 evidence and make a recommendation to the administrator concerning the proposed transfer.
7008 The transfer may not take effect until the committee holds that hearing and the administrator
7009 renders a final decision on the proposed transfer.

7010 Section 197. Section **26B-6-613**, which is renumbered from Section 62A-5-318 is
7011 renumbered and amended to read:

7012 ~~[62A-5-318]~~. 26B-6-613. **Involuntary treatment with medication --**
7013 **Committee -- Findings.**

7014 (1) If, after commitment, a resident elects to refuse treatment with medication, the
7015 director, the administrator of the intermediate care facility for people with an intellectual
7016 disability, or a designee, shall submit documentation regarding the resident's proposed
7017 treatment to a committee composed of:

7018 (a) a licensed physician experienced in treating persons with an intellectual disability,
7019 who is not directly involved in the resident's treatment or diagnosis, and who is not biased
7020 toward any one facility;

7021 (b) a psychologist who is a designated intellectual disability professional who is not

7022 directly involved in the resident's treatment or diagnosis; and

7023 (c) another designated intellectual disability professional of the facility for persons with
7024 an intellectual disability, or a designee.

7025 (2) Based upon the court's finding, under Subsection [~~62A-5-312~~] 26B-6-608(13), that
7026 the resident lacks the ability to engage in a rational decision-making process regarding the need
7027 for habilitation, rehabilitation, care, or treatment, as demonstrated by evidence of inability to
7028 weigh the possible costs and benefits of treatment, the committee may authorize involuntary
7029 treatment with medication if it determines that:

7030 (a) the proposed treatment is in the medical best interest of the resident, taking into
7031 account the possible side effects as well as the potential benefits of the medication; and

7032 (b) the proposed treatment is in accordance with prevailing standards of accepted
7033 medical practice.

7034 (3) In making the determination described in Subsection (2), the committee shall
7035 consider the resident's general history and present condition, the specific need for medication
7036 and its possible side effects, and any previous reaction to the same or comparable medication.

7037 (4) Any authorization of involuntary treatment under this section shall be periodically
7038 reviewed in accordance with rules promulgated by the division.

7039 Section 198. Section **26B-6-701**, which is renumbered from Section 62A-5-501 is
7040 renumbered and amended to read:

7041 **Part 7. Disability Ombudsman**

7042 [~~62A-5-501~~]. **26B-6-701. Definitions.**

7043 [As] In addition to the definitions in Section 26B-6-401, as used in this part:

7044 (1) "Complainant" means a person who initiates a complaint.

7045 (2) "Complaint" means a complaint initiated with the ombudsman identifying a person
7046 who has violated the rights and privileges of an individual with a disability.

7047 (3) "Ombudsman" means the ombudsman appointed in Section [~~62A-5-502~~]
7048 26B-6-702.

7049 (4) "Rights and privileges of an individual with a disability" means the rights and
7050 privileges of an individual with a disability described in Subsections [~~62A-5b-103~~]
7051 26B-6-802(1) through (3).

7052 Section 199. Section **26B-6-702**, which is renumbered from Section 62A-5-502 is
7053 renumbered and amended to read:

7054 [~~62A-5-502~~]. **26B-6-702. Disability ombudsman -- Purpose -- Appointment**
7055 **-- Qualifications -- Staff.**

7056 (1) There is created within the [~~division~~] department the position of disability
7057 ombudsman for the purpose of promoting, advocating, and ensuring the rights and privileges of
7058 an individual with a disability are upheld.

7059 (2) The director shall appoint an ombudsman who has:

7060 (a) recognized executive and administrative capacity; and

7061 (b) experience in laws and policies regarding individuals with a disability.

7062 (3) The ombudsman may hire staff as necessary to carry out the duties of the
7063 ombudsman under this part.

7064 Section 200. Section **26B-6-703**, which is renumbered from Section 62A-5-503 is
7065 renumbered and amended to read:

7066 [~~62A-5-503~~]. **26B-6-703. Powers and duties of ombudsman.**

7067 The ombudsman shall:

7068 (1) develop and maintain expertise in laws and policies governing the rights and
7069 privileges of an individual with a disability;

7070 (2) provide training and information to private citizens, civic groups, governmental
7071 entities, and other interested parties across the state regarding:

7072 (a) the role and duties of the ombudsman;

7073 (b) the rights and privileges of an individual with a disability; and

7074 (c) services available in the state to an individual with a disability;

7075 (3) develop a website to provide the information described in Subsection (2) in a form

7076 that is easily accessible;

7077 (4) receive, process, and investigate complaints in accordance with this part;

7078 (5) review periodically the procedures of state entities that serve individuals with a
7079 disability;

7080 (6) cooperate and coordinate with governmental entities and other organizations in the
7081 community in exercising the duties under this section, including the long-term care
7082 ombudsman program, created in Section [~~62A-3-203~~] 26B-2-303, and the child protection
7083 ombudsman, appointed under Section [~~62A-4a-208~~] 80-2-1104, when there is overlap between
7084 the responsibilities of the ombudsman and the long-term care ombudsman program or the child
7085 protection ombudsman;

7086 (7) as appropriate, make recommendations to the division regarding rules to be made in
7087 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that the
7088 ombudsman considers necessary to carry out the ombudsman's duties under this part;

7089 (8) submit annually, by July 1, to the Health and Human Services Interim Committee, a
7090 report describing:

7091 (a) the work of the ombudsman; and

7092 (b) any recommendations for statutory changes to improve the effectiveness of the
7093 ombudsman in performing the duties under this section; and

7094 (9) perform other duties required by law.

7095 Section 201. Section **26B-6-704**, which is renumbered from Section 62A-5-504 is
7096 renumbered and amended to read:

7097 ~~[62A-5-504].~~ **26B-6-704. Investigation of complaints -- Procedures --**
7098 **Rulemaking.**

7099 (1) Except as provided in Subsection (3), the ombudsman shall, upon receipt of a
7100 complaint, investigate the complaint.

7101 (2) An ombudsman's investigation of a complaint may include:

7102 (a) a referral to a governmental entity or other services;

- 7103 (b) the collection of facts, information, or documentation;
- 7104 (c) holding an investigatory hearing; or
- 7105 (d) an inspection of the premises of the person named in the complaint.
- 7106 (3) (a) The ombudsman may decline to investigate a complaint.
- 7107 (b) If the ombudsman declines to investigate a complaint, the ombudsman shall notify
- 7108 the complainant and the division of the declination.
- 7109 (4) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah
- 7110 Administrative Rulemaking Act, that govern the ombudsman's process for:
- 7111 (a) receiving and processing complaints; and
- 7112 (b) conducting an investigation in accordance with this section.
- 7113 Section 202. Section **26B-6-705**, which is renumbered from Section 62A-5-505 is
- 7114 renumbered and amended to read:
- 7115 ~~**[62A-5-505].**~~ **26B-6-705. Confidentiality of materials relating to**
- 7116 **complaints or investigations -- Rulemaking.**
- 7117 (1) The division shall establish procedures by rule made in accordance with Title 63G,
- 7118 Chapter 3, Utah Administrative Rulemaking Act, to ensure that a record maintained by the
- 7119 ombudsman is disclosed only at the discretion of and under the authority of the ombudsman.
- 7120 (2) The identity of a complainant or a party named in the complaint may not be
- 7121 disclosed by the ombudsman unless:
- 7122 (a) the complainant or a legal representative of the complainant consents to the
- 7123 disclosure;
- 7124 (b) disclosure is ordered by a court of competent jurisdiction; or
- 7125 (c) the disclosure is approved by the ombudsman and is made, as part of an
- 7126 investigation involving the complainant, to an agency or entity in the community that:
- 7127 (i) has statutory responsibility for the complainant, over the action alleged in the
- 7128 complaint, or another party named in the complaint;
- 7129 (ii) is able to assist the ombudsman to achieve resolution of the complaint; or

7130 (iii) is able to provide expertise that would benefit the complainant.

7131 (3) Neither the ombudsman nor the ombudsman's designee may be required to testify in
7132 court with respect to confidential matters, except as the court finds necessary to enforce this
7133 part.

7134 Section 203. Section **26B-6-801**, which is renumbered from Section 62A-5b-102 is
7135 renumbered and amended to read:

7136 **Part 8. Rights and Privileges of Minors and Individuals with a Disability**

7137 ~~[62A-5b-102]~~. **26B-6-801. Definitions.**

7138 As used in this [chapter] part:

7139 (1) "Disability" has the same meaning as defined in 42 U.S.C. Sec. 12102 of the
7140 Americans With Disabilities Act of 1990, as may be amended in the future, and 28 C.F.R. Sec.
7141 36.104 of the Code of Federal Regulations, as may be amended in the future.

7142 (2) "Informed consent" means consent that is voluntary and based on an understanding
7143 by the person to be sterilized of the nature and consequences of sterilization, the reasonably
7144 foreseeable risks and benefits of sterilization, and the available alternative methods of
7145 contraception.

7146 (3) "Institutionalized" means residing in the Utah State Developmental Center, the
7147 Utah State Hospital, a residential facility for persons with a disability as defined in Sections
7148 10-9a-103 and 17-27a-103, a group home for persons with a disability, a nursing home, or a
7149 foster care home or facility.

7150 [~~2~~] (4) (a) "Service animal" includes any dog that:

7151 (i) is trained, or is in training, to do work or perform tasks for the benefit of an
7152 individual with a disability, including a physical, sensory, psychiatric, intellectual, or other
7153 mental disability; and

7154 (ii) performs work or tasks, or is in training to perform work or tasks, that are directly
7155 related to the individual's disability, including:

7156 (A) assisting an individual who is blind or has low vision with navigation or other

7157 tasks;

7158 (B) alerting an individual who is deaf or hard of hearing to the presence of people or

7159 sounds;

7160 (C) providing non-violent protection or rescue work;

7161 (D) pulling a wheelchair;

7162 (E) assisting an individual during a seizure;

7163 (F) alerting an individual to the presence of an allergen;

7164 (G) retrieving an item for the individual;

7165 (H) providing physical support and assistance with balance and stability; or

7166 (I) helping an individual with a psychiatric or neurological disability by preventing or

7167 interrupting impulsive or destructive behaviors.

7168 (b) "Service animal" does not include:

7169 (i) an animal other than a dog, whether wild or domestic, trained or untrained; or

7170 (ii) an animal used solely to provide:

7171 (A) a crime deterrent;

7172 (B) emotional support;

7173 (C) well-being;

7174 (D) comfort; or

7175 (E) companionship.

7176 (5) "Sterilization" means any medical procedure, treatment, or operation rendering an

7177 individual permanently incapable of procreation.

7178 [~~3~~] (6) "Support animal" means an animal, other than a service animal, that qualifies

7179 as a reasonable accommodation under federal law for an individual with a disability.

7180 Section 204. Section **26B-6-802**, which is renumbered from Section 62A-5b-103 is

7181 renumbered and amended to read:

7182 [~~62A-5b-103~~]. **26B-6-802. Rights and privileges of an individual with a**

7183 **disability.**

7184 (1) An individual with a disability has the same rights and privileges in the use of
7185 highways, streets, sidewalks, walkways, public buildings, public facilities, and other public
7186 areas as an individual who is not an individual with a disability.

7187 (2) An individual with a disability has equal rights to accommodations, advantages,
7188 and facilities offered by common carriers, including air carriers, railroad carriers, motor buses,
7189 motor vehicles, water carriers, and all other modes of public conveyance in this state.

7190 (3) An individual with a disability has equal rights to accommodations, advantages,
7191 and facilities offered by hotels, motels, lodges, and all other places of public accommodation in
7192 this state, and to places of amusement or resort to which the public is invited.

7193 (4) (a) An individual with a disability has equal rights and access to public and private
7194 housing accommodations offered for rent, lease, or other compensation in this state.

7195 (b) This chapter does not require a person renting, leasing, or selling private housing or
7196 real property to modify the housing or property in order to accommodate an individual with a
7197 disability or to provide a higher degree of care for that individual than for someone who is not
7198 an individual with a disability.

7199 (c) A person renting, leasing, or selling private housing or real property to an
7200 individual with a disability shall comply with the provisions of Section [~~62A-5b-104~~]
7201 [26B-6-803](#).

7202 Section 205. Section **26B-6-803**, which is renumbered from Section 62A-5b-104 is
7203 renumbered and amended to read:

7204 [~~62A-5b-104~~]. **26B-6-803. Right to be accompanied by service animal or**
7205 **support animal -- Security deposits -- Discrimination -- Liability.**

7206 (1) (a) An individual with a disability has the right to be accompanied by a service
7207 animal, unless the service animal is a danger or nuisance to others as interpreted under the
7208 Americans with Disabilities Act of 1990, 42 U.S.C. Sec. 12102:

7209 (i) in any of the places specified in Section [~~62A-5b-103~~] [26B-6-802](#); and

7210 (ii) without additional charge for the service animal.

7211 (b) An owner or lessor of private housing accommodations:
7212 (i) may not, in any manner, discriminate against an individual with a disability on the
7213 basis of the individual's possession of a service animal or a support animal, including by
7214 charging an extra fee or deposit for a service animal or a support animal; and
7215 (ii) may recover a reasonable cost to repair damage caused by a service animal or a
7216 support animal.

7217 (2) An individual who is not an individual with a disability has the right to be
7218 accompanied by an animal that is in training to become a service animal or a police service
7219 canine, as defined in Section 53-16-102:

7220 (a) in any of the places specified in Section [~~62A-5b-103~~] 26B-6-802; and

7221 (b) without additional charge for the animal.

7222 (3) An individual described in Subsection (1) or (2) is liable for any loss or damage the
7223 individual's accompanying service animal, support animal, or animal described in Subsection
7224 (2) causes or inflicts to the premises of a place specified in Section [~~62A-5b-103~~] 26B-6-802.

7225 (4) Nothing in this section prohibits the exclusion, as permitted under federal law, of a
7226 service animal or a support animal from a place described in Section [~~62A-5b-103~~] 26B-6-802.

7227 Section 206. Section **26B-6-804**, which is renumbered from Section 62A-5b-105 is
7228 renumbered and amended to read:

7229 [~~62A-5b-105~~]. **26B-6-804. Policy of state to employ individuals with a**
7230 **disability.**

7231 It is the policy of this state that an individual with a disability is employed in the state
7232 service, the service of the political subdivisions of the state, in the public schools, and in all
7233 other employment supported in whole or in part by public funds on the same terms and
7234 conditions as an individual who is not an individual with a disability, unless it is shown that the
7235 particular disability prevents the performance of the work involved.

7236 Section 207. Section **26B-6-805**, which is renumbered from Section 62A-5b-106 is
7237 renumbered and amended to read:

7238 ~~[62A-5b-106]~~. **26B-6-805**. **Interference with rights provided in this part --**
7239 **Misrepresentation of rights under this part.**

7240 (1) Any individual, or agent of any individual, who denies or interferes with the rights
7241 provided in this chapter is guilty of a class C misdemeanor.

7242 (2) An individual is guilty of a class C misdemeanor if:

7243 (a) the individual intentionally and knowingly falsely represents to another person that
7244 an animal is a service animal or a support animal;

7245 (b) the individual knowingly and intentionally misrepresents a material fact to a health
7246 care provider for the purpose of obtaining documentation from the health care provider
7247 necessary to designate an animal as a service animal or a support animal; or

7248 (c) the individual, except for an individual with a disability, uses an animal to gain
7249 treatment or benefits only provided for an individual with a disability.

7250 (3) This section does not affect the enforceability of any criminal law, including
7251 Subsection 76-6-501(2).

7252 (4) An agent of a protection and advocacy agency, acting in the agent's professional
7253 capacity and in compliance with 29 U.S.C. Sec. 794e et seq., 42 U.S.C. Sec. 15041 et seq., and
7254 42 U.S.C. Sec. 1801 et seq., is not criminally liable under Subsection (2).

7255 Section 208. Section **26B-6-806**, which is renumbered from Section 62A-6-102 is
7256 renumbered and amended to read:

7257 ~~[62A-6-102]~~. **26B-6-806**. **Sterilization of persons 18 years old or older.**

7258 (1) It is lawful for a physician to sterilize a person who is 18 years [~~of age~~] old or older
7259 and who has the capacity to give informed consent.

7260 (2) It is unlawful for a physician to sterilize a person who is 18 years [~~of age~~] old or
7261 older and who is institutionalized, unless:

7262 (a) the physician, through careful examination and counseling, ensures that the person
7263 is capable of giving informed consent and that no undue influence or coercion to consent has
7264 been placed on that person by nature of the fact that he is institutionalized; or

7265 (b) the person is not capable of giving informed consent, a petition has been filed in
7266 accordance with Section [~~62A-6-107~~] 26B-6-811, and an order authorizing the sterilization has
7267 been entered by a court of competent jurisdiction.

7268 (3) It is unlawful for a physician to sterilize a person who is 18 years [~~of age~~] old or
7269 older and who is not capable of giving informed consent unless a petition has been filed in
7270 accordance with Section [~~62A-6-107~~] 26B-6-811 and an order authorizing sterilization has
7271 been entered by a court of competent jurisdiction.

7272 Section 209. Section **26B-6-807**, which is renumbered from Section 62A-6-103 is
7273 renumbered and amended to read:

7274 [~~62A-6-103~~]. **26B-6-807. Sterilization of persons under 18 years old.**

7275 It is unlawful for a physician to sterilize a person who is under 18 years [~~of age~~] old
7276 unless:

7277 (1) the person is married or otherwise emancipated and the physician, through careful
7278 examination and counseling, ensures that the person is capable of giving informed consent. If
7279 that person is institutionalized, the physician shall also ensure that no undue influence or
7280 coercion to consent has been placed on the person by nature of the fact that [~~he~~] the person is
7281 institutionalized; or

7282 (2) a petition has been filed in accordance with Section [~~62A-6-107~~] 26B-6-811, and
7283 an order authorizing sterilization has been entered by a court of competent jurisdiction.

7284 Section 210. Section **26B-6-808**, which is renumbered from Section 62A-6-104 is
7285 renumbered and amended to read:

7286 [~~62A-6-104~~]. **26B-6-808. Emergency -- Medical necessity.**

7287 If an emergency situation exists that prevents compliance with Section [~~62A-6-102 or~~
7288 ~~62A-6-103~~] 26B-6-806 or 26B-6-807 because of medical necessity, if delay in performing the
7289 sterilization could result in serious physical injury or death to the person, the attending
7290 physician shall certify, in writing, the specific medical reasons that necessitated suspension of
7291 those requirements. That certified statement shall become a permanent part of the sterilized

7292 person's medical record.

7293 Section 211. Section **26B-6-809**, which is renumbered from Section 62A-6-105 is
7294 renumbered and amended to read:

7295 ~~[62A-6-105]~~. **26B-6-809**. **Persons who may give informed consent.**

7296 For purposes of this ~~[chapter]~~ part, the following persons may give informed consent to
7297 sterilization:

7298 (1) a person who is the subject of sterilization, if ~~[he]~~ the person is capable of giving
7299 informed consent; and

7300 (2) a person appointed by the court to give informed consent on behalf of a subject of
7301 sterilization who is incapable of giving informed consent.

7302 Section 212. Section **26B-6-810**, which is renumbered from Section 62A-6-106 is
7303 renumbered and amended to read:

7304 ~~[62A-6-106]~~. **26B-6-810**. **Declaration of capacity to give informed consent**
7305 **-- Hearing.**

7306 (1) A person who desires sterilization but whose capacity to give informed consent is
7307 questioned by any interested party may file a petition for declaration of capacity to give
7308 informed consent.

7309 (2) If, after hearing all the relevant evidence, the court finds by a preponderance of the
7310 evidence that the person is capable of giving informed consent, the court shall enter an order
7311 declaring that the person has the capacity to give informed consent.

7312 Section 213. Section **26B-6-811**, which is renumbered from Section 62A-6-107 is
7313 renumbered and amended to read:

7314 ~~[62A-6-107]~~. **26B-6-811**. **Petition for order authorizing sterilization.**

7315 (1) A petition for an order authorizing sterilization may be filed by a person who
7316 desires sterilization, or by ~~[his]~~ the person's parent, spouse, guardian, custodian, or other
7317 interested party.

7318 (2) The court shall adjudicate the petition for sterilization in accordance with Section

7319 [~~62A-6-108~~] 26B-6-812.

7320 Section 214. Section **26B-6-812**, which is renumbered from Section 62A-6-108 is
7321 renumbered and amended to read:

7322 ~~[62A-6-108]~~. **26B-6-812. Factors to be considered by court -- Evaluations**
7323 **-- Interview -- Findings of fact.**

7324 (1) If the court finds that the subject of sterilization is not capable of giving informed
7325 consent, the court shall consider, but not by way of limitation, the following factors concerning
7326 that person:

7327 (a) the nature and degree of [~~his~~] the person's mental impairment, and the likelihood
7328 that the condition is permanent;

7329 (b) the level of [~~his~~] the person's understanding regarding the concepts of reproduction
7330 and contraception, and whether [~~his~~] the person's ability to understand those concepts is likely
7331 to improve;

7332 (c) [~~his~~] the person's capability for procreation or reproduction[~~. It is~~], with a
7333 rebuttable presumption that the ability to procreate and reproduce exists in a person of normal
7334 physical development;

7335 (d) the potentially injurious physical and psychological effects from sterilization,
7336 pregnancy, childbirth, and parenthood;

7337 (e) the alternative methods of birth control presently available including, but not
7338 limited to, drugs, intrauterine devices, education and training, and the feasibility of one or more
7339 of those methods as an alternative to sterilization;

7340 (f) the likelihood that [~~he~~] the person will engage in sexual activity or could be
7341 sexually abused or exploited;

7342 (g) the method of sterilization that is medically advisable, and least intrusive and
7343 destructive of [~~his~~] the person's rights to bodily and psychological integrity;

7344 (h) the advisability of postponing sterilization until a later date; and

7345 (i) the likelihood that [~~he~~] the person could adequately care and provide for a child.

7346 (2) (a) The court may require that independent medical, psychological, and social
7347 evaluations of the subject of sterilization be made prior to ruling on a petition for sterilization.

7348 (b) The court may appoint experts to perform those examinations and evaluations and
7349 may require the petitioner, to the extent of the petitioner's ability, to bear the costs incurred.

7350 (3) (a) The court shall interview the subject of sterilization to determine [his] the
7351 person's understanding of and desire for sterilization.

7352 (b) The expressed preference of the person shall be made a part of the record, and shall
7353 be considered by the court in rendering its decision.

7354 (c) The court is not bound by the expressed preference of the subject of sterilization;
7355 however, if the person expresses a preference not to be sterilized, the court shall deny the
7356 petition unless the petitioner proves beyond a reasonable doubt that the person will suffer
7357 serious physical or psychological injury if the petition is denied.

7358 (4) (a) When adjudicating a petition for sterilization the court shall determine, on the
7359 basis of all the evidence, what decision regarding sterilization would have been made by the
7360 subject of sterilization, if [he] the person were capable of giving informed consent to
7361 sterilization.

7362 (b) The decision regarding sterilization shall be in the best interest of the person to be
7363 sterilized.

7364 (5) If the court grants a petition for sterilization, [it] the court shall make appropriate
7365 findings of fact in support of its order.

7366 Section 215. Section **26B-6-813**, which is renumbered from Section 62A-6-109 is
7367 renumbered and amended to read:

7368 ~~[62A-6-109]~~. **26B-6-813. Advanced hearing.**

7369 On motion by the person seeking sterilization or by any other party to the proceeding,
7370 the court may advance hearing on the petition.

7371 Section 216. Section **26B-6-814**, which is renumbered from Section 62A-6-110 is
7372 renumbered and amended to read:

7373 ~~[62A-6-110]~~. **26B-6-814. Notice of hearing -- Service.**

7374 (1) A copy of the petition and notice of the hearing shall be served personally on the
7375 person to be sterilized not less than 20 days before the hearing date.

7376 (2) The notice shall state the date, time, and place of the hearing, and shall specifically
7377 state that the hearing is to adjudicate either a petition for declaration of capacity to give
7378 informed consent to sterilization or a petition for sterilization.

7379 (3) Notice shall be served on that person's parents, spouse, guardian, or custodian and
7380 on his attorney by the clerk of the court, by certified mail, not less than 10 days before the
7381 hearing date.

7382 Section 217. Section **26B-6-815**, which is renumbered from Section 62A-6-111 is
7383 renumbered and amended to read:

7384 ~~[62A-6-111]~~. **26B-6-815. Guardian ad litem -- Procedural rights.**

7385 (1) The court shall appoint an attorney to act as guardian ad litem to defend the rights
7386 and interests of the person to be sterilized.

7387 (2) The person to be sterilized is entitled to appear and testify at the hearing, to
7388 examine and cross examine witnesses, and to compel the attendance of witnesses.

7389 (3) (a) The person who is the subject of a sterilization proceeding may, on motion to
7390 the court and for good cause shown, waive the right to be present at the hearing.

7391 (b) If the court grants that motion, the person shall be represented by a guardian ad
7392 litem at the hearing.

7393 Section 218. Section **26B-6-816**, which is renumbered from Section 62A-6-112 is
7394 renumbered and amended to read:

7395 ~~[62A-6-112]~~. **26B-6-816. Jury -- Rules of evidence -- Transcript -- Burden
7396 of proof.**

7397 (1) The petitioner is entitled to request a jury to hear the petition.

7398 (2) The rules of evidence apply in any hearing on a petition for sterilization.

7399 (3) A transcript shall be made of the hearing and shall be made a permanent part of the

7400 record.

7401 ~~[(2)]~~ (4) The burden of producing evidence and the burden of proof shall be upon the
7402 petitioner to prove by clear and convincing evidence that the petition for or order authorizing
7403 sterilization should be granted.

7404 Section 219. Section **26B-6-817**, which is renumbered from Section 62A-6-113 is
7405 renumbered and amended to read:

7406 ~~[62A-6-113]~~. **26B-6-817. Appeal to Supreme Court -- Stay.**

7407 (1) Any party to a proceeding under this chapter may file a notice of appeal from any
7408 adverse decision with the Supreme Court in accordance with Rule 73, Utah Rules of Civil
7409 Procedure.

7410 (2) The pendency of an appeal in the Supreme Court shall stay the proceedings until
7411 the appeal is finally determined.

7412 Section 220. Section **26B-6-818**, which is renumbered from Section 62A-6-114 is
7413 renumbered and amended to read:

7414 ~~[62A-6-114]~~. **26B-6-818. Treatment for therapeutic reasons unaffected.**

7415 Nothing in this chapter shall be construed to prevent the medical or surgical treatment,
7416 for sound therapeutic reasons, of any person by a physician or surgeon licensed by this state,
7417 which treatment may incidentally involve destruction of reproductive functions.

7418 Section 221. Section **26B-6-819**, which is renumbered from Section 62A-6-115 is
7419 renumbered and amended to read:

7420 ~~[62A-6-115]~~. **26B-6-819. Immunity.**

7421 (1) A physician, assistant, or any other person acting pursuant to an order authorizing
7422 sterilization, as provided in this ~~[chapter]~~ part, is not civilly or criminally liable for
7423 participation in or assistance to sterilization.

7424 (2) This section does not apply to negligent acts committed in the performance of
7425 sterilization.

7426 Section 222. Section **26B-6-820**, which is renumbered from Section 62A-6-116 is

7427 renumbered and amended to read:

7428 ~~[62A-6-116]~~. **26B-6-820. Unauthorized sterilization -- Criminal penalty.**

7429 Except as authorized by this ~~[chapter]~~ part, any person who intentionally performs,
7430 encourages, assists in, or otherwise promotes the performance of a sterilization procedure for
7431 the purpose of destroying the power to procreate the human species, with knowledge that the
7432 provisions of this ~~[chapter]~~ part have not been met, is guilty of a third degree felony.

7433 Section 223. Section **26B-6-821**, which is renumbered from Section 62A-5b-107 is
7434 renumbered and amended to read:

7435 ~~[62A-5b-107]~~. **26B-6-821. Annual "White Cane Safety Day" proclaimed.**

7436 Each year the governor shall take notice of October 15 as White Cane Safety Day.

7437 Section 224. Section **26B-7-101** is amended to read:

7438 **CHAPTER 7. PUBLIC HEALTH AND PREVENTION**

7439 **Part 1. Health Promotion and Risk Reduction**

7440 **26B-7-101. Definitions.**

7441 ~~[Reserved]~~ As used in this part:

7442 (1) "Down syndrome" means a genetic condition associated with an extra chromosome
7443 21, in whole or in part, or an effective trisomy for chromosome 21.

7444 (2) "Maternal and child health services" means:

7445 (a) the provision of educational, preventative, diagnostic, and treatment services,
7446 including medical care, hospitalization, and other institutional care and aftercare, appliances,
7447 and facilitating services directed toward reducing infant mortality and improving the health of
7448 mothers and children provided, however, that nothing in this Subsection (2) shall be construed
7449 to allow any agency of the state to interfere with the rights of the parent of an unmarried minor
7450 in decisions about the providing of health information or services;

7451 (b) the development, strengthening, and improvement of standards and techniques
7452 relating to the services and care;

7453 (c) the training of personnel engaged in the provision, development, strengthening, or

7454 improvement of the services and care; and

7455 (d) necessary administrative services connected with Subsections (2)(a), (b), and (c).

7456 (3) "Minor" means a person under 18 years old.

7457 (4) "Services to children with disabilities" means:

7458 (a) the early location of children with a disability, provided that any program of
7459 prenatal diagnosis for the purpose of detecting the possible disease or disabilities of an unborn
7460 child will not be used for screening, but rather will be utilized only when there are medical or
7461 genetic indications that warrant diagnosis;

7462 (b) the provision for children described in Subsection (4)(a), of preventive, diagnosis,
7463 and treatment services, including medical care, hospitalization, and other institutional care and
7464 aftercare, appliances, and facilitating services directed toward the diagnosis of the condition of
7465 those children or toward the restoration of the children to maximum physical and mental
7466 health;

7467 (c) the development, strengthening, and improvement of standards and techniques
7468 relating to services and care described in this Subsection (4);

7469 (d) the training of personnel engaged in the provision, development, strengthening, or
7470 improvement of services and care described in this Subsection (4); and

7471 (e) necessary administrative services connected with Subsections (4)(a), (b), and (c).

7472 Section 225. Section **26B-7-102**, which is renumbered from Section 26-10-3 is
7473 renumbered and amended to read:

7474 **[26-10-3]. 26B-7-102. Director of family health services programs.**

7475 The executive director may appoint a director of family health services programs who
7476 shall be a board certified pediatrician or obstetrician with at least two years experience in
7477 public health programs.

7478 Section 226. Section **26B-7-103**, which is renumbered from Section 26-10-4 is
7479 renumbered and amended to read:

7480 **[26-10-4]. 26B-7-103. State plan for maternal and child health services.**

7481 The department shall prepare and submit a state plan for maternal and child health
7482 services as required by Title II of the Public Health Services Act. The plan shall be the official
7483 state plan for the state and shall be used as the basis for administration of Title V programs
7484 within the state.

7485 Section 227. Section **26B-7-104**, which is renumbered from Section 26-10-5.5 is
7486 renumbered and amended to read:

7487 ~~[26-10-5.5]~~. **26B-7-104**. **Child literacy -- Distribution of information kits.**

7488 (1) The Legislature recognizes that effective child literacy programs can have a
7489 dramatic long-term impact on each child's ability to:

- 7490 (a) succeed in school;
- 7491 (b) successfully compete in a global society; and
- 7492 (c) become a productive, responsible citizen.

7493 (2) (a) To help further this end, the department may make available to parents of
7494 new-born infants, as a resource, an information kit regarding child development, the
7495 development of emerging literacy skills, and activities which promote and enhance emerging
7496 literacy skills, including reading aloud to the child on a regular basis.

7497 (b) The department shall seek private funding to help support this program.

7498 (3) (a) The department may seek assistance from the State Board of Education and
7499 local hospitals in making the information kit available to parents on a voluntary basis.

7500 (b) The department may also seek assistance from private entities in making the kits
7501 available to parents.

7502 Section 228. Section **26B-7-105**, which is renumbered from Section 26-10-10 is
7503 renumbered and amended to read:

7504 ~~[26-10-10]~~. **26B-7-105**. **Cytomegalovirus (CMV) public education and testing.**

7505 (1) As used in this section "CMV" means cytomegalovirus.

7506 (2) The department shall establish and conduct a public education program to inform
7507 pregnant women and women who may become pregnant regarding:

- 7508 (a) the incidence of CMV;
- 7509 (b) the transmission of CMV to pregnant women and women who may become
- 7510 pregnant;
- 7511 (c) birth defects caused by congenital CMV;
- 7512 (d) methods of diagnosing congenital CMV; and
- 7513 (e) available preventative measures.
- 7514 (3) The department shall provide the information described in Subsection (2) to:
- 7515 (a) child care programs licensed under [~~Title 26, Chapter 39, Utah Child Care~~
- 7516 ~~Licensing Act~~] Chapter 2, Part 4, Child Care Licensing, and their employees;
- 7517 (b) a person described in Subsection [~~26-39-403~~] 26B-2-405(1)(a)(iii) and Subsections
- 7518 [~~26-39-403~~] 26B-2-405(2)(a), (b), (c), (e), and (f);
- 7519 (c) a person serving as a school nurse under Section 53G-9-204;
- 7520 (d) a person offering health education in a school district;
- 7521 (e) health care providers offering care to pregnant women and infants; and
- 7522 (f) religious, ecclesiastical, or denominational organizations offering children's
- 7523 programs as a part of worship services.
- 7524 (4) If a newborn infant fails the newborn hearing screening test(s) under Subsection
- 7525 [~~26-10-6~~] 26B-4-319(1), a medical practitioner shall:
- 7526 (a) test the newborn infant for CMV before the newborn is 21 days [~~of age~~] old, unless
- 7527 a parent of the newborn infant objects; and
- 7528 (b) provide to the parents of the newborn infant information regarding:
- 7529 (i) birth defects caused by congenital CMV; and
- 7530 (ii) available methods of treatment.
- 7531 (5) The department shall provide to the family and the medical practitioner, if known,
- 7532 information regarding the testing requirements under Subsection (4) when providing results
- 7533 indicating that an infant has failed the newborn hearing screening test(s) under Subsection
- 7534 [~~26-10-6~~] 26B-4-319(1).

7535 (6) The department may make rules in accordance with Title 63G, Chapter 3, Utah
7536 Administrative Rulemaking Act, as necessary to administer the provisions of this section.

7537 Section 229. Section **26B-7-106**, which is renumbered from Section 26-10-14 is
7538 renumbered and amended to read:

7539 ~~[26-10-14]~~. **26B-7-106. Down syndrome diagnosis -- Information and support.**

7540 (1) The department shall provide contact information for state and national Down
7541 syndrome organizations that are nonprofit and that provide information and support services
7542 for parents, including first-call programs and information hotlines specific to Down syndrome,
7543 resource centers or clearinghouses, and other education and support programs for Down
7544 syndrome.

7545 (2) The department shall:

7546 (a) post the information described in Subsection (1) on the department's website; and

7547 (b) create an informational support sheet with the information described in Subsection

7548 (1) and the web address described in Subsection (2)(a).

7549 (3) A Down syndrome organization may request that the department include the
7550 organization's informational material and contact information on the website. The department
7551 may add the information to the website, if the information meets the description under
7552 Subsection (1).

7553 (4) Upon request, the department shall provide a health care facility or health care
7554 provider a copy of the informational support sheet described in Subsection (2)(b) to give to a
7555 pregnant woman after the result of a prenatal screening or diagnostic test indicates the unborn
7556 child has or may have Down syndrome.

7557 Section 230. Section **26B-7-107**, which is renumbered from Section 26-10-15 is
7558 renumbered and amended to read:

7559 ~~[26-10-15]~~. **26B-7-107. Lead exposure public education and testing.**

7560 (1) The department shall establish a child blood lead epidemiology and surveillance
7561 program to:

7562 (a) encourage pediatric health care providers to include a lead test in accordance with
7563 the department's recommendations under Subsection (2); and

7564 (b) conduct a public education program to inform parents of children who are two
7565 years old or younger regarding:

7566 (i) the effects of lead exposure in children;

7567 (ii) the availability of free screening and testing for lead exposure; and

7568 (iii) other available preventative measures.

7569 (2) The department may recommend consideration of screening and testing during the
7570 first year or second year well child clinical visit.

7571 (3) (a) The department shall provide the information described in Subsection (1) to
7572 organizations that regularly provide care or services for children who are 5 years old or
7573 younger.

7574 (b) The department may work with the following organizations to share the
7575 information described in Subsection (1):

7576 (i) a child care program licensed under [~~Title 26, Chapter 39, Utah Child Care~~
7577 ~~Licensing Act~~] Chapter 2, Part 4, Child Care Licensing, and the employees of the child care
7578 program;

7579 (ii) a health care facility licensed under [~~Title 26, Chapter 21~~] Chapter 2, Part 2, Health
7580 Care Facility Licensing and Inspection [~~Act~~];

7581 (iii) a person providing child care under a program that is described in Subsection
7582 [~~26-39-403~~] 26B-2-405(2);

7583 (iv) an individual offering health education in a school district, including a school
7584 nurse under Section 53G-9-204;

7585 (v) a health care provider offering care to pregnant women and infants;

7586 (vi) a religious, ecclesiastical, or denominational organization offering children's
7587 programs as a part of worship services;

7588 (vii) an organization that advocates for public education, testing, and screening of

7589 children for lead exposure;

7590 (viii) a local health department as defined in Section [26A-1-102](#); and

7591 (ix) any other person that the department believes would advance public education
7592 regarding the effects of lead exposure on children.

7593 (4) The department shall seek grant funding to fund the program created in this section.

7594 Section 231. Section **26B-7-108**, which is renumbered from Section 26-1-23.5 is
7595 renumbered and amended to read:

7596 **[26-1-23.5]. 26B-7-108. Rules for sale of drugs, cosmetics, and medical devices.**

7597 The department shall establish and enforce rules for the sale or distribution of human
7598 drugs, cosmetics, and medical devices. The rules adopted under this section shall be no more
7599 stringent than those established by federal law.

7600 Section 232. Section **26B-7-109**, which is renumbered from Section 26-1-26 is
7601 renumbered and amended to read:

7602 **[26-1-26]. 26B-7-109. Director of community health nursing appointed by**
7603 **executive director.**

7604 ~~[There shall be within the department]~~ The executive director shall appoint a director of
7605 community health nursing ~~[appointed by the executive director]~~ who shall develop, implement,
7606 monitor, and evaluate community health nursing standards and services and participate in the
7607 formulation of policies for administration of health services.

7608 Section 233. Section **26B-7-110**, which is renumbered from Section 26-1-36 is
7609 renumbered and amended to read:

7610 **[26-1-36]. 26B-7-110. Duty to establish program to reduce deaths and other**
7611 **harm from prescription opiates used for chronic noncancer pain.**

7612 (1) As used in this section, "opiate" means any drug or other substance having an
7613 addiction-forming or addiction-sustaining liability similar to morphine or being capable of
7614 conversion into a drug having addiction-forming or addiction-sustaining liability.

7615 (2) In addition to the duties listed in Section ~~[26-1-30]~~ [26B-1-202](#), the department shall

7616 develop and implement a two-year program in coordination with the Division of Professional
7617 Licensing, the Utah Labor Commission, and the Utah attorney general, to:

7618 (a) investigate the causes of and risk factors for death and nonfatal complications of
7619 prescription opiate use and misuse in Utah for chronic pain by utilizing the Utah Controlled
7620 Substance Database created in Section [58-37f-201](#);

7621 (b) study the risks, warning signs, and solutions to the risks associated with
7622 prescription opiate medications for chronic pain, including risks and prevention of misuse and
7623 diversion of those medications;

7624 (c) provide education to health care providers, patients, insurers, and the general public
7625 on the appropriate management of chronic pain, including the effective use of medical
7626 treatment and quality care guidelines that are scientifically based and peer reviewed; and

7627 (d) educate the public regarding:

7628 (i) the purpose of the Controlled Substance Database established in Section
7629 [58-37f-201](#); and

7630 (ii) the requirement that a person's name and prescription information be recorded on
7631 the database when the person fills a prescription for a schedule II, III, IV, or V controlled
7632 substance.

7633 Section 234. Section **26B-7-111**, which is renumbered from Section 26-1-38 is
7634 renumbered and amended to read:

7635 ~~[26-1-38]~~. **26B-7-111**. **Local health emergency assistance program.**

7636 (1) As used in this section:

7637 (a) "Local health department" means the same as that term is defined in Section
7638 [26A-1-102](#).

7639 (b) "Local health emergency" means an unusual event or series of events causing or
7640 resulting in a substantial risk or substantial potential risk to the health of a significant portion
7641 of the population within the boundary of a local health department, as determined by the local
7642 health department.

7643 (c) "Program" means the local health emergency assistance program that the
7644 department is required to establish under this section.

7645 (d) "Program fund" means money that the Legislature appropriates to the department
7646 for use in the program and other money otherwise made available for use in the program.

7647 (2) The department shall establish, to the extent of funds appropriated by the
7648 Legislature or otherwise made available to the program fund, a local health emergency
7649 assistance program.

7650 (3) Under the program, the department shall:

7651 (a) provide a method for a local health department to seek reimbursement from the
7652 program fund for local health department expenses incurred in responding to a local health
7653 emergency;

7654 (b) require matching funds from any local health department seeking reimbursement
7655 from the program fund;

7656 (c) establish a method for apportioning money in the program fund to multiple local
7657 health departments when the total amount of concurrent requests for reimbursement by
7658 multiple local health departments exceeds the balance in the program fund; and

7659 (d) establish by rule other provisions that the department considers necessary or
7660 advisable to implement the program.

7661 (4) (a) (i) Subject to Subsection (4)(a)(ii), the department shall use money in the
7662 program fund exclusively for purposes of the program.

7663 (ii) The department may use money in the program fund to cover its costs of
7664 administering the program.

7665 (b) Money that the Legislature appropriates to the program fund is nonlapsing in
7666 accordance with Section [63J-1-602.1](#).

7667 (c) Any interest earned on money in the program fund shall be deposited to the General
7668 Fund.

7669 Section 235. Section **26B-7-112**, which is renumbered from Section 26-1-42 is

7670 renumbered and amended to read:

7671 ~~[26-1-42]~~. **26B-7-112. Health care grant requests and funding.**

7672 (1) Any time the United States Department of Health and Human Services accepts
7673 grant applications, the department shall apply for a grant under Title X of the Public Health
7674 Service Act, 42 U.S.C. Sec. 300 et seq.

7675 (2) (a) As part of the application described in Subsection (1), the department shall
7676 request that the United States Department of Health and Human Services waive the
7677 requirement of the department to comply with requirements found in 42 C.F.R. Sec. 59.5(a)(4)
7678 pertaining to providing certain services to a minor without parental consent.

7679 (b) If the department's application described in Subsection (1) is denied, and at such
7680 time the United States Department of Health and Human Services creates a waiver application
7681 process, the department shall apply for a waiver from compliance with the requirements found
7682 in 42 C.F.R. Sec. 59.5(a)(4) pertaining to providing certain services to a minor without parental
7683 consent in order to be eligible for a grant under Title X of the Public Health Service Act, 42
7684 U.S.C. Sec. 300 et seq.

7685 (3) If the department receives a grant under Subsection (1), the department shall
7686 prioritize disbursement of grant funds in the prioritization order described in Subsection (4).

7687 (4) (a) (i) When disbursing grant funds, the department shall give first priority to
7688 nonpublic entities that provide family planning services as well as other comprehensive
7689 services to enable women to give birth and parent or place for adoption.

7690 (ii) The department shall give preference to entities described in Subsection (4)(a)(i)
7691 that:

7692 (A) expand availability of prenatal and postnatal care in low-income and under-served
7693 areas of the state;

7694 (B) provide support for a woman to carry a baby to term;

7695 (C) emphasize the health and viability of the fetus; and

7696 (D) provide education and maternity support.

7697 (iii) If the department receives applications from qualifying nonpublic entities as
7698 described in Subsection (4)(a), the department shall disburse all of the grant funds to qualifying
7699 nonpublic entities described in Subsection (4)(a).

7700 (b) If grant funds are not exhausted under Subsection (4)(a), or if no entity qualifies for
7701 grant funding under the criteria described in Subsection (4)(a), the department shall give
7702 second priority for grant funds to nonpublic entities that provide:

7703 (i) family planning services; and

7704 (ii) required primary health services as described in 42 U.S.C. Sec. 254b(b)(1)(A).

7705 (c) If grant funds are not exhausted under Subsections (4)(a) and (b), or if no entity
7706 qualifies for grant funding under the criteria described in Subsection (4)(a) or (b), the
7707 department shall give third priority for grant funds to public entities that provide family
7708 planning services, including state, county, or local community health clinics, and community
7709 action organizations.

7710 (d) If grant funds are not exhausted under Subsections (4)(a), (b), and (c), or if no
7711 entity qualifies for grant funding under the criteria described in Subsection (4)(a), (b), or (c),
7712 the department shall give fourth priority for grant funds to nonpublic entities that provide
7713 family planning services but do not provide required primary health services as described in 42
7714 U.S.C. Sec. 254b(b)(1)(A).

7715 Section 236. Section **26B-7-113**, which is renumbered from Section 26-7-1 is
7716 renumbered and amended to read:

7717 ~~[26-7-1]~~. **26B-7-113**. **Identification of major risk factors by department --**
7718 **Education of public -- Establishment of programs.**

7719 The department shall identify the major risk factors contributing to injury, sickness,
7720 death, and disability within the state and where it determines that a need exists, educate the
7721 public regarding these risk factors, and the department may establish programs to reduce or
7722 eliminate these factors except that such programs may not be established if adequate programs
7723 exist in the private sector.

7724 Section 237. Section **26B-7-114**, which is renumbered from Section 26-7-2 is
7725 renumbered and amended to read:

7726 ~~[26-7-2]~~. **26B-7-114**. **Office of Health Equity -- Duties.**

7727 (1) As used in this section:

7728 (a) "Multicultural or minority health issue" means a health issue, including a mental
7729 and oral health issue, of particular interest to cultural, ethnic, racial, or other subpopulations,
7730 including:

7731 (i) disparities in:

7732 (A) disease incidence, prevalence, morbidity, mortality, treatment, and treatment
7733 response; and

7734 (B) access to care; and

7735 (ii) cultural competency in the delivery of health care.

7736 (b) "Office" means the Office of Health [~~Disparities Reduction~~] Equity created in this
7737 section.

7738 (2) There is created within the department the Office of Health [~~Disparities Reduction~~]
7739 Equity.

7740 (3) The office shall:

7741 (a) promote and coordinate the research, data production, dissemination, education,
7742 and health promotion activities of the following that relate to a multicultural or minority health
7743 issue:

7744 (i) the department;

7745 (ii) local health departments;

7746 (iii) local mental health authorities;

7747 (iv) public schools;

7748 (v) community-based organizations; and

7749 (vi) other organizations within the state;

7750 (b) assist in the development and implementation of one or more programs to address a

- 7751 multicultural or minority health issue;
- 7752 (c) promote the dissemination and use of information on a multicultural or minority
- 7753 health issue by minority populations, health care providers, and others;
- 7754 (d) seek federal funding and other resources to accomplish the office's mission;
- 7755 (e) provide technical assistance to organizations within the state seeking funding to
- 7756 study or address a multicultural or minority health issue;
- 7757 (f) develop and increase the capacity of the office to:
- 7758 (i) ensure the delivery of qualified timely culturally appropriate translation services
- 7759 across department programs; and
- 7760 (ii) provide, when appropriate, linguistically competent translation and communication
- 7761 services for limited English proficiency individuals;
- 7762 (g) provide staff assistance to any advisory committee created by the department to
- 7763 study a multicultural or minority health issue; and
- 7764 (h) annually report to the Legislature on its activities and accomplishments.
- 7765 Section 238. Section **26B-7-115**, which is renumbered from Section 26-7-4 is
- 7766 renumbered and amended to read:
- 7767 **~~[26-7-4]~~. 26B-7-115. Utah Registry of Autism and Developmental Disabilities.**
- 7768 (1) As used in this section, "URADD" means the Utah Registry of Autism and
- 7769 Developmental Disabilities.
- 7770 (2) The department may enter into an agreement with:
- 7771 (a) the University of Utah or another person for the operation of URADD; and
- 7772 (b) a person to conduct a public education campaign to:
- 7773 (i) improve public awareness of the early warning signs of autism spectrum disorders
- 7774 and developmental disabilities; and
- 7775 (ii) promote the early identification of autism spectrum disorders and developmental
- 7776 disabilities.
- 7777 (3) URADD shall consist of a database that collects information on people in the state

7778 who have an autism spectrum disorder or a developmental disability.

7779 (4) The purpose of URADD is to assist health care providers to:

7780 (a) determine the risk factors and causes of autism spectrum disorders and
7781 developmental disabilities;

7782 (b) plan for and develop resources, therapies, methods of diagnoses, and other services
7783 for people with an autism spectrum disorder or a developmental disability;

7784 (c) facilitate measuring and tracking of treatment outcomes;

7785 (d) gather statistics relating to autism spectrum disorders and developmental
7786 disabilities; and

7787 (e) improve coordination and cooperation between agencies and other programs that
7788 provide services to people with an autism spectrum disorder or a developmental disability.

7789 Section 239. Section **26B-7-116**, which is renumbered from Section 26-7-7 is
7790 renumbered and amended to read:

7791 ~~[26-7-7]~~. **26B-7-116. Radon awareness campaign.**

7792 The department shall, in consultation with the Division of Waste Management and
7793 Radiation Control, develop a statewide electronic awareness campaign to educate the public
7794 regarding:

7795 (1) the existence and prevalence of radon gas in buildings and structures;

7796 (2) the health risks associated with radon gas;

7797 (3) options for radon gas testing; and

7798 (4) options for radon gas remediation.

7799 Section 240. Section **26B-7-117**, which is renumbered from Section 26-7-8 is
7800 renumbered and amended to read:

7801 ~~[26-7-8]~~. **26B-7-117. Syringe exchange and education.**

7802 (1) The following may operate a syringe exchange program in the state to prevent the
7803 transmission of disease and reduce morbidity and mortality among individuals who inject
7804 drugs, and those individuals' contacts:

- 7805 (a) a government entity, including:
- 7806 (i) the department;
- 7807 (ii) a local health department~~[, as defined in Section 26A-1-102]; or~~
- 7808 ~~[(iii) the Division of Substance Abuse and Mental Health within the Department of~~
- 7809 ~~Human Services; or]~~
- 7810 ~~[(iv)] (iii)~~ a local substance abuse authority, as defined in Section [~~62A-15-102]~~
- 7811 26B-5-101;
- 7812 (b) a nongovernment entity, including:
- 7813 (i) a nonprofit organization; or
- 7814 (ii) a for-profit organization; or
- 7815 (c) any other entity that complies with Subsections (2) and (4).
- 7816 (2) An entity operating a syringe exchange program in the state shall:
- 7817 (a) facilitate the exchange of an individual's used syringe for one or more new syringes
- 7818 in sealed sterile packages;
- 7819 (b) ensure that a recipient of a new syringe is given verbal and written instruction on:
- 7820 (i) methods for preventing the transmission of blood-borne diseases, including hepatitis
- 7821 C and human immunodeficiency virus; and
- 7822 (ii) options for obtaining:
- 7823 (A) services for the treatment of a substance use disorder;
- 7824 (B) testing for a blood-borne disease; and
- 7825 (C) an opiate antagonist [~~under Chapter 55, Opiate Overdose Response Act]; and~~
- 7826 (c) report annually to the department the following information about the program's
- 7827 activities:
- 7828 (i) the number of individuals who have exchanged syringes;
- 7829 (ii) the number of used syringes exchanged for new syringes; and
- 7830 (iii) the number of new syringes provided in exchange for used syringes.
- 7831 (3) No later than October 1, 2017, and every two years thereafter, the department shall

7832 report to the Legislature's Health and Human Services Interim Committee on:

7833 (a) the activities and outcomes of syringe programs operating in the state, including:

7834 (i) the number of individuals who have exchanged syringes;

7835 (ii) the number of used syringes exchanged for new syringes;

7836 (iii) the number of new syringes provided in exchange for used syringes;

7837 (iv) the impact of the programs on blood-borne infection rates; and

7838 (v) the impact of the programs on the number of individuals receiving treatment for a

7839 substance use disorder;

7840 (b) the potential for additional reductions in the number of syringes contaminated with

7841 blood-borne disease if the programs receive additional funding;

7842 (c) the potential for additional reductions in state and local government spending if the

7843 programs receive additional funding;

7844 (d) whether the programs promote illicit use of drugs; and

7845 (e) whether the programs should be continued, continued with modifications, or

7846 terminated.

7847 (4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah

7848 Administrative Rulemaking Act, specifying how and when an entity operating a syringe

7849 exchange program shall make the report required by Subsection (2)(c).

7850 Section 241. Section **26B-7-118**, which is renumbered from Section 26-7-9 is

7851 renumbered and amended to read:

7852 ~~[26-7-9]~~. **26B-7-118. Online public health education module for**

7853 **vaccine-preventable diseases.**

7854 (1) As used in this section:

7855 (a) "Health care provider" means the same as that term is defined in Section

7856 [78B-3-403](#).

7857 (b) "Nonimmune" means that a child or an individual:

7858 (i) has not received each vaccine required in Section [53G-9-305](#) and has not developed

7859 a natural immunity through previous illness to a vaccine-preventable disease, as documented
7860 by a health care provider;

7861 (ii) cannot receive each vaccine required in Section 53G-9-305; or

7862 (iii) is otherwise known to not be immune to a vaccine-preventable disease.

7863 (c) "Vaccine-preventable disease" means an infectious disease that can be prevented by
7864 a vaccination required in Section 53G-9-305.

7865 (2) The department shall develop an online education module regarding
7866 vaccine-preventable diseases:

7867 (a) to assist a parent of a nonimmune child to:

7868 (i) recognize the symptoms of vaccine-preventable diseases;

7869 (ii) respond in the case of an outbreak of a vaccine-preventable disease;

7870 (iii) protect children who contract a vaccine-preventable disease; and

7871 (iv) prevent the spread of vaccine-preventable diseases;

7872 (b) that contains only the following:

7873 (i) information about vaccine-preventable diseases necessary to achieve the goals
7874 stated in Subsection (2)(a), including the best practices to prevent the spread of

7875 vaccine-preventable diseases;

7876 (ii) recommendations to reduce the likelihood of a nonimmune individual contracting
7877 or transmitting a vaccine-preventable disease; and

7878 (iii) information about additional available resources related to vaccine-preventable
7879 diseases and the availability of low-cost vaccines;

7880 (c) that includes interactive questions or activities; and

7881 (d) that is expected to take an average user 20 minutes or less to complete, based on
7882 user testing.

7883 (3) In developing the online education module described in Subsection (2), the
7884 department shall consult with individuals interested in vaccination or vaccine-preventable
7885 diseases, including:

- 7886 (a) representatives from organizations of health care professionals; and
- 7887 (b) parents of nonimmune children.
- 7888 (4) The department shall make the online education module described in Subsection
- 7889 (2) publicly available to parents through:
 - 7890 (a) a link on the department's website;
 - 7891 (b) county health departments, as that term is defined in Section 26A-1-102;
 - 7892 (c) local health departments, as that term is defined in Section 26A-1-102;
 - 7893 (d) local education agencies, as that term is defined in Section 53E-1-102; and
 - 7894 (e) other public health programs or organizations.

7895 Section 242. Section **26B-7-119**, which is renumbered from Section 26-7-11 is
7896 renumbered and amended to read:

7897 ~~[26-7-11]~~. **26B-7-119. Hepatitis C Outreach Pilot Program.**

7898 (1) As used in this section, "Hepatitis C outreach organization" means a private
7899 nonprofit organization that:

- 7900 (a) has an established relationship with individuals who are at risk of acquiring acute
7901 Hepatitis C;
- 7902 (b) helps individuals who need Hepatitis C treatment, but who do not qualify for
7903 payment of the treatment by the Medicaid program or another health insurer, to obtain
7904 treatment;
- 7905 (c) has the infrastructure necessary for conducting Hepatitis C assessment, testing, and
7906 diagnosis, including clinical staff with the training and ability to provide:
 - 7907 (i) specimen collection for Hepatitis C testing;
 - 7908 (ii) clinical assessments;
 - 7909 (iii) consultation regarding blood-borne diseases; and
 - 7910 (iv) case management services for patient support during Hepatitis C treatment; or
- 7911 (d) has a partnership with a health care facility that can provide clinical follow-up and
7912 medical treatment following Hepatitis C rapid antibody testing and confirmatory testing.

7913 (2) There is created within the department the Hepatitis C Outreach Pilot Program.

7914 (3) Before September 1, 2020, the department shall, as funding permits, make grants to
7915 Hepatitis C outreach organizations in accordance with criteria established by the department
7916 under Subsection (4).

7917 (4) Before July 1, 2020, the department shall make rules, in accordance with Title 63G,
7918 Chapter 3, Utah Administrative Rulemaking Act, to:

7919 (a) create application requirements for a grant from the program;

7920 (b) establish criteria for determining:

7921 (i) whether a grant is awarded, including criteria that ensure grants are awarded to areas
7922 of the state, including rural areas, that would benefit most from the grant; and

7923 (ii) the amount of a grant; and

7924 (c) specify reporting requirements for the recipient of a grant under this section.

7925 (5) Before October 1, 2021, and before October 1 every year thereafter, the department
7926 shall submit a report to the Health and Human Services Interim Committee and the Social
7927 Services Appropriations Subcommittee on the outcomes of the Hepatitis C Outreach Pilot
7928 Program.

7929 Section 243. Section **26B-7-201**, which is renumbered from Section 26-6-2 is
7930 renumbered and amended to read:

7931 **Part 2. Detection and Management of Chronic and Communicable Diseases and**
7932 **Public Health Emergencies**

7933 ~~[26-6-2]~~. **26B-7-201. Definitions.**

7934 As used in this [chapter] part:

7935 (1) "Ambulatory surgical center" ~~[is as]~~ means the same as that term is defined in
7936 Section ~~[26-21-2]~~ 26B-2-201.

7937 (2) "Carrier" means an infected individual or animal who harbors a specific infectious
7938 agent in the absence of discernible clinical disease and serves as a potential source of infection
7939 for man. The carrier state may occur in an individual with an infection that is inapparent

7940 throughout its course, commonly known as healthy or asymptomatic carrier, or during the
7941 incubation period, convalescence, and postconvalescence of an individual with a clinically
7942 recognizable disease, commonly known as incubatory carrier or convalescent carrier. Under
7943 either circumstance the carrier state may be of short duration, as a temporary or transient
7944 carrier, or long duration, as a chronic carrier.

7945 (3) "Communicable disease" means illness due to a specific infectious agent or its toxic
7946 products which arises through transmission of that agent or its products from a reservoir to a
7947 susceptible host, either directly, as from an infected individual or animal, or indirectly, through
7948 an intermediate plant or animal host, vector, or the inanimate environment.

7949 (4) "Communicable period" means the time or times during which an infectious agent
7950 may be transferred directly or indirectly from an infected individual to another individual, from
7951 an infected animal to ~~[man]~~ a human, or from an infected ~~[man]~~ human to an animal, including
7952 arthropods.

7953 (5) "Contact" means an individual or animal having had association with an infected
7954 individual, animal, or contaminated environment so as to have had an opportunity to acquire
7955 the infection.

7956 (6) "End stage renal disease facility" is as defined in Section ~~[26-21-2]~~ 26B-2-201.

7957 (7) (a) "Epidemic" means the occurrence or outbreak in a community or region of cases
7958 of an illness clearly in excess of normal expectancy and derived from a common or propagated
7959 source.

7960 (b) The number of cases indicating an epidemic will vary according to the infectious
7961 agent, size, and type of population exposed, previous experience or lack of exposure to the
7962 disease, and time and place of occurrence.

7963 (c) Epidemicity is considered to be relative to usual frequency of the disease in the
7964 same area, among the specified population, at the same season of the year.

7965 (8) "General acute hospital" is as defined in Section ~~[26-21-2]~~ 26B-2-201.

7966 (9) "Incubation period" means the time interval between exposure to an infectious

7967 agent and appearance of the first sign or symptom of the disease in question.

7968 (10) "Infected individual" means an individual who harbors an infectious agent and
7969 who has manifest disease or inapparent infection. An infected individual is one from whom the
7970 infectious agent can be naturally acquired.

7971 (11) "Infection" means the entry and development or multiplication of an infectious
7972 agent in the body of man or animals. Infection is not synonymous with infectious disease; the
7973 result may be inapparent or manifest. The presence of living infectious agents on exterior
7974 surfaces of the body, or upon articles of apparel or soiled articles, is not infection, but
7975 contamination of such surfaces and articles.

7976 (12) "Infectious agent" means an organism such as a virus, rickettsia, bacteria, fungus,
7977 protozoan, or helminth that is capable of producing infection or infectious disease.

7978 (13) "Infectious disease" means a disease of man or animals resulting from an
7979 infection.

7980 (14) "Isolation" means the separation, for the period of communicability, of infected
7981 individuals or animals from others, in such places and under such conditions as to prevent the
7982 direct or indirect conveyance of the infectious agent from those infected to those who are
7983 susceptible or who may spread the agent to others.

7984 (15) "Order of constraint" means the same as that term is defined in Section
7985 ~~[26-23b-102]~~ [26B-7-301](#).

7986 (16) "Quarantine" means the restriction of the activities of well individuals or animals
7987 who have been exposed to a communicable disease during its period of communicability to
7988 prevent disease transmission.

7989 (17) "School" means a public, private, or parochial nursery school, licensed or
7990 unlicensed day care center, child care facility, family care home, ~~[headstart]~~ Head Start
7991 program, kindergarten, elementary, or secondary school through grade 12.

7992 (18) "Sexually transmitted disease" means those diseases transmitted through sexual
7993 intercourse or any other sexual contact.

7994 (19) "Specialty hospital" is as defined in Section [~~26-21-2~~] 26B-2-201.

7995 Section 244. Section **26B-7-202**, which is renumbered from Section 26-6-3 is
7996 renumbered and amended to read:

7997 ~~[26-6-3]~~. **26B-7-202. Authority to investigate and control epidemic infections**
7998 **and communicable disease.**

7999 (1) Subject to Subsection (3) and the restrictions in this title, the department has
8000 authority to investigate and control the causes of epidemic infections and communicable
8001 disease, and shall provide for the detection, reporting, prevention, and control of communicable
8002 diseases and epidemic infections or any other health hazard which may affect the public health.

8003 (2) (a) As part of the requirements of Subsection (1), the department shall distribute to
8004 the public and to health care professionals:

8005 (i) medically accurate information about sexually transmitted diseases that may cause
8006 infertility and sterility if left untreated, including descriptions of:

8007 (A) the probable side effects resulting from an untreated sexually transmitted disease,
8008 including infertility and sterility;

8009 (B) medically accepted treatment for sexually transmitted diseases;

8010 (C) the medical risks commonly associated with the medical treatment of sexually
8011 transmitted diseases; and

8012 (D) suggested screening by a private physician or physician assistant; and

8013 (ii) information about:

8014 (A) public services and agencies available to assist individuals with obtaining
8015 treatment for the sexually transmitted disease;

8016 (B) medical assistance benefits that may be available to the individual with the
8017 sexually transmitted disease; and

8018 (C) abstinence before marriage and fidelity after marriage being the surest prevention
8019 of sexually transmitted disease.

8020 (b) The information required by Subsection (2)(a):

8021 (i) shall be distributed by the department and by local health departments free of
8022 charge;

8023 (ii) shall be relevant to the geographic location in which the information is distributed
8024 by:

8025 (A) listing addresses and telephone numbers for public clinics and agencies providing
8026 services in the geographic area in which the information is distributed; and

8027 (B) providing the information in English as well as other languages that may be
8028 appropriate for the geographic area.

8029 (c) (i) Except as provided in Subsection (2)(c)(ii), the department shall develop written
8030 material that includes the information required by this Subsection (2).

8031 (ii) In addition to the written materials required by Subsection (2)(c)(i), the department
8032 may distribute the information required by this Subsection (2) by any other methods the
8033 department determines is appropriate to educate the public, excluding public schools, including
8034 websites, toll free telephone numbers, and the media.

8035 (iii) If the information required by Subsection (2)(b)(ii)(A) is not included in the
8036 written pamphlet developed by the department, the written material shall include either a
8037 website, or a 24-hour toll free telephone number that the public may use to obtain that
8038 information.

8039 (3) (a) The Legislature may at any time terminate by joint resolution an order of
8040 constraint issued by the department as described in this section in response to a declared public
8041 health emergency.

8042 (b) A county governing body may at any time terminate by majority vote an order of
8043 constraint issued by the relevant local health department as described in this section in response
8044 to a declared public health emergency.

8045 Section 245. Section **26B-7-203**, which is renumbered from Section 26-6-3.5 is
8046 renumbered and amended to read:

8047 **[~~26-6-3.5~~]. 26B-7-203. Reporting AIDS and HIV infection -- Anonymous**

8048 **testing.**

8049 (1) Because of the nature and consequences of Acquired Immunodeficiency Syndrome
8050 and Human Immunodeficiency Virus infection, the department shall:

8051 (a) require reporting of those conditions; and

8052 (b) utilize contact tracing and other methods for "partner" identification and
8053 notification. The department shall, by rule, define individuals who are considered "partners" for
8054 purposes of this section.

8055 (2) (a) The requirements of Subsection (1) do not apply to seroprevalence and other
8056 epidemiological studies conducted by the department.

8057 (b) The requirements of Subsection (1) do not apply to, and anonymity shall be
8058 provided in, research studies conducted by universities or hospitals, under the authority of
8059 institutional review boards if those studies are funded in whole or in part by research grants and
8060 if anonymity is required in order to obtain the research grant or to carry out the research.

8061 (3) For all purposes of ~~[this chapter]~~ Sections 26B-7-201 through 26B-7-223, Acquired
8062 Immunodeficiency Syndrome and Human Immunodeficiency Virus infection are considered
8063 communicable and infectious diseases.

8064 (4) The department may establish or allow one site or agency within the state to
8065 provide anonymous testing.

8066 (a) The site or agency that provides anonymous testing shall maintain accurate records
8067 regarding:

8068 (i) the number of HIV positive individuals that it is able to contact or inform of their
8069 condition;

8070 (ii) the number of HIV positive individuals who receive extensive counseling;

8071 (iii) how many HIV positive individuals provide verifiable information for partner
8072 notification; and

8073 (iv) how many cases in which partner notification is carried through.

8074 (b) If the information maintained under Subsection (4)(a) indicates anonymous testing

8075 is not resulting in partner notification, the department shall phase out the anonymous testing
8076 program allowed by this Subsection (4).

8077 Section 246. Section **26B-7-204**, which is renumbered from Section 26-6-4 is
8078 renumbered and amended to read:

8079 ~~[26-6-4]~~. **26B-7-204**. **Involuntary examination, treatment, isolation, and**
8080 **quarantine.**

8081 (1) The following individuals or groups of individuals are subject to examination,
8082 treatment, quarantine, or isolation under a department order of restriction:

8083 (a) an individual who is infected or suspected to be infected with a communicable
8084 disease that poses a threat to the public health and who does not take action as required by the
8085 department or the local health department to prevent spread of the disease;

8086 (b) an individual who is contaminated or suspected to be contaminated with an
8087 infectious agent that poses a threat to the public health and that could be spread to others if
8088 remedial action is not taken;

8089 (c) an individual who is in a condition or suspected condition which, if exposed to
8090 others, poses a threat to public health, or is in a condition which if treatment is not completed
8091 will pose a threat to public health; and

8092 (d) an individual who is contaminated or suspected to be contaminated with a chemical
8093 or biological agent that poses a threat to the public health and that could be spread to others if
8094 remedial action is not taken.

8095 (2) If an individual refuses to take action as required by the department or the local
8096 health department to prevent the spread of a communicable disease, infectious agent, or
8097 contamination, the department or the local health department may order involuntary
8098 examination, treatment, quarantine, or isolation of the individual and may petition the ~~[district]~~
8099 court to order involuntary examination, treatment, quarantine, or isolation in accordance with
8100 ~~[Title 26, Chapter 6b, Communicable Diseases-]~~ Part 3, Treatment, Isolation, and Quarantine
8101 Procedures for Communicable Diseases.

8102 Section 247. Section **26B-7-205**, which is renumbered from Section 26-6-5 is
8103 renumbered and amended to read:

8104 ~~[26-6-5]~~. **26B-7-205**. **Willful introduction of communicable disease a**
8105 **misdemeanor.**

8106 Any person who willfully or knowingly introduces any communicable or infectious
8107 disease into any county, municipality, or community is guilty of a class A misdemeanor, except
8108 as provided in Section [76-10-1309](#).

8109 Section 248. Section **26B-7-206**, which is renumbered from Section 26-6-6 is
8110 renumbered and amended to read:

8111 ~~[26-6-6]~~. **26B-7-206**. **Duty to report individual suspected of having**
8112 **communicable disease.**

8113 The following shall report to the department or the local health department regarding
8114 any individual suffering from or suspected of having a disease that is communicable, as
8115 required by department rule:

- 8116 (1) health care providers as defined in Section [78B-3-403](#);
- 8117 (2) facilities licensed under [~~Title 26, Chapter 21,~~] Chapter 2, Part 2, Health Care
8118 Facility Licensing and Inspection [~~Act~~];
- 8119 (3) health care facilities operated by the federal government;
- 8120 (4) mental health facilities;
- 8121 (5) care facilities licensed by the [~~Department of Human Services~~] department;
- 8122 (6) nursing homes and other care facilities;
- 8123 (7) dispensaries, clinics, or laboratories that diagnose, test, or otherwise care for
8124 individuals who are suffering from a disease suspected of being communicable;
- 8125 (8) individuals who have knowledge of others who have a communicable disease;
- 8126 (9) individuals in charge of schools having responsibility for any individuals who have
8127 a disease suspected of being communicable; and
- 8128 (10) child care programs, as defined in Section [~~26-39-102~~] [26B-2-401](#).

8129 Section 249. Section **26B-7-207**, which is renumbered from Section 26-6-7 is
8130 renumbered and amended to read:

8131 ~~[26-6-7]~~. **26B-7-207**. **Designation of communicable diseases by department --**
8132 **Establishment of rules for detection, reporting, investigation, prevention, and control.**

8133 The department may designate those diseases which are communicable, of concern to
8134 the public health, and reportable; and establish rules for the detection, reporting, investigation,
8135 prevention, and control of communicable diseases, epidemic infections, and other health
8136 hazards that affect the public health.

8137 Section 250. Section **26B-7-208**, which is renumbered from Section 26-6-8 is
8138 renumbered and amended to read:

8139 ~~[26-6-8]~~. **26B-7-208**. **Tuberculosis -- Duty of department to investigate,**
8140 **control, and monitor.**

8141 (1) The department shall conduct or oversee the investigation, control, and monitoring
8142 of suspected or confirmed tuberculosis infection and disease within the state. Local health
8143 departments shall investigate, control, and monitor suspected or confirmed tuberculosis
8144 infection and disease within their respective jurisdictions.

8145 (2) A health care provider who treats an individual with suspected or confirmed
8146 tuberculosis shall treat the individual according to guidelines established by the department.

8147 Section 251. Section **26B-7-209**, which is renumbered from Section 26-6-9 is
8148 renumbered and amended to read:

8149 ~~[26-6-9]~~. **26B-7-209**. **Tuberculosis -- Testing of high risk individuals.**

8150 Individuals at high risk for tuberculosis shall be tested as required by department rule[
8151 ~~The department rule~~], which:

8152 (1) shall establish criteria to identify individuals who are at high risk for tuberculosis;
8153 and

8154 (2) may establish who is responsible for the costs of the testing.

8155 Section 252. Section **26B-7-210**, which is renumbered from Section 26-6-11 is

8156 renumbered and amended to read:

8157 ~~[26-6-11]~~. **26B-7-210. Rabies or other animal disease -- Investigation and**
8158 **order of quarantine.**

8159 (1) As used in this section, "quarantine" means strict confinement upon the private
8160 premises of the owners, under restraint by leash, closed cage or paddock of all animals
8161 specified by the order.

8162 (2) (a) Whenever rabies or any other animal disease dangerous to the health of human
8163 beings is reported, the department shall investigate to determine whether such disease exists,
8164 and the probable area of the state in which man or beast is thereby endangered.

8165 (b) If the department finds that such disease exists, a quarantine may be declared
8166 against all animals designated in the quarantine order and within the area specified in the order.

8167 (c) If the quarantine is for the purpose of preventing the spread of rabies or
8168 hydrophobia, the order shall contain a warning to the owners of dogs within the quarantined
8169 area to confine or muzzle all dogs to prevent biting.

8170 (d) Any dog not muzzled found running at large in a quarantined area or any dog
8171 known to have been removed from or escaped from such area, may be killed by any person
8172 without liability therefor.

8173 (3) Following the order of quarantine the department shall make a thorough
8174 investigation as to the extent of the disease, the probable number of persons and beasts
8175 exposed, and the area involved.

8176 (4) During the period any quarantine order is in force all peace officers may kill or
8177 capture and hold for further action by the department all animals in a quarantined area not held
8178 in restraint on private premises.

8179 Section 253. Section **26B-7-211**, which is renumbered from Section 26-6-15 is
8180 renumbered and amended to read:

8181 ~~[26-6-15]~~. **26B-7-211. Rabies or other animal disease -- Possession of animal in**
8182 **violation of part a misdemeanor.**

8183 Any person in possession of any animal being held in violation of [~~this chapter~~]
8184 Sections [26B-7-201](#) through [26B-7-223](#) is guilty of a class C misdemeanor.

8185 Section 254. Section **26B-7-212**, which is renumbered from Section 26-6-16 is
8186 renumbered and amended to read:

8187 ~~[26-6-16]~~. **26B-7-212**. **Sexually transmitted infections declared dangerous to**
8188 **public health.**

8189 Syphilis, gonorrhea, lymphogranuloma inguinale (venereum) and chancroid are hereby
8190 declared to be contagious, infectious, communicable and dangerous to the public health.

8191 Section 255. Section **26B-7-213**, which is renumbered from Section 26-6-17 is
8192 renumbered and amended to read:

8193 ~~[26-6-17]~~. **26B-7-213**. **Sexually transmitted infections -- Examinations by**
8194 **authorities -- Treatment of infected persons.**

8195 State, county, and municipal health officers within their respective jurisdictions may
8196 make examinations of persons reasonably suspected of being infected with venereal disease.
8197 Persons infected with venereal disease shall be required to report for treatment to either a
8198 reputable physician or physician assistant and continue treatment until cured or to submit to
8199 treatment provided at public expense until cured.

8200 Section 256. Section **26B-7-214**, which is renumbered from Section 26-6-18 is
8201 renumbered and amended to read:

8202 ~~[26-6-18]~~. **26B-7-214**. **Sexually transmitted infections -- Consent of minor to**
8203 **treatment.**

8204 (1) A consent to medical care or services by a hospital or public clinic or the
8205 performance of medical care or services by a licensed physician or physician assistant executed
8206 by a minor who is or professes to be afflicted with a sexually transmitted disease, shall have the
8207 same legal effect upon the minor and the same legal obligations with regard to the giving of
8208 consent as a consent given by a person of full legal age and capacity, the infancy of the minor
8209 and any contrary provision of law notwithstanding.

8210 (2) The consent of the minor is not subject to later disaffirmance by reason of minority
8211 at the time it was given and the consent of no other person or persons shall be necessary to
8212 authorize hospital or clinical care or services to be provided to the minor by a licensed
8213 physician or physician assistant.

8214 (3) The provisions of this section shall apply also to minors who profess to be in need
8215 of hospital or clinical care and services or medical care or services provided by a physician or
8216 physician assistant for suspected sexually transmitted disease, regardless of whether such
8217 professed suspicions are subsequently substantiated on a medical basis.

8218 Section 257. Section **26B-7-215**, which is renumbered from Section 26-6-19 is
8219 renumbered and amended to read:

8220 ~~[26-6-19]~~. **26B-7-215**. **Sexually transmitted infections -- Examination and**
8221 **treatment of persons in prison or jail.**

8222 (1) (a) All persons confined in any state, county, or city prison or jail shall be
8223 examined, and if infected, treated for venereal diseases by the health authorities.

8224 (b) The prison authorities of every state, county, or city prison or jail shall make
8225 available to the health authorities such portion of the prison or jail as may be necessary for a
8226 clinic or hospital wherein all persons suffering with venereal disease at the time of the
8227 expiration of their terms of imprisonment, shall be isolated and treated at public expense until
8228 cured.

8229 (2) (a) The department may require persons suffering with venereal disease at the time
8230 of the expiration of their terms of imprisonment to report for treatment to a licensed physician
8231 or physician assistant or submit to treatment provided at public expense in lieu of isolation.

8232 (b) Nothing in this section shall interfere with the service of any sentence imposed by a
8233 court as a punishment for the commission of crime.

8234 Section 258. Section **26B-7-216**, which is renumbered from Section 26-6-20 is
8235 renumbered and amended to read:

8236 ~~[26-6-20]~~. **26B-7-216**. **Serological testing of pregnant or recently delivered**

8237 **women.**

8238 (1) As used in this section, a "standard serological test" means a test for syphilis
8239 approved by the department and made at an approved laboratory.

8240 ~~[(+)]~~ (2) (a) Every licensed physician and surgeon attending a pregnant or recently
8241 delivered woman for conditions relating to her pregnancy shall take or cause to be taken a
8242 sample of blood of the woman at the time of first examination or within 10 days thereafter.

8243 (b) The blood sample shall be submitted to an approved laboratory for a standard
8244 serological test for syphilis.

8245 (c) The provisions of this section do not apply to any female who objects thereto on the
8246 grounds that she is a bona fide member of a specified, well recognized religious organization
8247 whose teachings are contrary to the tests.

8248 ~~[(2)]~~ (3) (a) Every other person attending a pregnant or recently delivered woman, who
8249 is not permitted by law to take blood samples, shall within 10 days from the time of first
8250 attendance cause a sample of blood to be taken by a licensed physician or physician assistant.

8251 (b) The blood sample shall be submitted to an approved laboratory for a standard
8252 serological test for syphilis.

8253 ~~[(3)]~~ (4) (a) An approved laboratory is a laboratory approved by the department
8254 according to its rules governing the approval of laboratories for the purpose of this title.

8255 (b) In submitting the sample to the laboratory the physician or physician assistant shall
8256 designate whether it is a prenatal test or a test following recent delivery.

8257 ~~[(4) For the purpose of this chapter, a "standard serological test" means a test for~~
8258 ~~syphilis approved by the department and made at an approved laboratory.]~~

8259 (5) The laboratory shall transmit a detailed report of the standard serological test,
8260 showing the result thereof to the physician or physician assistant.

8261 Section 259. Section **26B-7-217**, which is renumbered from Section 26-6-27 is
8262 renumbered and amended to read:

8263 ~~[26-6-27].~~ **26B-7-217. Information regarding communicable or reportable**

8264 **diseases confidentiality -- Exceptions.**

8265 (1) (a) Information collected [~~pursuant to this chapter~~] under Sections [26B-7-201](#)
8266 [through 26B-7-223](#) in the possession of the department or local health departments relating to
8267 an individual who has or is suspected of having a disease designated by the department as a
8268 communicable or reportable disease under [~~this chapter~~] Sections [26B-7-201](#) through
8269 [26B-7-223](#) shall be held by the department and local health departments as strictly confidential.

8270 (b) The department and local health departments may not release or make public that
8271 information upon subpoena, search warrant, discovery proceedings, or otherwise, except as
8272 provided by this section.

8273 (2) The information described in Subsection (1) may be released by the department or
8274 local health departments only in accordance with the requirements of [~~this chapter~~] Sections
8275 [26B-7-201](#) through [26B-7-223](#) and as follows:

8276 (a) specific medical or epidemiological information may be released with the written
8277 consent of the individual identified in that information or, if that individual is deceased, [~~his~~]
8278 the individual's next-of-kin;

8279 (b) specific medical or epidemiological information may be released to medical
8280 personnel or peace officers in a medical emergency, as determined by the department in
8281 accordance with guidelines it has established, only to the extent necessary to protect the health
8282 or life of the individual identified in the information, or of the attending medical personnel or
8283 law enforcement or public safety officers;

8284 (c) specific medical or epidemiological information may be released to authorized
8285 personnel within the department, local health departments, public health authorities, official
8286 health agencies in other states, the United States Public Health Service, the Centers for Disease
8287 Control and Prevention, or when necessary to continue patient services or to undertake public
8288 health efforts to interrupt the transmission of disease;

8289 (d) if the individual identified in the information is under the [~~age of~~] 18 years old, the
8290 information may be released to the Division of Child and Family Services within the

8291 [~~Department of Human Services~~] department in accordance with Section 80-2-602~~[.H]~~, and if
8292 that information is required in a court proceeding involving child abuse or sexual abuse under
8293 Title 76, Chapter 5, Offenses Against the Individual, the information shall be disclosed in
8294 camera and sealed by the court upon conclusion of the proceedings;

8295 (e) specific medical or epidemiological information may be released to authorized
8296 personnel in the department or in local health departments, and to the courts, to carry out the
8297 provisions of this title, and rules adopted by the department in accordance with this title;

8298 (f) specific medical or epidemiological information may be released to blood banks,
8299 organ and tissue banks, and similar institutions for the purpose of identifying individuals with
8300 communicable diseases. The department may, by rule, designate the diseases about which
8301 information may be disclosed under this subsection, and may choose to release the name of an
8302 infected individual to those organizations without disclosing the specific disease;

8303 (g) specific medical or epidemiological information may be released in such a way that
8304 no individual is identifiable;

8305 (h) specific medical or epidemiological information may be released to a ^[a]health care
8306 provider^[a] as defined in Section 78B-3-403, health care personnel, and public health personnel
8307 who have a legitimate need to have access to the information in order to assist the patient, or to
8308 protect the health of others closely associated with the patient;

8309 (i) specific medical or epidemiological information regarding a health care provider, as
8310 defined in Section 78B-3-403, may be released to the department, the appropriate local health
8311 department, and the Division of Professional Licensing within the Department of Commerce, if
8312 the identified health care provider is endangering the safety or life of any individual by his
8313 continued practice of health care;

8314 (j) specific medical or epidemiological information may be released in accordance with
8315 Section ~~[26-6-31]~~ 26B-7-221 if an individual is not identifiable; and

8316 (k) specific medical or epidemiological information may be released to a state agency
8317 as defined in Section 67-27-102, to perform the analysis described in Subsection ~~[26-6-32]~~

8318 [26B-7-222](#)(4) if the state agency agrees to act in accordance with the requirements in this
8319 ~~[chapter]~~ part.

8320 (3) The provisions of Subsection (2)(h) do not create a duty to warn third parties, but is
8321 intended only to aid health care providers in their treatment and containment of infectious
8322 disease.

8323 Section 260. Section **26B-7-218**, which is renumbered from Section 26-6-28 is
8324 renumbered and amended to read:

8325 ~~[26-6-28]~~. **26B-7-218**. **Protection from examination in legal proceedings --**
8326 **Exceptions.**

8327 (1) Except as provided in Subsection (2), an officer or employee of the department or
8328 of a local health department may not be examined in a legal proceeding of any kind or
8329 character as to the existence or content of information retained pursuant to ~~[this chapter]~~
8330 Sections [26B-7-201](#) through [26B-7-223](#) or obtained as a result of an investigation conducted
8331 pursuant to ~~[this chapter]~~ Sections [26B-7-201](#) through [26B-7-223](#), without the written consent
8332 of the individual who is identified in the information or, if that individual is deceased, the
8333 consent of ~~[his]~~ the individual's next-of-kin.

8334 (2) This section does not restrict testimony and evidence provided by an employee or
8335 officer of the department or a local health department about:

8336 (a) persons who are under restrictive actions taken by the department in accordance
8337 with Subsection ~~[26-6-27]~~ [26B-7-217](#)(2)(e); or

8338 (b) individuals or groups of individuals subject to examination, treatment, isolation,
8339 and quarantine actions under ~~[Chapter 6b, Communicable Diseases=]~~ Part 3, Treatment,
8340 Isolation, and Quarantine Procedures for Communicable Diseases.

8341 Section 261. Section **26B-7-219**, which is renumbered from Section 26-6-29 is
8342 renumbered and amended to read:

8343 ~~[26-6-29]~~. **26B-7-219**. **Violation -- Penalty.**

8344 (1) Any individual or entity entitled to receive confidential information from the

8345 [~~Department of Health~~] department or a local health department under [~~this chapter~~] Sections
8346 26B-7-201 through 26B-7-223, other than the individual identified in that information, who
8347 violates [~~this chapter~~] Sections 26B-7-201 through 26B-7-223 by releasing or making public
8348 confidential information, or by otherwise breaching the confidentiality requirements of [~~this~~
8349 ~~chapter~~] Sections 26B-7-201 through 26B-7-223, is guilty of a class B misdemeanor.

8350 (2) [~~This chapter does~~] Sections 26B-7-201 through 26B-7-223 do not apply to any
8351 individual or entity that holds or receives information relating to an individual who has or is
8352 suspected of having a disease designated by the department as a communicable or reportable
8353 disease under [~~this chapter~~] Sections 26B-7-201 through 26B-7-223, if that individual or entity
8354 has obtained the information from a source other than the department or a local health
8355 department.

8356 Section 262. Section **26B-7-220**, which is renumbered from Section 26-6-30 is
8357 renumbered and amended to read:

8358 **[26-6-30]. 26B-7-220. Exclusions from confidentiality requirements.**

8359 (1) The provisions of [~~this chapter~~] Sections 26B-7-201 through 26B-7-223 do not
8360 apply to:

8361 (a) information that relates to an individual who is in the custody of the Department of
8362 Corrections, a county jail, or the Division of Juvenile Justice and Youth Services within the
8363 [~~Department of Human Services~~] department;

8364 (b) information that relates to an individual who has been in the custody of the
8365 Department of Corrections, a county jail, or the Division of Juvenile Justice and Youth
8366 Services within the [~~Department of Human Services~~] department, if liability of either of those
8367 departments, a county, or a division, or of an employee of a department, division, or county, is
8368 alleged by that individual in a lawsuit concerning transmission of an infectious or
8369 communicable disease; or

8370 (c) any information relating to an individual who willfully or maliciously or with
8371 reckless disregard for the welfare of others transmits a communicable or infectious disease.

8372 (2) Nothing in [~~this chapter~~] Sections 26B-7-201 through 26B-7-223 limits the right of
8373 the individual identified in the information described in Subsection [~~26-6-27~~] 26B-7-217(1) to
8374 disclose that information.

8375 Section 263. Section **26B-7-221**, which is renumbered from Section 26-6-31 is
8376 renumbered and amended to read:

8377 [~~26-6-31~~]. **26B-7-221. Public reporting of health care associated infections.**

8378 (1) (a) An ambulatory surgical facility, a general acute hospital, a specialty hospital, an
8379 end stage renal disease facility, and other facilities as required by rules of the Center for
8380 Medicare and Medicaid Services shall give the department access to the facility's data on the
8381 incidence and rate of health care associated infections that the facility submits to the National
8382 Healthcare Safety Network in the [~~Center~~] United States Centers for Disease Control and
8383 Prevention pursuant to the [~~Center~~] Centers for Medicare and Medicaid Services rules for
8384 infection reporting.

8385 (b) Access to data under this Subsection (1) may include data sharing through the
8386 National Healthcare Safety Network.

8387 (2) (a) The department shall, beginning May 1, 2013, use the data submitted by the
8388 facilities in accordance with Subsection (1) to compile an annual report on health care
8389 associated infections in ambulatory surgical facilities, general acute hospitals, and specialty
8390 hospitals for public distribution in accordance with the requirements of this subsection. The
8391 department shall publish the report on the department's website and the Utah Health Exchange.

8392 (b) The department's report under this section shall:

8393 (i) include the following health care associated infections as required by the Center for
8394 Medicare and Medicaid Services and protocols adopted by the National Healthcare Safety
8395 Network in the [~~Center~~] Centers for Disease Control and Prevention:

8396 (A) central line associated bloodstream infections;

8397 (B) catheter associated urinary tract infections;

8398 (C) surgical site infections from procedures on the colon or an abdominal

8399 hysterectomy;

8400 (D) methicillin-resistant staphylococcus aureus bacteremia;

8401 (E) clostridium difficile of the colon; and

8402 (F) other health care associated infections when reporting is required by the Center for
8403 Medicare and Medicaid Services and protocols adopted by the National Healthcare Safety
8404 Network in the [~~Center~~] Centers for Disease Control and Prevention;

8405 (ii) include data on the rate of health care associated infections:

8406 (A) for the infection types described in Subsection (2)(b)(i); and

8407 (B) by health care facility or hospital;

8408 (iii) include data on how the rate of health care associated infections in ambulatory
8409 surgical facilities, general acute hospitals, and specialty hospitals compares with the rates in
8410 other states;

8411 (iv) in compiling the report described in Subsection (2)(a), use analytical
8412 methodologies that meet accepted standards of validity and reliability;

8413 (v) clearly identify and acknowledge, in the report, the limitations of the data sources
8414 and analytic methodologies used to develop comparative facility or hospital information;

8415 (vi) decide whether information supplied by a facility or hospital under Subsection (1)
8416 is appropriate to include in the report;

8417 (vii) adjust comparisons among facilities and hospitals for patient case mix and other
8418 relevant factors, when appropriate; and

8419 (viii) control for provider peer groups, when appropriate.

8420 (3) Before posting or releasing the report described in Subsection (2)(a), the
8421 department shall:

8422 (a) disclose to each ambulatory surgical facility, general acute hospital, and specialty
8423 hospital whose data is included in the report:

8424 (i) the entire methodology for analyzing the data; and

8425 (ii) the comparative facility or hospital information and other information the

8426 department has compiled for the facility or hospital; and

8427 (b) give the facility or hospital 30 days to suggest corrections or add explanatory
8428 comments about the data.

8429 (4) The department shall develop and implement effective safeguards to protect against
8430 the unauthorized use or disclosure of ambulatory surgical facility, general acute hospital, and
8431 specialty hospital data, including the dissemination of inconsistent, incomplete, invalid,
8432 inaccurate, or subjective data.

8433 (5) The report described in Subsection (2)(a):

8434 (a) may include data that compare and identify general acute hospitals, ambulatory
8435 surgical centers, and specialty hospitals;

8436 (b) shall contain only statistical, non-identifying information and may not disclose the
8437 identity of:

8438 (i) an employee of an ambulatory surgical facility, a general acute hospital, or a
8439 specialty hospital;

8440 (ii) a patient; or

8441 (iii) a health care provider licensed under Title 58, Occupations and Professions; and

8442 (c) may not be used as evidence in a criminal, civil, or administrative proceeding.

8443 (6) This section does not limit the department's authority to investigate and collect data
8444 regarding infections and communicable diseases under other provisions of state or federal law.

8445 Section 264. Section **26B-7-222**, which is renumbered from Section 26-6-32 is
8446 renumbered and amended to read:

8447 ~~[26-6-32]~~. **26B-7-222**. **Testing for COVID-19 for high-risk individuals at care**
8448 **facilities -- Collection and release of information regarding risk factors and comorbidities**
8449 **for COVID-19.**

8450 (1) As used in this section:

8451 (a) "Care facility" means a facility described in Subsections ~~[26-6-6]~~ 26B-7-206(2)
8452 through (6).

8453 (b) "COVID-19" means the same as that term is defined in Section [78B-4-517](#).

8454 (2) (a) At the request of the department or a local health department, an individual who
8455 meets the criteria established by the department under Subsection (2)(b) shall submit to testing
8456 for COVID-19.

8457 (b) The department:

8458 (i) shall establish protocols to identify and test individuals who are present at a care
8459 facility and are at high risk for contracting COVID-19;

8460 (ii) may establish criteria to identify care facilities where individuals are at high risk for
8461 COVID-19; and

8462 (iii) may establish who is responsible for the costs of the testing.

8463 (c) (i) The protocols described in Subsection (2)(b)(i) shall:

8464 (A) notwithstanding Subsection (2)(a), permit an individual who is a resident of a care
8465 facility to refuse testing; and

8466 (B) specify criteria for when an individual's refusal to submit to testing under
8467 Subsection (2)(c)(i)(A) endangers the health or safety of other individuals at the care facility.

8468 (ii) Notwithstanding any other provision of state law, a care facility may discharge a
8469 resident who declines testing requested by the department under Subsection (2)(a) if:

8470 (A) under the criteria specified by the department under Subsection (2)(c)(i)(B), the
8471 resident's refusal to submit to testing endangers the health or safety of other individuals at the
8472 care facility; and

8473 (B) discharging the resident does not violate federal law.

8474 (3) The department may establish protocols to collect information regarding the
8475 individual's age and relevant comorbidities from an individual who receives a positive test
8476 result for COVID-19.

8477 (4) (a) The department shall publish deidentified information regarding comorbidities
8478 and other risk factors for COVID-19 in a manner that is accessible to the public.

8479 (b) The department may work with a state agency as defined in Section [67-27-102](#), to

8480 perform the analysis or publish the information described in Subsection (4)(a).

8481 Section 265. Section **26B-7-223**, which is renumbered from Section 26-6-42 is
8482 renumbered and amended to read:

8483 ~~[26-6-42]~~. **26B-7-223. Department support for local education agency test to**
8484 **stay programs -- Department guidance for local education agencies.**

8485 (1) As used in this section:

8486 (a) "Case threshold" means the same as that term is defined in Section [53G-9-210](#).

8487 (b) "COVID-19" means the same as that term is defined in Section [53G-9-210](#).

8488 (c) "Local education agency" or "LEA" means the same as that term is defined in
8489 Section [53G-9-210](#).

8490 (d) "Test to stay program" means the same as that term is defined in Section
8491 [53G-9-210](#).

8492 (2) At the request of an LEA, the department shall provide support for the LEA's test to
8493 stay program if a school in the LEA reaches the case threshold, including by providing:

8494 (a) COVID-19 testing supplies;

8495 (b) a mobile testing unit; and

8496 (c) other support requested by the LEA related to the LEA's test to stay program.

8497 (3) The department shall ensure that guidance the department provides to LEAs related
8498 to test to stay programs complies with Section [53G-9-210](#), including the determination of
8499 whether a school meets a case threshold described in Subsection [53G-9-210\(3\)](#).

8500 (4) Subsection (2) regarding the requirement to support an LEA's test to stay program
8501 does not apply after February 2, 2022, unless the test to stay requirement is triggered under
8502 Subsection [53G-9-210\(2\)\(c\)](#).

8503 Section 266. Section **26B-7-224**, which is renumbered from Section 26-7-14 is
8504 renumbered and amended to read:

8505 ~~[26-7-14]~~. **26B-7-224. Study on violent incidents and fatalities involving**
8506 **substance abuse -- Report.**

8507 (1) As used in this section:

8508 (a) "Drug overdose event" means an acute condition, including a decreased level of
8509 consciousness or respiratory depression resulting from the consumption or use of a controlled
8510 substance, or another substance with which a controlled substance or alcohol was combined,
8511 that results in an individual requiring medical assistance.

8512 (b) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or
8513 substances.

8514 (c) "Violent incident" means:

8515 (i) aggravated assault as described in Section 76-5-103;

8516 (ii) child abuse as described in Sections 76-5-109, 76-5-109.2, 76-5-109.3, and
8517 76-5-114;

8518 (iii) an offense described in Title 76, Chapter 5, Part 2, Criminal Homicide;

8519 (iv) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;

8520 (v) a burglary offense described in Sections 76-6-202 through 76-6-204.5;

8521 (vi) an offense described in Title 76, Chapter 6, Part 3, Robbery;

8522 (vii) a domestic violence offense, as defined in Section 77-36-1; and

8523 (viii) any other violent offense, as determined by the department.

8524 (2) In 2021 and continuing every other year, the department shall provide a report
8525 before October 1 to the Health and Human Services Interim Committee regarding the number
8526 of:

8527 (a) violent incidents and fatalities that occurred in the state during the preceding
8528 calendar year that, at the time of occurrence, involved substance abuse;

8529 (b) drug overdose events in the state during the preceding calendar year; and

8530 (c) recommendations for legislation, if any, to prevent the occurrence of the events
8531 described in Subsections (2)(a) and (b).

8532 [~~(3) Before October 1, 2020, the department shall:~~]

8533 [~~(a) determine what information is necessary to complete the report described in~~]

8534 Subsection (2) and from which local, state, and federal agencies the information may be
 8535 obtained;]

8536 [~~(b) determine the cost of any research or data collection that is necessary to complete~~
 8537 the report described in Subsection (2);]

8538 [~~(c) make recommendations for legislation, if any, that is necessary to facilitate the~~
 8539 research or data collection described in Subsection (3)(b), including recommendations for
 8540 legislation to assist with information sharing between local, state, federal, and private entities
 8541 and the department; and]

8542 [~~(d) report the findings described in Subsections (3)(a) through (c) to the Health and~~
 8543 Human Services Interim Committee.;

8544 [~~(4)~~] (3) The department may contract with another state agency, private entity, or
 8545 research institution to assist the department with the report described in Subsection (2).

8546 Section 267. Section **26B-7-225**, which is renumbered from Section 26-8d-102 is
 8547 renumbered and amended to read:

8548 ~~[26-8d-102].~~ **26B-7-225. Statewide stroke registry.**

8549 (1) The department shall establish and supervise a statewide stroke registry to:

8550 (a) analyze information on the incidence, severity, causes, outcomes, and rehabilitation
 8551 of stroke;

8552 (b) promote optimal care for stroke patients;

8553 (c) alleviate unnecessary death and disability from stroke;

8554 (d) encourage the efficient and effective continuum of patient care, including
 8555 prevention, prehospital care, hospital care, and rehabilitative care; and

8556 (e) minimize the overall cost of stroke.

8557 (2) The department shall utilize the registry established under Subsection (1) to assess:

8558 (a) the effectiveness of the data collected by the registry; and

8559 (b) the impact of the statewide stroke registry on the provision of stroke care.

8560 (3) (a) The department shall make rules in accordance with Title 63G, Chapter 3, Utah

8561 Administrative Rulemaking Act, to establish:

8562 (i) the data elements that general acute hospitals shall report to the registry; and

8563 (ii) the time frame and format for reporting.

8564 (b) The data elements described in Subsection (3)(a)(i) shall include consensus metrics
8565 consistent with data elements used in nationally recognized data set platforms for stroke care.

8566 (c) The department shall permit a general acute hospital to submit data required under
8567 this section through an electronic exchange of clinical health information that meets the
8568 standards established by the department under Section [~~26-1-37~~] [26B-8-411](#).

8569 (4) A general acute hospital shall submit stroke data in accordance with rules
8570 established under Subsection (3).

8571 (5) Data collected under this section shall be subject to [~~Chapter 3,~~] Chapter 8, Part 4,
8572 Health Statistics.

8573 (6) No person may be held civilly liable for providing data to the department in
8574 accordance with this section.

8575 Section 268. Section **26B-7-226**, which is renumbered from Section 26-8d-103 is
8576 renumbered and amended to read:

8577 [~~26-8d-103~~]. **26B-7-226. Statewide cardiac registry.**

8578 (1) The department shall establish and supervise a statewide cardiac registry to:

8579 (a) analyze information on the incidence, severity, causes, outcomes, and rehabilitation
8580 of cardiac diseases;

8581 (b) promote optimal care for cardiac patients;

8582 (c) alleviate unnecessary death and disability from cardiac diseases;

8583 (d) encourage the efficient and effective continuum of patient care, including
8584 prevention, prehospital care, hospital care, and rehabilitative care; and

8585 (e) minimize the overall cost of cardiac care.

8586 (2) The department shall utilize the registry established under Subsection (1) to assess:

8587 (a) the effectiveness of the data collected by the registry; and

8588 (b) the impact of the statewide cardiac registry on the provision of cardiac care.

8589 (3) (a) The department shall make rules in accordance with Title 63G, Chapter 3, Utah
8590 Administrative Rulemaking Act, to establish:

8591 (i) the data elements that general acute hospitals shall report to the registry; and

8592 (ii) the time frame and format for reporting.

8593 (b) The data elements described in Subsection (3)(a)(i) shall include consensus metrics
8594 consistent with data elements used in nationally recognized data set platforms for cardiac care.

8595 (c) The department shall permit a general acute hospital to submit data required under
8596 this section through an electronic exchange of clinical health information that meets the
8597 standards established by the department under Section ~~[26-1-37]~~ 26B-8-411.

8598 (4) A general acute hospital shall submit cardiac data in accordance with rules
8599 established under Subsection (3).

8600 (5) Data collected under this section shall be subject to ~~[Chapter 3]~~ Chapter 8, Part 4,
8601 Health Statistics.

8602 (6) No person may be held civilly liable for providing data to the department in
8603 accordance with this section.

8604 Section 269. Section **26B-7-227**, which is renumbered from Section 26-5-1 is
8605 renumbered and amended to read:

8606 ~~[26-5-1]~~. **26B-7-227. Chronic disease control -- Establishing a prevention**
8607 **program -- Detection, monitoring, and community education.**

8608 (1) As used in this ~~[chapter]~~ section, "chronic disease" means an impairment or
8609 deviation from the normal functioning of the human body having one or more of the following
8610 characteristics:

8611 ~~[(1)-It]~~ (a) is permanent;

8612 ~~[(2)-It]~~ (b) leaves residual disability;

8613 ~~[(3)-It]~~ (c) is caused by nonreversible pathological alterations;

8614 ~~[(4)-It]~~ (d) requires special patient education and instruction for rehabilitation; or

8615 ~~[(5) It]~~ (e) may require a long period of supervision, observation and care.

8616 (2) The department shall establish and operate reasonable programs to prevent, delay,
8617 and detect the onset of chronic diseases including cancer, diabetes, cardiovascular and
8618 pulmonary diseases, genetic diseases, and such other chronic diseases as the department
8619 determines are important in promoting, protecting, and maintaining the public's health.

8620 (3) (a) The department shall develop and maintain a system for detecting and
8621 monitoring chronic diseases within the state and shall investigate and determine the
8622 epidemiology of those conditions which contributed to preventable and premature sickness, or
8623 both, and to death and disability.

8624 (b) The department shall consider the disease known as "lupus" a chronic disease
8625 subject to the detection and monitoring provisions of Subsection (3)(a).

8626 (4) The department shall establish programs of community and professional education
8627 relevant to the detection, prevention, and control of chronic diseases.

8628 Section 270. Section **26B-7-301**, which is renumbered from Section 26-23b-102 is
8629 renumbered and amended to read:

8630 **Part 3. Treatment, Isolation, and Quarantine Procedures for Communicable Diseases**

8631 ~~[26-23b-102].~~ **26B-7-301. Definitions.**

8632 As used in this [chapter] part:

8633 (1) "Bioterrorism" means:

8634 (a) the intentional use of any microorganism, virus, infectious substance, or biological
8635 product to cause death, disease, or other biological malfunction in a human, an animal, a plant,
8636 or another living organism in order to influence, intimidate, or coerce the conduct of
8637 government or a civilian population; and

8638 (b) includes anthrax, botulism, small pox, plague, tularemia, and viral hemorrhagic
8639 fevers.

8640 (2) "Diagnostic information" means a clinical facility's record of individuals who
8641 present for treatment, including the reason for the visit, chief complaint, presenting diagnosis,

8642 final diagnosis, and any pertinent lab results.

8643 (3) "Epidemic or pandemic disease":

8644 (a) means the occurrence in a community or region of cases of an illness clearly in
8645 excess of normal expectancy; and

8646 (b) includes diseases designated by the department which have the potential to cause
8647 serious illness or death.

8648 (4) "Exigent circumstances" means a significant change in circumstances following the
8649 expiration of a public health emergency declared in accordance with this title that:

8650 (a) substantially increases the threat to public safety or health relative to the
8651 circumstances in existence when the public health emergency expired;

8652 (b) poses an imminent threat to public safety or health; and

8653 (c) was not known or foreseen and could not have been known or foreseen at the time
8654 the public health emergency expired.

8655 (5) "First responder" means:

8656 (a) a law enforcement officer as defined in Section [53-13-103](#);

8657 (b) emergency medical service personnel as defined in Section [26B-4-101](#);

8658 (c) firefighters; and

8659 (d) public health personnel having jurisdiction over the location where an individual
8660 subject to restriction is found.

8661 [~~5~~] (6) "Health care provider" means the same as that term is defined in Section
8662 [78B-3-403](#).

8663 [~~6~~] (7) "Legislative emergency response committee" means the same as that term is
8664 defined in Section [53-2a-203](#).

8665 [~~7~~] (8) (a) "Order of constraint" means an order, rule, or regulation issued in response
8666 to a declared public health emergency under this [~~chapter~~] part, that:

8667 (i) applies to all or substantially all:

8668 (A) individuals or a certain group of individuals; or

8669 (B) public places or certain types of public places; and
8670 (ii) for the protection of the public health and in response to the declared public health
8671 emergency:

- 8672 (A) establishes, maintains, or enforces isolation or quarantine;
- 8673 (B) establishes, maintains, or enforces a stay-at-home order;
- 8674 (C) exercises physical control over property or individuals;
- 8675 (D) requires an individual to perform a certain action or engage in certain behavior; or
- 8676 (E) closes theaters, schools, or other public places or prohibits gatherings of people to
8677 protect the public health.

8678 (b) "Order of constraint" includes a stay-at-home order.

8679 (9) "Order of restriction" means an order issued by a department or a district court
8680 which requires an individual or group of individuals who are subject to restriction to submit to
8681 an examination, treatment, isolation, or quarantine.

8682 [~~8~~] (10) "Public health emergency" means an occurrence or imminent credible threat
8683 of an illness or health condition, caused by bioterrorism, epidemic or pandemic disease, or
8684 novel and highly fatal infectious agent or biological toxin, that poses a substantial risk of a
8685 significant number of human fatalities or incidents of permanent or long-term disability. Such
8686 illness or health condition includes an illness or health condition resulting from a natural
8687 disaster.

8688 (11) "Public health official" means:

8689 (a) the executive director or the executive director's authorized representative; or

8690 (b) the executive director of a local health department or the executive director's
8691 authorized representative.

8692 [~~9~~] (12) "Reportable emergency illness and health condition" includes the diseases,
8693 conditions, or syndromes designated by the department.

8694 [~~10~~] (13) "Stay-at-home order" means an order of constraint that:

8695 (a) restricts movement of the general population to suppress or mitigate an epidemic or

8696 pandemic disease by directing individuals within a defined geographic area to remain in their
8697 respective residences; and

8698 (b) may include exceptions for certain essential tasks.

8699 (14) "Subject to restriction" as applied to an individual, or a group of individuals,
8700 means the individual or group of individuals is:

8701 (a) infected or suspected to be infected with a communicable disease that poses a threat
8702 to the public health and who does not take action as required by the department to prevent
8703 spread of the disease;

8704 (b) contaminated or suspected to be contaminated with an infectious agent that poses a
8705 threat to the public health, and that could be spread to others if remedial action is not taken;

8706 (c) in a condition or suspected condition which, if the individual is exposed to others,
8707 poses a threat to public health, or is in a condition which if treatment is not completed the
8708 individual will pose a threat to public health; or

8709 (d) contaminated or suspected to be contaminated with a chemical or biological agent
8710 that poses a threat to the public health and that could be spread to others if remedial action is
8711 not taken.

8712 Section 271. Section **26B-7-302**, which is renumbered from Section 26-1-12 is
8713 renumbered and amended to read:

8714 **[26-1-12]. 26B-7-302. Executive director -- Power to order abatement of**
8715 **public health hazard.**

8716 If the executive director finds that a condition of filth, sanitation, or other health hazard
8717 exists which creates a clear present hazard to the public health and which requires immediate
8718 action to protect human health or safety, the executive director with the concurrence of the
8719 governor may order persons causing or contributing to the condition to reduce, discontinue, or
8720 ameliorate it to the extent that the public health hazard is eliminated.

8721 Section 272. Section **26B-7-303**, which is renumbered from Section 26-6b-1 is
8722 renumbered and amended to read:

8723 ~~[26-6b-1].~~ **26B-7-303. Applicability -- Administrative procedures.**

8724 (1) ~~[This chapter applies]~~ Sections [26B-7-304](#) through [26B-7-315](#) apply to involuntary
8725 examination, treatment, isolation, and quarantine actions applied to individuals or groups of
8726 individuals by the department or a local health department.

8727 (2) The provisions of ~~[this chapter]~~ Sections [26B-7-304](#) through [26B-7-315](#) supersede
8728 the provisions of Title 63G, Chapter 4, Administrative Procedures Act.

8729 (3) The ~~[Department of Health]~~ department may adopt rules in accordance with Title
8730 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to administer the
8731 provisions of ~~[this chapter]~~ Sections [26B-7-304](#) through [26B-7-315](#).

8732 Section 273. Section **26B-7-304**, which is renumbered from Section 26-6b-3 is
8733 renumbered and amended to read:

8734 ~~[26-6b-3].~~ **26B-7-304. Order of restriction.**

8735 (1) Subject to Subsection (5), the department or a local health department having
8736 jurisdiction over the location where an individual or a group of individuals who are subject to
8737 restriction are found may:

8738 (a) issue a written order of restriction for the individual or group of individuals
8739 pursuant to Section ~~[26-1-30]~~ [26B-1-202](#) or Subsection [26A-1-114](#)(1)(b) upon compliance with
8740 the requirements of ~~[this chapter]~~ Sections [26B-7-304](#) through [26B-7-314](#); and

8741 (b) issue a verbal order of restriction for an individual or group of individuals pursuant
8742 to Subsection (2)(c).

8743 (2) (a) A department or local health department's determination to issue an order of
8744 restriction shall be based upon the totality of circumstances reported to and known by the
8745 department or local health department, including:

8746 (i) observation;

8747 (ii) information that the department or local health department determines is credible
8748 and reliable information; and

8749 (iii) knowledge of current public health risks based on medically accepted guidelines as

8750 may be established by the [~~Department of Health~~] department by administrative rule.

8751 (b) An order of restriction issued by the department or a local health department shall:

8752 (i) in the opinion of the public health official, be for the shortest reasonable period of
8753 time necessary to protect the public health;

8754 (ii) use the least intrusive method of restriction that, in the opinion of the department or
8755 local health department, is reasonable based on the totality of circumstances known to the
8756 department or local health department issuing the order of restriction;

8757 (iii) be in writing unless the provisions of Subsection (2)(c) apply; and

8758 (iv) contain notice of an individual's rights as required in Section [~~26-6b-3.3~~]

8759 26B-7-307.

8760 (c) (i) [~~A~~] The department or a local health department may issue a verbal order of
8761 restriction, without prior notice to the individual or group of individuals if the delay in
8762 imposing a written order of restriction would significantly jeopardize the department or local
8763 health department's ability to prevent or limit:

8764 (A) the transmission of a communicable or possibly communicable disease that poses a
8765 threat to public health;

8766 (B) the transmission of an infectious agent or possibly infectious agent that poses a
8767 threat to public health;

8768 (C) the exposure or possible exposure of a chemical or biological agent that poses a
8769 threat to public health; or

8770 (D) the exposure or transmission of a condition that poses a threat to public health.

8771 (ii) A verbal order of restriction issued under [~~the provisions of~~] Subsection (2)(c)(i):

8772 (A) is valid for 24 hours from the time the order of restriction is issued;

8773 (B) may be verbally communicated to the individuals or group of individuals subject to
8774 restriction by a first responder;

8775 (C) may be enforced by the first responder until the department or local health
8776 department is able to establish and maintain the place of restriction; and

8777 (D) may only be continued beyond the initial 24 hours if a written order of restriction is
8778 issued pursuant to the provisions of Section [~~26-6b-3.3~~] 26B-7-307.

8779 (3) Pending issuance of a written order of restriction under Section [~~26-6b-3.3~~]
8780 26B-7-307, or judicial review of an order of restriction [~~by the district court pursuant to~~] under
8781 Section [~~26-6b-6~~] 26B-7-311, an individual who is subject to the order of restriction may be
8782 required to submit to involuntary examination, quarantine, isolation, or treatment in the
8783 individual's home, a hospital, or any other suitable facility under reasonable conditions
8784 prescribed by the department or local health department.

8785 (4) The department or local health department that issued the order of restriction shall
8786 take reasonable measures, including the provision of medical care, as may be necessary to
8787 assure proper care related to the reason for the involuntary examination, treatment, isolation, or
8788 quarantine of an individual ordered to submit to an order of restriction.

8789 (5) (a) The Legislature may at any time terminate by joint resolution an order of
8790 restriction issued by the department or local health department as described in this section in
8791 response to a declared public health emergency.

8792 (b) A county governing body may at any time terminate by majority vote an order of
8793 restriction issued by the relevant local health department [~~as described in~~] under this section
8794 issued in response to a declared public health emergency.

8795 Section 274. Section **26B-7-305**, which is renumbered from Section 26-6b-3.1 is
8796 renumbered and amended to read:

8797 [~~26-6b-3.1~~]. **26B-7-305**. **Consent to order of restriction -- Periodic review.**

8798 (1) (a) The department or a local health department shall either seek judicial review of
8799 an order of restriction under Sections [~~26-6b-4~~] 26B-7-309 through [~~26-6b-6~~] 26B-7-311, or
8800 obtain the consent of an individual subject to an order of restriction.

8801 (b) If the department or a local health department obtains consent, the consent shall be
8802 in writing and shall inform the individual or group of individuals:

8803 (i) of the terms and duration of the order of restriction;

8804 (ii) of the importance of complying with the order of restriction to protect the public's
8805 health;

8806 (iii) that each individual has the right to agree to the order of restriction, or refuse to
8807 agree to the order of restriction and seek a judicial review of the order of restriction;

8808 (iv) that for any individual who consents to the order of restriction:

8809 (A) the order of restriction will not be reviewed by the [~~district~~] court unless the
8810 individual withdraws consent to the order of restriction in accordance with Subsection
8811 (1)(b)(iv)(B); and

8812 (B) the individual shall notify the department or local health department in writing,
8813 with at least five business day's notice, if the individual intends to withdraw consent to the
8814 order of restriction; and

8815 (v) that a breach of a consent agreement prior to the end of the order of restriction may
8816 subject the individual to an involuntary order of restriction under Section [~~26-6b-3.2~~]
8817 26B-7-306.

8818 (2) (a) The department or local health department responsible for the care of an
8819 individual who has consented to the order of restriction shall periodically reexamine the
8820 reasons upon which the order of restriction was based. This reexamination shall occur at least
8821 once every six months.

8822 (b) (i) If at any time, the department or local health department determines that the
8823 conditions justifying the order of restriction for either a group or an individual no longer exist,
8824 the department or local health department shall immediately discharge the individual or group
8825 from the order of restriction.

8826 (ii) If the department or local health department determines that the conditions
8827 justifying the order of restriction continue to exist, the department or local health department
8828 shall send to the individual a written notice of:

8829 (A) the department or local health department's findings, the expected duration of the
8830 order of restriction, and the reason for the decision; and

8831 (B) the individual's right to a judicial review of the order of restriction by the [district]
8832 court if requested by the individual.

8833 (iii) Upon request for judicial review by an individual, the department or local health
8834 department shall:

8835 (A) file a petition [~~in district~~] with the court within five business days after the
8836 individual's request for a judicial review; and

8837 (B) proceed under Sections [~~26-6b-4~~] 26B-7-309 through [~~26-6b-6~~] 26B-7-311.

8838 Section 275. Section **26B-7-306**, which is renumbered from Section 26-6b-3.2 is
8839 renumbered and amended to read:

8840 **[~~26-6b-3.2~~]. 26B-7-306. Involuntary order of restriction -- Notice -- Effect of**
8841 **order during judicial review.**

8842 (1) If the department or local health department cannot obtain consent to the order of
8843 restriction from an individual, or if an individual withdraws consent to an order under
8844 Subsection [~~26-6b-3.1~~] 26B-7-305(1)(b)(iv)(B), the department or local health department
8845 shall:

8846 (a) give the individual or group of individuals subject to the order of restriction a
8847 written notice of:

8848 (i) the order of restriction and any supporting documentation; and

8849 (ii) the individual's right to a judicial review of the order of restriction; and

8850 (b) file a petition for a judicial review of the order of restriction under Section
8851 [~~26-6b-4~~] 26B-7-309 in [district] court within:

8852 (i) five business days after issuing the written notice of the order of restriction; or

8853 (ii) if consent has been withdrawn under Subsection [~~26-6b-3.1~~]

8854 26B-7-305(1)(b)(iv)(B), within five business days after receiving notice of the individual's
8855 withdrawal of consent.

8856 (2) (a) An order of restriction remains in effect during any judicial proceedings to
8857 review the order of restriction if the department or local health department files a petition for

8858 judicial review of the order of restriction [~~with the district~~] within the period of time required
8859 by this section.

8860 (b) Law enforcement officers with jurisdiction in the area where the individual who is
8861 subject to the order of restriction can be located shall assist the department or local health
8862 department with enforcing the order of restriction.

8863 Section 276. Section **26B-7-307**, which is renumbered from Section 26-6b-3.3 is
8864 renumbered and amended to read:

8865 [~~26-6b-3.3~~]. **26B-7-307. Contents of notice of order of restriction -- Rights of**
8866 **individuals.**

8867 (1) A written order of restriction issued by a department or local health department
8868 shall include the following information:

8869 (a) the identity of the individual or a description of the group of individuals subject to
8870 the order of restriction;

8871 (b) the identity or location of any premises that may be subject to restriction;

8872 (c) the date and time for which the restriction begins and the expected duration of the
8873 restriction;

8874 (d) the suspected communicable disease, infectious, chemical or biological agent, or
8875 other condition that poses a threat to public health;

8876 (e) the requirements for termination of the order of restriction, such as necessary
8877 laboratory reports, the expiration of an incubation period, or the completion of treatment for the
8878 communicable disease;

8879 (f) any conditions on the restriction, such as limitation of visitors or requirements for
8880 medical monitoring;

8881 (g) the medical or scientific information upon which the restriction is based;

8882 (h) a statement advising of the right to a judicial review of the order of restriction by
8883 the [~~district~~] court; and

8884 (i) pursuant to Subsection (2), the rights of each individual subject to restriction.

8885 (2) An individual subject to restriction has the following rights:

8886 (a) the right to be represented by legal counsel in any judicial review of the order of

8887 restriction in accordance with Subsection [~~26-6b-4~~] 26B-7-309(3);

8888 (b) the right to be provided with prior notice of the date, time, and location of any

8889 hearing concerning the order of restriction;

8890 (c) the right to participate in any hearing, in a manner established by the court based on

8891 precautions necessary to prevent additional exposure to communicable or possibly

8892 communicable diseases or to protect the public health;

8893 (d) the right to respond and present evidence and arguments on the individual's own

8894 behalf in any hearing;

8895 (e) the right to cross examine witnesses; and

8896 (f) the right to review and copy all records in the possession of the department that

8897 issued the order of restriction which relate to the subject of the written order of restriction.

8898 (3) (a) Notwithstanding the provisions of Subsection (1), if the department or a local

8899 health department issues an order of restriction for a group of individuals, the department or

8900 local health department may modify the method of providing notice to the group or modify the

8901 information contained in the notice, if the public health official determines the modification of

8902 the notice is necessary to:

8903 (i) protect the privacy of medical information of individuals in the group; or

8904 (ii) provide notice to the group in a manner that will efficiently and effectively notify

8905 the individuals in the group within the period of time necessary to protect the public health.

8906 (b) When the department or a local health department modifies notice to a group of

8907 individuals under Subsection (3)(a), the department or local health department shall provide

8908 each individual in the group with notice that complies with the provisions of Subsection (1) as

8909 soon as reasonably practical.

8910 (4) (a) In addition to the rights of an individual described in Subsections (1) and (2), an

8911 individual subject to an order of restriction may not be terminated from employment if the

8912 reason for termination is based solely on the fact that the individual is or was subject to an
8913 order of restriction.

8914 (b) The department or local health department issuing the order of restriction shall give
8915 the individual subject to the order of restriction notice of the individual's employment rights
8916 under Subsection (4)(a).

8917 (c) An employer in the state, including an employer who is the state or a political
8918 subdivision of the state, may not violate the provisions of Subsection (4)(a).

8919 Section 277. Section **26B-7-308**, which is renumbered from Section 26-6b-3.4 is
8920 renumbered and amended to read:

8921 **[26-6b-3.4]. 26B-7-308. Medical records -- Privacy protections.**

8922 (1) (a) Health care providers as defined in Section **78B-3-403**, health care facilities
8923 licensed under [~~Title 26, Chapter 21~~] Chapter 2, Part 2, Health Care Facility Licensing and
8924 Inspection, [~~Act,~~] and governmental entities, shall, when requested, provide the public health
8925 official and the individual subject to an order of restriction, a copy of medical records that are
8926 relevant to the order of restriction.

8927 (b) The records requested under Subsection (1)(a) shall be provided as soon as
8928 reasonably possible after the request is submitted to the health care provider or health care
8929 facility, or as soon as reasonably possible after the health care provider or facility receives the
8930 results of any relevant diagnostic testing of the individual.

8931 (2) (a) The production of records under the provisions of this section is for the benefit
8932 of the public health and safety of the citizens of the state. A health care provider or facility is
8933 encouraged to provide copies of medical records or other records necessary to carry out the
8934 purpose of [~~this chapter~~] Sections 26B-7-304 through 26B-7-314 free of charge.

8935 (b) Notwithstanding the provisions of Subsection (2)(c), a health care facility that is a
8936 state governmental entity shall provide medical records or other records necessary to carry out
8937 the purposes of [~~this chapter~~] Sections 26B-7-304 through 26B-7-314, free of charge.

8938 (c) If a health care provider or health care facility does not provide medical records free

8939 of charge under the provisions of Subsection (2)(a) or (b), the health care provider or facility
8940 may charge a fee for the records that does not exceed the presumed reasonable charges
8941 established for workers' compensation by administrative rule adopted by the Labor
8942 Commission.

8943 (3) Medical records held by a court related to orders of restriction under ~~[this chapter]~~
8944 Sections 26B-7-304 through 26B-7-314 shall be sealed by the ~~[district]~~ court at the conclusion
8945 of the case.

8946 Section 278. Section **26B-7-309**, which is renumbered from Section 26-6b-4 is
8947 renumbered and amended to read:

8948 ~~[26-6b-4]~~. **26B-7-309. Judicial review -- Required notice -- Representation by**
8949 **counsel -- Conduct of proceedings.**

8950 (1) The provisions of this section and Sections ~~[26-6b-5]~~ 26B-7-310 through ~~[26-6b-7]~~
8951 26B-7-312 apply if the department or a local health department issues an order for restriction,
8952 and:

8953 (a) an individual subject to the order of restriction refuses to consent to the order of
8954 restriction;

8955 (b) an individual subject to an order of restriction has withdrawn consent to an order of
8956 restriction under the provisions of Subsection ~~[26-6b-3.1]~~ 26B-7-305(1)(b)(iv)(B); or

8957 (c) the department or local health department chooses to not attempt to obtain consent
8958 to an order of restriction and files an action for judicial review of the order of restriction.

8959 (2) (a) If the individual who is subject to an order of restriction is in custody, the
8960 department or local health department, which is the petitioner, shall provide to the individual
8961 written notice of the petition for judicial review of the order of restriction and hearings held
8962 pursuant to Sections ~~[26-6b-5]~~ 26B-7-310 through ~~[26-6b-7]~~ 26B-7-312 as soon as practicable,
8963 and shall send the notice to the legal guardian, legal counsel for the parties involved, and any
8964 other persons and immediate adult family members whom the individual or the ~~[district]~~ court
8965 designates.

8966 (b) The notice described in Subsection (2)(a) shall advise these persons that a hearing
8967 may be held within the time provided by this [~~chapter~~] part.

8968 ~~(b)~~ (c) If the individual has refused to permit release of information necessary for the
8969 provision of notice under this Subsection (2), the extent of notice shall be determined by the
8970 [~~district~~] court.

8971 ~~(c)~~ (d) Notwithstanding the notice requirement in Subsection (2)(a), if the court
8972 determines that written notice to each individual in a group of individuals subject to an order of
8973 restriction is not practical considering the circumstances of the threat to public health, the court
8974 may order the department to provide notice to the individual or group of individuals in a
8975 manner determined by the court.

8976 (3) (a) If the individual who is subject to an order of restriction is in custody, he shall
8977 be afforded an opportunity to be represented by counsel. If neither the individual nor others
8978 provide for counsel, the [~~district~~] court shall appoint counsel and allow counsel sufficient time
8979 to consult with the individual prior to the hearing. If the individual is indigent, the payment of
8980 reasonable attorney fees for counsel, as determined by the [~~district~~] court, shall be made by the
8981 county in which the individual resides or was found.

8982 (b) The parties may appear at the hearings, to testify, and to present and cross-examine
8983 witnesses. The [~~district~~] court may, in its discretion, receive the testimony of any other
8984 individual.

8985 (c) The [~~district~~] court may allow a waiver of the individual's right to appear only for
8986 good cause shown, and that cause shall be made a part of the court record.

8987 (d) The [~~district~~] court may order that the individual participate in the hearing by
8988 telephonic or other electronic means if the individual's condition poses a health threat to those
8989 who physically attend the hearing or to others if the individual is transported to the court.

8990 (4) The [~~district~~] court may, in its discretion, order that the individual be moved to a
8991 more appropriate treatment, quarantine, or isolation facility outside of its jurisdiction, and may
8992 transfer the proceedings to any other [~~district~~] court within this state where venue is proper,

8993 provided that the transfer will not be adverse to the legal interests of the individual.

8994 (5) All persons to whom notice is required to be given may attend the hearings. The
8995 [district] court may exclude from the hearing all persons not necessary for the conduct of the
8996 proceedings.

8997 (6) All hearings shall be conducted in as informal a manner as may be consistent with
8998 orderly procedure, and in a physical setting that is not likely to have a harmful effect on the
8999 health of the individual or others required to participate in the hearing.

9000 (7) The [district] court shall receive all relevant and material evidence which is offered,
9001 subject to Utah Rules of Evidence.

9002 (8) The [district] court may order law enforcement to assist the petitioner in locating
9003 the individuals subject to restriction and enforcing the order of restriction.

9004 Section 279. Section **26B-7-310**, which is renumbered from Section 26-6b-5 is
9005 renumbered and amended to read:

9006 **[26-6b-5]. 26B-7-310. Petition for judicial review of order of restriction --**
9007 **Court-ordered examination period.**

9008 (1) (a) A department may petition for a judicial review of the department's order of
9009 restriction for an individual or group of individuals who are subject to restriction by filing a
9010 written petition with the [district] court of the county in which the individual or group of
9011 individuals reside or are located.

9012 (b) (i) The county attorney for the county where the individual or group of individuals
9013 reside or are located shall represent the local health department in any proceedings under [~~this~~
9014 ~~chapter~~] Sections [26B-7-304](#) through [26B-7-314](#).

9015 (ii) The Office of the Attorney General shall represent the department when the
9016 petitioner is the [~~Department of Health~~] department in any proceedings under [~~this chapter~~]
9017 Sections [26B-7-304](#) through [26B-7-314](#).

9018 (2) The petition under Subsection (1) shall be accompanied by:

9019 (a) written affidavit of the department stating:

9020 (i) a belief the individual or group of individuals are subject to restriction;
9021 (ii) a belief that the individual or group of individuals who are subject to restriction are
9022 likely to fail to submit to examination, treatment, quarantine, or isolation if not immediately
9023 restrained;
9024 (iii) this failure would pose a threat to the public health; and
9025 (iv) the personal knowledge of the individual's or group of individuals' condition or the
9026 circumstances that lead to that belief; and
9027 (b) a written statement by a licensed physician or physician assistant indicating the
9028 physician or physician assistant finds the individual or group of individuals are subject to
9029 restriction.
9030 (3) The court shall issue an order of restriction requiring the individual or group of
9031 individuals to submit to involuntary restriction to protect the public health if the [district] court
9032 finds:
9033 (a) there is a reasonable basis to believe that the individual's or group of individuals'
9034 condition requires involuntary examination, quarantine, treatment, or isolation pending
9035 examination and hearing; or
9036 (b) the individual or group of individuals have refused to submit to examination by a
9037 health professional as directed by the department or to voluntarily submit to examination,
9038 treatment, quarantine, or isolation.
9039 (4) If the individual or group of individuals who are subject to restriction are not in
9040 custody, the court may make its determination and issue its order of restriction in an ex parte
9041 hearing.
9042 (5) At least 24 hours prior to the hearing required by Section [~~26-6b-6~~] [26B-7-311](#), the
9043 department which is the petitioner, shall report to the court, in writing, the opinion of qualified
9044 health care providers:
9045 (a) regarding whether the individual or group of individuals are infected by or
9046 contaminated with:

- 9047 (i) a communicable or possible communicable disease that poses a threat to public
9048 health;
- 9049 (ii) an infectious agent or possibly infectious agent that poses a threat to public health;
- 9050 (iii) a chemical or biological agent that poses a threat to public health; or
- 9051 (iv) a condition that poses a threat to public health;
- 9052 (b) that despite the exercise of reasonable diligence, the diagnostic studies have not
9053 been completed;
- 9054 (c) whether the individual or group of individuals have agreed to voluntarily comply
9055 with necessary examination, treatment, quarantine, or isolation; and
- 9056 (d) whether the petitioner believes the individual or group of individuals will comply
9057 without court proceedings.

9058 Section 280. Section **26B-7-311**, which is renumbered from Section 26-6b-6 is
9059 renumbered and amended to read:

9060 ~~[26-6b-6]~~. **26B-7-311**. **Court determination for an order of restriction after**
9061 **examination period.**

9062 (1) The [~~district~~] court shall set a hearing regarding the involuntary order of restriction
9063 of an individual or group of individuals, to be held within 10 business days of the issuance of
9064 its order of restriction issued pursuant to Section [~~26-6b-5~~] 26B-7-310, unless the petitioner
9065 informs the [~~district~~] court prior to this hearing that the individual or group of individuals:

- 9066 (a) are not subject to restriction; or
- 9067 (b) have stipulated to the issuance of an order of restriction.

9068 (2) If the individual or an individual in a group of individuals has stipulated to the
9069 issuance of an order of restriction, the court may issue an order as provided in Subsection (6)
9070 for those individuals without further hearing.

9071 (3) (a) If the examination report required in Section [~~26-6b-5~~] 26B-7-310 proves the
9072 individual or group of individuals are not subject to restriction, the court may without further
9073 hearing terminate the proceedings and dismiss the petition.

9074 (b) The court may, after a hearing at which the individual or group of individuals are
9075 present in person or by telephonic or other electronic means and have had the opportunity to be
9076 represented by counsel, extend its order of restriction for a reasonable period, not to exceed 90
9077 days, if the court has reason to believe the individual or group of individuals are infected by or
9078 contaminated with:

9079 (i) a communicable or possibly communicable disease that poses a threat to public
9080 health;

9081 (ii) an infectious agent or possibly infectious agent that poses a threat to public health;

9082 (iii) a chemical or biological agent that poses a threat to public health; or

9083 (iv) a condition that poses a threat to public health, but, despite the exercise of
9084 reasonable diligence the diagnostic studies have not been completed.

9085 (4) The petitioner shall, at the time of the hearing, provide the [district] court with the
9086 following items, to the extent that they have been issued or are otherwise available:

9087 (a) the order of restriction issued by the petitioner;

9088 (b) admission notes if any individual was hospitalized; and

9089 (c) medical records pertaining to the current order of restriction.

9090 (5) The information provided to the court under Subsection (4) shall also be provided
9091 to the individual's or group of individual's counsel at the time of the hearing, and at any time
9092 prior to the hearing upon request of counsel.

9093 (6) (a) The [district] court shall order the individual and each individual in a group of
9094 individuals to submit to the order of restriction if, upon completion of the hearing and
9095 consideration of the record, it finds by clear and convincing evidence that:

9096 (i) the individual or group of individuals are infected with a communicable disease or
9097 infectious agent, are contaminated with a chemical or biological agent, or are in a condition
9098 that poses a threat to public health;

9099 (ii) there is no appropriate and less restrictive alternative to a court order of
9100 examination, quarantine, isolation, and treatment, or any of them;

9101 (iii) the petitioner can provide the individual or group of individuals with treatment
9102 that is adequate and appropriate to the individual's or group of individuals' conditions and
9103 needs; and

9104 (iv) it is in the public interest to order the individual or group of individuals to submit
9105 to involuntary examination, quarantine, isolation, and treatment, or any of them after weighing
9106 the following factors:

9107 (A) the personal or religious beliefs, if any, of the individual that are opposed to
9108 medical examination or treatment;

9109 (B) the ability of the department to control the public health threat with treatment
9110 alternatives that are requested by the individual;

9111 (C) the economic impact for the department if the individual is permitted to use an
9112 alternative to the treatment recommended by the department; and

9113 (D) other relevant factors as determined by the court.

9114 (b) If upon completion of the hearing the court does not find all of the conditions listed
9115 in Subsection (6)(a) exist, the court shall immediately dismiss the petition.

9116 (7) The order of restriction shall designate the period, subject to Subsection (8), for
9117 which the individual or group of individuals shall be examined, treated, isolated, or
9118 quarantined.

9119 (8) (a) The order of restriction may not exceed six months without benefit of a [~~district~~]
9120 court review hearing.

9121 (b) (i) The [~~district~~] court review hearing shall be held prior to the expiration of the
9122 order of restriction issued under Subsection (7).

9123 (ii) At the review hearing the court may issue an order of restriction for up to an
9124 indeterminate period, if the [~~district~~] court enters a written finding in the record determining by
9125 clear and convincing evidence that the required conditions in Subsection (6) will continue for
9126 an indeterminate period.

9127 Section 281. Section **26B-7-312**, which is renumbered from Section 26-6b-7 is

9128 renumbered and amended to read:

9129 ~~[26-6b-7].~~ **26B-7-312. Periodic review of individuals under court order.**

9130 (1) (a) At least two weeks prior to the expiration of the designated period of any court
9131 order still in effect, the petitioner shall inform the court that issued the order that the order is
9132 about to expire.

9133 (b) The petitioner shall immediately reexamine the reasons upon which the court's
9134 order was based.

9135 (c) If the petitioner determines that the conditions justifying that order no longer exist,
9136 [it] the petitioner shall discharge the individual from involuntary quarantine, isolation, or
9137 treatment and report its action to the court for a termination of the order.

9138 (d) ~~[Otherwise]~~ If the conditions justifying the order still exist, the court shall schedule
9139 a hearing prior to the expiration of [its] the court's order and proceed under Sections ~~[26-6b-4]~~
9140 26B-7-309 through ~~[26-6b-6]~~ 26B-7-311.

9141 (2) (a) The petitioner responsible for the care of an individual under a court order of
9142 involuntary quarantine, isolation, or treatment for an indeterminate period shall at six-month
9143 intervals reexamine the reasons upon which the order of indeterminate duration was based.

9144 (b) If the petitioner determines that the conditions justifying that the court's order no
9145 longer exist, the petitioner shall discharge the individual from involuntary quarantine, isolation,
9146 or treatment and immediately report its action to the court for a termination of the order.

9147 (c) If the petitioner determines that the conditions justifying the involuntary quarantine,
9148 isolation, or treatment continue to exist, the petitioner shall send a written report of those
9149 findings to the court.

9150 (d) The petitioner shall notify the individual and his counsel of record in writing that
9151 the involuntary quarantine, isolation, or treatment will be continued, the reasons for that
9152 decision, and that the individual has the right to a review hearing by making a request to the
9153 court.

9154 (e) Upon receiving the request for a review, the court shall immediately set a hearing

9155 date and proceed under Sections [~~26-6b-4~~] [26B-6-309](#) through [~~26-6b-6~~] [26B-6-311](#).

9156 Section 282. Section **26B-7-313**, which is renumbered from Section 26-6b-8 is
9157 renumbered and amended to read:

9158 ~~[26-6b-8]~~. **26B-7-313. Transportation of individuals subject to temporary or**
9159 **court-ordered restriction.**

9160 Transportation of an individual subject to an order of restriction to court, or to a place
9161 for examination, quarantine, isolation, or treatment pursuant a temporary order issued by a
9162 department or local health department, or pursuant to a court order, shall be conducted by the
9163 county sheriff where the individual is located.

9164 Section 283. Section **26B-7-314**, which is renumbered from Section 26-6b-9 is
9165 renumbered and amended to read:

9166 ~~[26-6b-9]~~. **26B-7-314. Examination, quarantine, isolation, and treatment costs.**

9167 If a local health department obtains approval from the [~~Department of Health~~]
9168 department, the costs that the local health department would otherwise have to bear for
9169 examination, quarantine, isolation, and treatment ordered under the provisions of [~~this chapter~~]
9170 Sections [26B-7-304](#) through [26B-7-314](#) shall be paid by the [~~Department of Health~~]
9171 department to the extent that the individual is unable to pay and that other sources and
9172 insurance do not pay.

9173 Section 284. Section **26B-7-315**, which is renumbered from Section 26-6b-10 is
9174 renumbered and amended to read:

9175 ~~[26-6b-10]~~. **26B-7-315. Severability.**

9176 [~~If any provision of this chapter;~~] With respect to Sections [26B-7-304](#) through
9177 [26B-7-314](#), if a provision or the application of [~~this chapter~~] a provision to any person or
9178 circumstance[;] is found to be unconstitutional, the provision that is found to be
9179 unconstitutional is severable and the balance of [~~this chapter remains~~] any sections not found to
9180 be unconstitutional remain effective, notwithstanding [~~that unconstitutionality~~] those sections
9181 found to be unconstitutional.

9182 Section 285. Section **26B-7-316**, which is renumbered from Section 26-23b-103 is
9183 renumbered and amended to read:

9184 ~~[26-23b-103]~~. **26B-7-316. Mandatory reporting requirements -- Contents**
9185 **of reports -- Penalties.**

9186 (1) (a) A health care provider shall report to the department any case of any person who
9187 the provider knows has a confirmed case of, or who the provider believes in his professional
9188 judgment is sufficiently likely to harbor any illness or health condition that may be caused by:

- 9189 (i) bioterrorism;
- 9190 (ii) epidemic or pandemic disease; or
- 9191 (iii) novel and highly fatal infectious agents or biological toxins which might pose a
9192 substantial risk of a significant number of human fatalities or incidences of permanent or
9193 long-term disability.

9194 (b) A health care provider shall immediately submit the report required by Subsection
9195 (1)(a) within 24 hours of concluding that a report is required under Subsection (1)(a).

9196 (2) (a) A report required by this section shall be submitted electronically, verbally, or in
9197 writing to the department or appropriate local health department.

9198 (b) A report submitted pursuant to Subsection (1) shall include, if known:

9199 (i) diagnostic information on the specific illness or health condition that is the subject
9200 of the report, and, if transmitted electronically, diagnostic codes assigned to the visit;

9201 (ii) the patient's name, date of birth, sex, race, occupation, and current home and work
9202 address and phone number;

9203 (iii) the name, address, and phone number of the health care provider; and

9204 (iv) the name, address, and phone number of the reporting individual.

9205 (3) The department may impose a sanction against a health care provider for failure to
9206 make a report required by this section only if the department can show by clear and convincing
9207 evidence that a health care provider willfully failed to file a report.

9208 Section 286. Section **26B-7-317**, which is renumbered from Section 26-23b-104 is

9209 renumbered and amended to read:

9210 ~~[26-23b-104]~~. 26B-7-317. **Authorization to report -- Declaration of a public**
9211 **health emergency -- Termination of a public health emergency -- Order of constraint.**

9212 (1) A health care provider is authorized to report to the department any case of a
9213 reportable emergency illness or health condition in any person when:

9214 (a) the health care provider knows of a confirmed case; or

9215 (b) the health care provider believes, based on the health care provider's professional
9216 judgment that a person likely harbors a reportable emergency illness or health condition.

9217 (2) A report pursuant to this section shall include, if known:

9218 (a) the name of the facility submitting the report;

9219 (b) a patient identifier that allows linkage with the patient's record for follow-up
9220 investigation if needed;

9221 (c) the date and time of visit;

9222 (d) the patient's age and sex;

9223 (e) the zip code of the patient's residence;

9224 (f) the reportable illness or condition detected or suspected;

9225 (g) diagnostic information and, if available, diagnostic codes assigned to the visit; and

9226 (h) whether the patient was admitted to the hospital.

9227 (3) (a) Subject to Subsections (3)(b) and (4), if the department determines that a public
9228 health emergency exists, the department may, with the concurrence of the governor and the
9229 executive director or in the absence of the executive director, the executive director's designee,
9230 declare a public health emergency, issue an order of constraint, and mandate reporting under
9231 this section for a limited reasonable period of time, as necessary to respond to the public health
9232 emergency.

9233 (b) (i) During a public health emergency that has been in effect for more than 30 days,
9234 the department may not issue an order of constraint until the department has provided notice of
9235 the proposed action to the legislative emergency response committee no later than 24 hours

9236 before the department issues the order of constraint.

9237 (ii) The department:

9238 (A) shall provide the notice required by Subsection (3)(b)(i) using the best available
9239 method under the circumstances as determined by the executive director;

9240 (B) may provide the notice required by Subsection (3)(b)(i) in electronic format; and

9241 (C) shall provide the notice in written form, if practicable.

9242 (c) The department may not mandate reporting under this subsection for more than 90
9243 days.

9244 (4) (a) Except as provided in Subsection (4)(b), a public health emergency declared by
9245 the department as described in Subsection (3) expires at the earliest of:

9246 (i) the day on which the department or the governor finds that the threat or danger has
9247 passed or the public health emergency reduced to the extent that emergency conditions no
9248 longer exist;

9249 (ii) 30 days after the date on which the department declared the public health
9250 emergency; or

9251 (iii) the day on which the public health emergency is terminated by a joint resolution of
9252 the Legislature.

9253 (b) (i) The Legislature, by joint resolution, may extend a public health emergency for a
9254 time period designated in the joint resolution.

9255 (ii) If the Legislature extends a public health emergency as described in Subsection
9256 (4)(b)(i), the public health emergency expires on the date designated by the Legislature.

9257 (c) Except as provided in Subsection (4)(d), if a public health emergency declared by
9258 the department expires as described in Subsection (4)(a) or (b), the department may not declare
9259 a public health emergency for the same illness or occurrence that precipitated the previous
9260 public health emergency declaration.

9261 (d) (i) Notwithstanding Subsection (4)(c), subject to Subsection (4)(e), if the
9262 department finds that exigent circumstances exist, after providing notice to the Legislature, the

9263 department may declare a new public health emergency for the same illness or occurrence that
9264 precipitated a previous public health emergency declaration.

9265 (ii) A public health emergency declared as described in Subsection (4)(d)(i) expires in
9266 accordance with Subsection (4)(a) or (b).

9267 (e) If the Legislature terminates a public health emergency declared due to exigent
9268 circumstances as described in Subsection (4)(d)(i), the department may not declare a new
9269 public health emergency for the same illness, occurrence, or exigent circumstances.

9270 (5) During a declared public health emergency declared under this title:

9271 (a) the Legislature may:

9272 (i) at any time by joint resolution terminate an order of constraint issued by the
9273 department; or

9274 (ii) by joint resolution terminate an order of constraint issued by a local health
9275 department in response to a public health emergency that has been in effect for more than 30
9276 days; and

9277 (b) a county legislative body may at any time terminate an order of constraint issued by
9278 a local health department in response to a declared public health emergency.

9279 (6) (a) (i) If the department declares a public health emergency as described in this
9280 [chapter] part, and the department finds that the public health emergency conditions warrant an
9281 extension of the public health emergency beyond the 30-day term or another date designated by
9282 the Legislature as described in this section, the department shall provide written notice to the
9283 speaker of the House of Representatives and the president of the Senate at least 10 days before
9284 the expiration of the public health emergency.

9285 (ii) If a local health department declares a public health emergency as described in this
9286 [chapter] part, and the local health department finds that the public health emergency
9287 conditions warrant an extension of the public health emergency beyond the 30-day term or
9288 another date designated by the county governing body as described in this section, the local
9289 health department shall provide written notice to the county governing body at least 10 days

9290 before the expiration of the public health emergency.

9291 (b) If the department provides notice as described in Subsection (6)(a)(i) for a public
9292 health emergency within the first 30 days from the initial declaration of the public health
9293 emergency, the speaker of the House of Representatives and the president of the Senate:

9294 (i) shall poll the members of their respective bodies to determine whether the
9295 Legislature will extend the public health emergency; and

9296 (ii) may jointly convene the committee created in Section 53-2a-218.

9297 (c) If the department provides notice as described in Subsection (6)(a)(i) for a public
9298 health emergency that has been extended beyond the 30 days from the initial declaration of the
9299 public health emergency, the speaker of the House of Representatives and the president of the
9300 Senate shall jointly convene the committee created in Section 53-2a-218.

9301 (7) If the committee created in Section 53-2a-218 is convened as described in
9302 Subsection (6), the committee shall conduct a public meeting to:

9303 (a) discuss the nature of the public health emergency and conditions of the public
9304 health emergency;

9305 (b) evaluate options for public health emergency response;

9306 (c) receive testimony from individuals with expertise relevant to the current public
9307 health emergency;

9308 (d) receive testimony from members of the public; and

9309 (e) provide a recommendation to the Legislature whether to extend the public health
9310 emergency by joint resolution.

9311 (8) (a) During a public health emergency declared as described in this title:

9312 (i) the department or a local health department may not impose an order of constraint
9313 on a religious gathering that is more restrictive than an order of constraint that applies to any
9314 other relevantly similar gathering; and

9315 (ii) an individual, while acting or purporting to act within the course and scope of the
9316 individual's official department or local health department capacity, may not:

9317 (A) prevent a religious gathering that is held in a manner consistent with any order of
9318 constraint issued pursuant to this title; or

9319 (B) impose a penalty for a previous religious gathering that was held in a manner
9320 consistent with any order of constraint issued pursuant to this title.

9321 (b) Upon proper grounds, a court of competent jurisdiction may grant an injunction to
9322 prevent the violation of this Subsection (8).

9323 (c) During a public health emergency declared as described in this title, the department
9324 or a local health department shall not issue a public health order or impose or implement a
9325 regulation that substantially burdens an individual's exercise of religion unless the department
9326 or local health department demonstrates that the application of the burden to the individual:

9327 (i) is in furtherance of a compelling government interest; and

9328 (ii) is the least restrictive means of furthering that compelling government interest.

9329 (d) Notwithstanding Subsections (8)(a) and (c), the department or a local health
9330 department shall allow reasonable accommodations for an individual to perform or participate
9331 in a religious practice or rite.

9332 (9) (a) Unless the provisions of Subsection (3) apply, a health care provider is not
9333 subject to penalties for failing to submit a report under this section.

9334 (b) If the provisions of Subsection (3) apply, a health care provider is subject to the
9335 penalties of Subsection [~~26-23b-103~~] [26B-7-316](#)(3) for failure to make a report under this
9336 section.

9337 Section 287. Section **26B-7-318**, which is renumbered from Section 26-23b-105 is
9338 renumbered and amended to read:

9339 [~~26-23b-105~~]. **26B-7-318. Pharmacy reporting requirements.**

9340 (1) Notwithstanding the provisions of Subsection [~~26-23b-103~~] [26B-7-316](#)(1)(a), a
9341 pharmacist shall report unusual drug-related events as described in Subsection (2).

9342 (2) Unusual drug-related events that require a report include:

9343 (a) an unusual increase in the number of prescriptions filled for antimicrobials;

9344 (b) any prescription that treats a disease that has bioterrorism potential if that
9345 prescription is unusual or in excess of the expected frequency; and

9346 (c) an unusual increase in the number of requests for information about or sales of
9347 over-the-counter pharmaceuticals to treat conditions which may suggest the presence of one of
9348 the illnesses or conditions described in Section ~~[26-23b-103]~~ 26B-7-316 or ~~[26-23b-104]~~
9349 26B-7-317 and which are designated by department rule.

9350 (3) (a) A pharmacist shall submit the report required by this section within 24 hours
9351 after the pharmacist suspects, in his professional judgement, that an unusual drug-related event
9352 has occurred.

9353 (b) If a pharmacy is part of a health care facility subject to the reporting requirements
9354 of ~~[this chapter]~~ Sections 26B-7-316 through 26B-7-324, the pharmacist in charge shall make
9355 the report under this section on behalf of the health care facility.

9356 (4) (a) The report required by this section shall be submitted in accordance with
9357 Subsection ~~[26-23b-103]~~ 26B-7-316(2)(a).

9358 (b) A report shall include the name and location of the reporting pharmacist, the name
9359 and type of pharmaceuticals that are the subject of the unusual increase in use, and if known,
9360 the suspected illness or health condition that is the subject of the report.

9361 (5) A pharmacist is subject to the penalties under Subsection ~~[26-23b-103]~~
9362 26B-7-316(3) for failing to make a report required by this section.

9363 Section 288. Section **26B-7-319**, which is renumbered from Section 26-23b-106 is
9364 renumbered and amended to read:

9365 ~~[26-23b-106]~~. **26B-7-319. Medical laboratory reporting requirements.**

9366 (1) Notwithstanding the provisions of Subsection ~~[26-23b-103]~~ 26B-7-316(1), the
9367 director of a medical laboratory located in this state is responsible for reporting results of a
9368 laboratory test that confirm a condition or illness described in Subsection ~~[26-23b-103]~~
9369 26B-7-316(1) within 24 hours after obtaining the results of the test. This reporting requirement
9370 also applies to results obtained on specimens sent to an out-of-state laboratory for analysis.

9371 (2) The director of a medical laboratory located outside this state that receives a
9372 specimen obtained inside this state is responsible for reporting the results of any test that
9373 confirm a condition or illness described in Subsection [~~26-23b-103~~] 26B-7-316(1), within 24
9374 hours of obtaining the results, provided that the laboratory that performs the test has agreed to
9375 the reporting requirements of this state.

9376 (3) If a medical laboratory is part of a health care facility subject to the reporting
9377 requirements of [~~this chapter~~] Sections 26B-7-316 through 26B-7-324, the director of the
9378 medical laboratory shall make the report required by this section on behalf of the health care
9379 facility.

9380 (4) The report required by this section shall be submitted in accordance with
9381 Subsection [~~26-23b-103~~] 26B-7-316(2).

9382 (5) The director of a medical laboratory is subject to the penalties of Subsection
9383 [~~26-23b-103~~] 26B-7-316(3) for failing to make a report required by this section.

9384 Section 289. Section **26B-7-320**, which is renumbered from Section 26-23b-107 is
9385 renumbered and amended to read:

9386 [~~26-23b-107~~]. **26B-7-320. Exemptions from liability.**

9387 (1) A health care provider may not be discharged, suspended, disciplined, or harassed
9388 for making a report [~~pursuant to this chapter~~] under Sections 26B-7-316 through 26B-7-323.

9389 (2) A health care provider may not incur any civil or criminal liability as a result of
9390 making any report under [~~this chapter~~] Sections 26B-7-316 through 26B-7-323 so long as the
9391 report is made in good faith.

9392 Section 290. Section **26B-7-321**, which is renumbered from Section 26-23b-108 is
9393 renumbered and amended to read:

9394 [~~26-23b-108~~]. **26B-7-321. Investigation of suspected bioterrorism and**
9395 **diseases -- Termination of orders of constraint.**

9396 (1) Subject to Subsection (6), the department shall:

9397 (a) ascertain the existence of cases of an illness or condition caused by the factors

9398 described in Subsections ~~[26-23b-103]~~ 26B-7-316(1) and ~~[26-23b-104]~~ 26B-7-317(1);
9399 (b) investigate all such cases for sources of infection or exposure;
9400 (c) ensure that any cases, suspected cases, and exposed persons are subject to proper
9401 control measures; and
9402 (d) define the distribution of the suspected illness or health condition.
9403 (2) (a) Acting on information received from the reports required by ~~[this chapter]~~
9404 Sections 26B-7-316 through 26B-7-320, or other reliable information, the department shall
9405 identify all individuals thought to have been exposed to an illness or condition described in
9406 Subsection ~~[26-23b-103]~~ 26B-7-316(1).
9407 (b) The department may request information from a health care provider concerning an
9408 individual's identifying information as described in Subsection ~~[26-23b-103]~~ 26B-7-316(2)(b)
9409 when:
9410 (i) the department is investigating a potential illness or condition described in
9411 Subsection ~~[26-23b-103]~~ 26B-7-316(1) and the health care provider has not submitted a report
9412 to the department with the information requested; or
9413 (ii) the department has received a report from a pharmacist under Section ~~[26-23b-105]~~
9414 26B-7-318, a medical laboratory under Section ~~[26-23b-106]~~ 26B-7-319, or another health care
9415 provider under Subsection ~~[26-23b-104]~~ 26B-7-317(1) and the department believes that further
9416 investigation is necessary to protect the public health.
9417 (c) A health care provider shall submit the information requested under this section to
9418 the department within 24 hours after receiving a request from the department.
9419 (3) The department shall counsel and interview identified individuals as appropriate to:
9420 (a) assist in the positive identification of other cases and exposed individuals;
9421 (b) develop information relating to the source and spread of the illness or condition;
9422 and
9423 (c) obtain the names, addresses, phone numbers, or other identifying information of
9424 any other person from whom the illness or health condition may have been contracted and to

9425 whom the illness or condition may have spread.

9426 (4) The department shall, for examination purposes, close, evacuate, or decontaminate
9427 any facility when the department reasonably believes that such facility or material may
9428 endanger the public health due to a condition or illness described in Subsection [~~26-23b-103~~]
9429 26B-7-316(1).

9430 (5) The department [~~will~~] shall destroy personally identifying health information about
9431 an individual collected by the department as a result of a report under [~~this chapter~~] Sections
9432 26B-7-316 through 26B-7-322 upon the earlier of:

9433 (a) the department's determination that the information is no longer necessary to carry
9434 out an investigation under [~~this chapter~~] Sections 26B-7-316 through 26B-7-324; or

9435 (b) 180 days after the information is collected.

9436 (6) (a) The Legislature may at any time terminate by joint resolution an order of
9437 constraint issued by the department in response to a declared public health emergency.

9438 (b) A county governing body may at any time terminate by majority vote an order of
9439 constraint issued by the relevant local health department in response to a declared public health
9440 emergency.

9441 Section 291. Section **26B-7-322**, which is renumbered from Section 26-23b-109 is
9442 renumbered and amended to read:

9443 [~~26-23b-109~~]. **26B-7-322. Enforcement.**

9444 The department may enforce the provisions of [~~this chapter~~] Sections 26B-7-316
9445 through 26B-7-324 in accordance with existing enforcement laws and regulations.

9446 Section 292. Section **26B-7-323**, which is renumbered from Section 26-23b-110 is
9447 renumbered and amended to read:

9448 [~~26-23b-110~~]. **26B-7-323. Information sharing with public safety**
9449 **authorities.**

9450 (1) [~~For purposes of~~] As used in this section, "public safety authority" means a local,
9451 state, or federal law enforcement authority including the Division of Emergency Management,

9452 emergency medical services personnel, and firefighters.

9453 (2) Notwithstanding the provisions of Title 63G, Chapter 2, Government Records
9454 Access and Management Act:

9455 (a) whenever a public safety authority suspects a case of a reportable illness or
9456 condition under the provisions of ~~[this chapter]~~ Sections 26B-7-316 through 26B-7-324, it shall
9457 immediately notify the department;

9458 (b) whenever the department learns of a case of a reportable illness or condition under
9459 this ~~[chapter]~~ part that ~~[it]~~ the department reasonably believes has the potential to be caused by
9460 one of the factors listed in Subsection ~~[26-23b-103]~~ 26B-7-316(1), ~~[it]~~ the department shall
9461 immediately notify the appropriate public safety authority; and

9462 (c) sharing of information reportable under ~~[the provisions of this chapter]~~ Sections
9463 26B-7-316 through 26B-7-324 between persons authorized by ~~[this chapter]~~ Sections
9464 26B-7-316 through 26B-7-324 shall be limited to information necessary for the treatment,
9465 control, investigation, and prevention of a public health emergency.

9466 ~~[(3) Except to the extent inconsistent with this chapter, Sections 26-6-27 and 26-6-28~~
9467 ~~apply to this chapter.]~~

9468 Section 293. Section **26B-7-324** is enacted to read:

9469 **26B-7-324. Applicability of confidentiality provisions.**

9470 The provisions of Sections 26B-7-217 and 26B-7-218 apply to information collected
9471 under Sections 26B-7-316 through 26B-7-323 except to the extent that application of a
9472 provision in Section 26B-7-217 or 26B-7-218 is inconsistent with Sections 26B-7-316 through
9473 26B-7-323.

9474 Section 294. Section **26B-7-401**, which is renumbered from Section 26-15a-102 is
9475 renumbered and amended to read:

9476 **Part 4. General Sanitation and Food Safety**

9477 ~~[26-15a-102].~~ **26B-7-401. Definitions.**

9478 As used in this part:

9479 (1) "Agricultural tourism activity" means the same as that term is defined in Section
9480 78B-4-512.

9481 (2) "Agritourism" means the same as that term is defined in Section 78B-4-512.

9482 (3) "Agritourism food establishment" means a non-commercial kitchen facility where
9483 food is handled, stored, or prepared to be offered for sale on a farm in connection with an
9484 agricultural tourism activity.

9485 (4) "Agritourism food establishment permit" means a permit issued by a local health
9486 department to the operator for the purpose of operating an agritourism food establishment.

9487 [~~(1)~~] (5) "Back country food service establishment" means a federal or state licensed
9488 back country guiding or outfitting business that:

9489 (a) provides food services; and

9490 (b) meets department recognized federal or state food service safety regulations for
9491 food handlers.

9492 [~~(2)~~] (6) "Certified food safety manager" means a manager of a food service
9493 establishment who:

9494 (a) passes successfully a department-approved examination;

9495 (b) successfully completes, every three years, renewal requirements established by
9496 department rule consistent with original certification requirements; and

9497 (c) submits to the appropriate local health department the documentation required by
9498 Section [~~26-15a-106~~] 26B-7-412.

9499 (7) "Farm" means a working farm, ranch, or other commercial agricultural,
9500 aquacultural, horticultural, or forestry operation.

9501 (8) "Food" means:

9502 (a) a raw, cooked, or processed edible substance, ice, nonalcoholic beverage, or
9503 ingredient used or intended for use or for sale, in whole or in part, for human consumption; or

9504 (b) chewing gum.

9505 [~~(3)~~] (9) "Food service establishment" means any place or area within a business or

9506 organization where potentially hazardous foods, as defined by the department under Section
9507 [26B-7-410](#), are prepared and intended for individual portion service and consumption by the
9508 general public, whether the consumption is on or off the premises, and whether or not a fee is
9509 charged for the food.

9510 ~~[(4) "Local health department" means a local health department as defined in~~
9511 ~~Subsection [26A-1-102\(5\)](#).]~~

9512 ~~[(5) "Potentially hazardous foods" shall be defined by the department by administrative~~
9513 ~~rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.]~~

9514 (10) (a) "Microenterprise home kitchen" means a non-commercial kitchen facility
9515 located in a private home and operated by a resident of the home where ready-to-eat food is
9516 handled, stored, prepared, or offered for sale.

9517 (b) "Microenterprise home kitchen" does not include:

9518 (i) a catering operation;

9519 (ii) a cottage food operation;

9520 (iii) a food truck;

9521 (iv) an agritourism food establishment;

9522 (v) a bed and breakfast; or

9523 (vi) a residence-based group care facility.

9524 (11) "Microenterprise home kitchen permit" means a permit issued by a local health
9525 department to the operator for the purpose of operating a microenterprise home kitchen.

9526 (12) "Ready-to-eat" means:

9527 (a) raw animal food that is cooked;

9528 (b) raw fruits and vegetables that are washed;

9529 (c) fruits and vegetables that are cooked for hot holding;

9530 (d) a time or temperature control food that is cooked to the temperature and time

9531 required for the specific food in accordance with rules made by the department in accordance
9532 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

9533 (e) a bakery item for which further cooking is not required for food safety.

9534 (13) "Time or temperature control food" means food that requires time or temperature
9535 controls for safety to limit pathogenic microorganism growth or toxin formation.

9536 Section 295. Section **26B-7-402**, which is renumbered from Section 26-15-2 is
9537 renumbered and amended to read:

9538 ~~[26-15-2].~~ **26B-7-402. Minimum rules of sanitation established by department.**

9539 The department shall establish and enforce, or provide for the enforcement of minimum
9540 rules of sanitation necessary to protect the public health. Such rules shall include, but not be
9541 limited to, rules necessary for the design, construction, operation, maintenance, or expansion
9542 of:

9543 (1) restaurants and all places where food or drink is handled, sold or served to the
9544 public;

9545 (2) public swimming pools;

9546 (3) public baths including saunas, spas, massage parlors, and suntan parlors;

9547 (4) public bathing beaches;

9548 (5) schools which are publicly or privately owned or operated;

9549 (6) recreational resorts, camps, and vehicle parks;

9550 (7) amusement parks and all other centers and places used for public gatherings;

9551 (8) mobile home parks and highway rest stops;

9552 (9) construction or labor camps;

9553 (10) jails, prisons and other places of incarceration or confinement;

9554 (11) hotels and motels;

9555 (12) lodging houses and boarding houses;

9556 (13) service stations;

9557 (14) barbershops and beauty shops, including a facility in which one or more
9558 individuals are engaged in:

9559 (a) any of the practices licensed under Title 58, Chapter 11a, Cosmetology and

- 9560 Associated Professions Licensing Act; or
- 9561 (b) styling hair in accordance with the exemption from licensure described in Section
- 9562 [58-11a-304](#)(13);
- 9563 (15) physician and dentist offices;
- 9564 (16) public buildings and grounds;
- 9565 (17) public conveyances and terminals; and
- 9566 (18) commercial tanning facilities.

9567 Section 296. Section **26B-7-403**, which is renumbered from Section 26-15-3 is

9568 renumbered and amended to read:

9569 ~~[26-15-3]~~. **26B-7-403. Department to advise regarding the plumbing code.**

9570 (1) The department shall advise the Division of Professional Licensing and the

9571 Uniform Building Code Commission with respect to the adoption of a state construction code

9572 under Section [15A-1-204](#), including providing recommendations as to:

- 9573 (a) a specific edition of a plumbing code issued by a nationally recognized code
- 9574 authority; and
- 9575 (b) any amendments to a nationally recognized code.

9576 (2) The department may enforce the plumbing code adopted under Section [15A-1-204](#).

9577 (3) Section [58-56-9](#) does not apply to health inspectors acting under this section.

9578 Section 297. Section **26B-7-404**, which is renumbered from Section 26-15-4 is

9579 renumbered and amended to read:

9580 ~~[26-15-4]~~. **26B-7-404. Rules for wastewater disposal systems.**

9581 The department shall establish rules necessary to protect the public health for the

9582 design, and construction, operation and maintenance of individual wastewater disposal

9583 systems.

9584 Section 298. Section **26B-7-405**, which is renumbered from Section 26-15-7 is

9585 renumbered and amended to read:

9586 ~~[26-15-7]~~. **26B-7-405. Rules for controlling vector-borne diseases and pests.**

9587 (1) As used in this section:

9588 (a) "Pest" means a noxious, destructive, or troublesome organism whether plant or
9589 animal, when found in and around places of human occupancy, habitation, or use which
9590 threatens the public health or well-being of the people within the state.

9591 (b) "Vector" means any organism, such as insects or rodents, that transmits a pathogen
9592 that can affect public health.

9593 (2) The department shall adopt rules to provide for the protection of the public health by
9594 controlling or preventing the spread of vector-borne diseases and infections and to control or
9595 reduce pests by the elimination of insanitary conditions which may include but not be limited
9596 to breeding areas, shelter, harborage or sources of food associated with such diseases or pests.

9597 Section 299. Section **26B-7-406**, which is renumbered from Section 26-15-8 is
9598 renumbered and amended to read:

9599 ~~[26-15-8].~~ **26B-7-406. Periodic evaluation of local health sanitation programs**
9600 **-- Minimum statewide enforcement standards -- Technical assistance.**

9601 (1) The department shall periodically evaluate the sanitation programs of local health
9602 departments to determine the levels of sanitation being maintained throughout the state.

9603 (2) (a) The department shall ensure that each local health department's enforcement of
9604 the minimum rules of sanitation adopted under Section ~~[26-15-2]~~ 26B-7-402 for restaurants
9605 and other places where food or drink is handled meets or exceeds minimum statewide
9606 enforcement standards established by the department by administrative rule.

9607 (b) Administrative rules adopted under Subsection (2)(a) shall include at least:

9608 (i) the minimum number of periodic on-site inspections that shall be conducted by each
9609 local health department;

9610 (ii) criteria for conducting additional inspections; and

9611 (iii) standardized methods to be used by local health departments to assess compliance
9612 with the minimum rules of sanitation adopted under Section ~~[26-15-2]~~ 26B-7-402.

9613 (c) The department shall help local health departments comply with the minimum

9614 statewide enforcement standards adopted under this Subsection (2) by providing technical
9615 assistance.

9616 Section 300. Section **26B-7-407**, which is renumbered from Section 26-15-13 is
9617 renumbered and amended to read:

9618 **[26-15-13]. 26B-7-407. Regulation of tanning facilities.**

9619 (1) For purposes of this section:

9620 (a) "Minor" means ~~[a person under 18 years of age]~~ an individual who is younger than
9621 18 years old.

9622 (b) "Phototherapy device" means equipment that emits ultraviolet radiation used by a
9623 health care professional in the treatment of disease.

9624 (c) (i) "Tanning device" means equipment to which a tanning facility provides access
9625 that emits electromagnetic radiation with wavelengths in the air between 200 and 400
9626 nanometers used for tanning of the skin, including:

9627 (A) a sunlamp; and

9628 (B) a tanning booth or bed.

9629 (ii) "Tanning device" does not include a phototherapy device.

9630 (d) "Tanning facility" means a commercial location, place, area, structure, or business
9631 that provides access to a tanning device.

9632 (2) A tanning facility shall:

9633 (a) annually obtain a permit to do business as a tanning facility from the local health
9634 department with jurisdiction over the location in which the facility is located; and

9635 (b) in accordance with Subsection (3) post a warning sign in a conspicuous location
9636 that is readily visible to a person about to use a tanning device.

9637 (3) The posted warning and written consent required by Subsections (2) and (5) shall
9638 be developed by the department through administrative rules and shall include:

9639 (a) that there are health risks associated with the use of a tanning device;

9640 (b) that the facility may not allow a minor to use a tanning device unless the minor:

- 9641 (i) has a written order from a physician; or
9642 (ii) at each time of use is accompanied at the tanning facility by a parent or legal
9643 guardian who provides written consent authorizing the minor to use the tanning device.
- 9644 (4) It is unlawful for any operator of a tanning facility to allow a minor to use a tanning
9645 device unless:
- 9646 (a) the minor has a written order from a physician as defined in Section 58-67-102, to
9647 use a tanning device as a medical treatment; or
- 9648 (b) (i) the minor's parent or legal guardian appears in person at the tanning facility each
9649 time that the minor uses a tanning device, except that the minor's parent or legal guardian is not
9650 required to remain at the facility for the duration of the use; and
- 9651 (ii) the minor's parent or legal guardian signs the consent form required in Subsection
9652 (5).
- 9653 (5) The written consent required by Subsection (4) shall be signed and dated each time
9654 the minor uses a tanning device at the facility, and shall include at least:
- 9655 (a) information concerning the health risks associated with the use of a tanning device;
9656 and
- 9657 (b) a statement that:
- 9658 (i) the parent or legal guardian of the minor has read and understood the warnings
9659 given by the tanning facility, and consents to the minor's use of a tanning device; and
- 9660 (ii) the parent or legal guardian agrees that the minor will use protective eye wear.
- 9661 (6) The department shall adopt administrative rules in accordance with Title 63G,
9662 Chapter 3, Utah Administrative Rulemaking Act, specifying:
- 9663 (a) minimum requirements a tanning facility shall satisfy to obtain a permit under
9664 Subsection (2);
- 9665 (b) the written information concerning health risks a facility should include in the
9666 posted signs required by Subsection (3) and in the consent form required by Subsection (5);
- 9667 (c) procedures a tanning facility shall implement to ensure a minor and the minor's

9668 parent or legal guardian comply with Subsections (4) and (5), including use of a statewide
9669 uniform form:

9670 (i) for a parent or legal guardian to certify and give consent under Subsection (5); and

9671 (ii) that clearly identifies the department's seal or other means to indicate that the form
9672 is an official form of the department; and

9673 (d) the size, placement, and content of the sign a tanning facility must post under
9674 Subsection (2).

9675 (7) (a) A violation of this section:

9676 (i) is an infraction; and

9677 (ii) may result in the revocation of a permit to do business as a tanning facility.

9678 (b) If a person misrepresents to a tanning facility that the person is 18 years ~~[of age]~~ old
9679 or older, the person is guilty of an infraction.

9680 (8) This section ~~[supercedes]~~ supersedes any ordinance enacted by the governing body
9681 of a political subdivision that:

9682 (a) imposes restrictions on access to a tanning device by a person younger than ~~[age]~~
9683 18 years old that is not essentially identical to the provisions of this section; or

9684 (b) that require the posting of warning signs at the tanning facility that are not
9685 essentially identical to the provisions of this section.

9686 Section 301. Section **26B-7-408**, which is renumbered from Section 26-31-201 is
9687 renumbered and amended to read:

9688 ~~[26-31-201]~~. **26B-7-408. Procurement and use of a blood product is a**
9689 **service and not a sale -- Blood donation by a minor.**

9690 (1) As used in this section:

9691 (a) "Blood" means human blood.

9692 (b) "Blood product" includes:

9693 (i) whole blood;

9694 (ii) blood plasma;

9695 (iii) a blood derivative;

9696 (iv) blood platelets; and

9697 (v) blood clotting agents.

9698 (2) The following are considered to be the rendition of a service by each participant
9699 and are not considered to be a sale:

9700 [(1)] (a) the procurement, processing, distribution, or use of a blood product for the
9701 purpose of injecting or transfusing the blood product into the human body; and

9702 [(2)] (b) the process of injecting or transfusing a blood product.

9703 (3) A minor who is at least 16 years old may donate blood to a voluntary,
9704 noncompensatory blood donation program if a parent or legal guardian of the minor consents to
9705 the donation.

9706 Section 302. Section **26B-7-409**, which is renumbered from Section 26-51-201 is
9707 renumbered and amended to read:

9708 ~~[26-51-201].~~ **26B-7-409. Scientific standards for methamphetamine**
9709 **decontamination -- Public education concerning methamphetamine contamination.**

9710 (1) The department shall make rules adopting scientifically-based standards for
9711 methamphetamine decontamination.

9712 (2) A local health department, as defined in Title 26A, Local Health Authorities, shall
9713 follow rules made by the department under Subsection (1) in administering Title 19, Chapter 6,
9714 Part 9, Illegal Drug Operations Site Reporting and Decontamination Act.

9715 (3) The department shall conduct a public education campaign to inform the public
9716 about potential health risks of methamphetamine contamination.

9717 Section 303. Section **26B-7-410**, which is renumbered from Section 26-15a-104 is
9718 renumbered and amended to read:

9719 ~~[26-15a-104].~~ **26B-7-410. Food service establishment requirements --**
9720 **Enforcement -- Right of appeal -- Rulemaking -- Enforcement by local health**
9721 **departments.**

9722 (1) Each food service establishment in the state shall be managed by at least one
9723 full-time certified food safety manager at each establishment site, who need not be present at
9724 the establishment site during all its hours of operation.

9725 (2) Within 60 days of the termination of a certified food safety manager's employment
9726 that results in the food service establishment no longer being in compliance with Subsection
9727 (1), the food service establishment shall:

9728 (a) employ a new certified food safety manager; or

9729 (b) designate another employee to become the establishment's certified food safety
9730 manager who shall commence a department-approved food safety manager training course.

9731 (3) Compliance with the 60-day time period provided in Subsection (2) may be
9732 extended by the local health department for reasonable cause, as determined by the department
9733 by rule.

9734 (4) (a) The local health department may determine whether a food service
9735 establishment is in compliance with this section by visiting the establishment during regular
9736 business hours and requesting information and documentation about the employment of a
9737 certified food safety manager.

9738 (b) If a violation of this section is identified, the local health department shall propose
9739 remedial action to bring the food service establishment into compliance.

9740 (c) (i) A food service establishment receiving notice of a violation and proposed
9741 remedial action from a local health department may appeal the notice of violation and proposed
9742 remedial action pursuant to procedures established by the local health department, which shall
9743 be essentially consistent with the provisions of Title 63G, Chapter 4, Administrative
9744 Procedures Act.

9745 (ii) Notwithstanding the provisions of Section [63G-4-402](#), an appeal of a local health
9746 department decision [~~to a district court~~] shall be conducted as an original, independent
9747 proceeding, and not as a review of the proceedings conducted by the local health department.

9748 (iii) The [~~district~~] court shall give no deference to the findings or conclusions of the

9749 local health department.

9750 (5) (a) The department shall establish by rule made in accordance with Title 63G,

9751 Chapter 3, Utah Administrative Rulemaking Act:

9752 (i) a definition of "potentially hazardous foods" for purposes of this section and Section
9753 26B-7-401; and

9754 (ii) any provisions necessary to implement this section.

9755 (b) The local health department with jurisdiction over the geographic area in which a
9756 food service establishment is located shall enforce the provisions of this section.

9757 Section 304. Section **26B-7-411**, which is renumbered from Section 26-15a-105 is
9758 renumbered and amended to read:

9759 ~~[26-15a-105].~~ **26B-7-411. Exemptions to food service establishment**
9760 **requirements.**

9761 (1) The following are not subject to the provisions of Section ~~[26-15a-104]~~ 26B-7-410:

9762 (a) special events sponsored by municipal or nonprofit civic organizations, including
9763 food booths at school sporting events and little league athletic events and church functions;

9764 (b) temporary event food services approved by a local health department;

9765 (c) vendors and other food service establishments that serve only commercially
9766 prepackaged foods and beverages as defined by the department by rule;

9767 (d) private homes not used as a commercial food service establishment;

9768 (e) health care facilities licensed under Chapter ~~[21]~~ 2, Part 2, Health Care Facility
9769 Licensing and Inspection ~~[Act]~~;

9770 (f) bed and breakfast establishments at which the only meal served is a continental
9771 breakfast as defined by the department by rule;

9772 (g) residential child care providers;

9773 (h) child care providers and programs licensed under ~~[Chapter 39, Utah Child Care~~
9774 ~~Licensing Act]~~ Chapter 2, Part 4, Child Care Licensing;

9775 (i) back country food service establishments;

9776 (j) an event that is sponsored by a charitable organization, if, at the event, the
9777 organization:

9778 (i) provides food to a disadvantaged group free of charge; and

9779 (ii) complies with rules established by the department under Subsection (3); and

9780 (k) a lowest risk or permitted food establishment category determined by a risk
9781 assessment evaluation established by the department by administrative rule adopted in
9782 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

9783 (2) Nothing in this section may be construed as exempting a food service establishment
9784 described in Subsection (1) from any other applicable food safety laws of this state.

9785 (3) The department may establish additional requirements, in accordance with Title
9786 63G, Chapter 3, Utah Administrative Rulemaking Act, for charitable organizations providing
9787 food for free under Subsection (1)(j).

9788 Section 305. Section **26B-7-412**, which is renumbered from Section 26-15a-106 is
9789 renumbered and amended to read:

9790 ~~[26-15a-106].~~ **26B-7-412. Certified food safety manager.**

9791 (1) Before a person may manage a food service establishment as a certified food safety
9792 manager, that person shall submit documentation in the format prescribed by the department to
9793 the appropriate local health department indicating a passing score on a department-approved
9794 examination.

9795 (2) To continue to manage a food service establishment, a certified food safety
9796 manager shall:

9797 (a) successfully complete, every three years, renewal requirements established by
9798 department rule which are consistent with original certification requirements; and

9799 (b) submit documentation in the format prescribed by the department within 30 days of
9800 the completion of renewal requirements to the appropriate local health department.

9801 (3) A local health department may deny, revoke, or suspend the authority of a certified
9802 food safety manager to manage a food service establishment or require the completion of

9803 additional food safety training courses for any one of the following reasons:

9804 (a) submitting information required under Subsection (1) or (2) that is false,
9805 incomplete, or misleading;

9806 (b) repeated violations of department or local health department food safety rules; or

9807 (c) operating a food service establishment in a way that causes or creates a health
9808 hazard or otherwise threatens the public health, safety, or welfare.

9809 (4) A determination of a local health department made pursuant to Subsection (3) may
9810 be appealed by a certified food safety manager in the same manner provided for in Subsection
9811 ~~[26-15a-104]~~ [26B-7-410](#)(4).

9812 (5) No person may use the title "certified food safety manager," or any other similar
9813 title, unless the person has satisfied the requirements of this ~~[chapter]~~ section.

9814 (6) A local health department:

9815 (a) may not charge a fee to accept or process the documentation described in
9816 Subsections (1) and (2);

9817 (b) shall accept photocopies or electronic copies of the documentation described in
9818 Subsections (1) and (2); and

9819 (c) shall allow an individual to submit the documentation described in Subsections (1)
9820 and (2) by mail, email, or in person.

9821 (7) Certified food safety managers shall:

9822 (a) establish and monitor compliance with practices and procedures in the food service
9823 establishments where they are employed to maintain compliance with department and local
9824 health department food safety rules; and

9825 (b) perform such other duties that may be necessary to ensure food safety in the food
9826 service establishments where they are employed.

9827 (8) (a) The department shall establish by rule made in accordance with Title 63G,
9828 Chapter 3, Utah Administrative Rulemaking Act:

9829 (i) statewide, uniform standards for certified food safety managers;

9830 (ii) criteria for food safety certification examinations; and

9831 (iii) any provisions necessary to implement this section.

9832 (b) The department shall approve food safety certification examinations in accordance
9833 with this section.

9834 (c) The local health department with jurisdiction over the geographic area in which a
9835 food service establishment is located shall enforce the provisions of this section.

9836 Section 306. Section **26B-7-413**, which is renumbered from Section 26-15-5 is
9837 renumbered and amended to read:

9838 ~~[26-15-5].~~ **26B-7-413. Requirements for food handlers -- Training program**
9839 **and testing requirements for permit -- Rulemaking -- Exceptions.**

9840 (1) As used in this section:

9841 (a) "Approved food handler training program" means a training program described by
9842 this section and approved by the department.

9843 (b) "Food handler" means a person who works with unpackaged food, food equipment
9844 or utensils, or food-contact surfaces for a food service establishment.

9845 (c) "Food handler permit" means a permit issued by a local health department to allow
9846 a person to work as a food handler.

9847 ~~[(d) "Food service establishment" has the same meaning as provided in Section~~
9848 ~~26-15a-102.]~~

9849 ~~[(e)]~~ (d) "Instructor" means an individual who is qualified to instruct an approved food
9850 handler program on behalf of a provider.

9851 ~~[(f)]~~ (e) "Provider" means a person or entity that provides an approved food handler
9852 training program.

9853 (2) A person may not work as a food handler for a food service establishment unless
9854 the person:

9855 (a) successfully completes an approved food handler training program within 14 days
9856 after the day on which the person begins employment that includes food handler services; and

- 9857 (b) obtains a food handler permit within 30 days after the day on which the person
9858 begins employment that includes food handler services.
- 9859 (3) An approved food handler training program shall include:
- 9860 (a) at least 75 minutes of training time;
- 9861 (b) an exam, which requires a passing score of 75% and, except as provided in
9862 Subsection (11), consists of:
- 9863 (i) 40 multiple-choice questions developed by the department, in consultation with
9864 local health departments; and
- 9865 (ii) four content sections designated by rule of the department with 10 randomly
9866 selected questions for each content section; and
- 9867 (c) upon completion, the awarding of a certificate of completion that is valid with any
9868 local health department in the state for 30 days after the day on which the certificate is issued:
- 9869 (i) to a student who:
- 9870 (A) completes the training; and
- 9871 (B) passes the exam described in this Subsection (3) or an exam approved by the
9872 department in accordance with Subsection (11); and
- 9873 (ii) which certificate of completion:
- 9874 (A) includes student identifying information determined by department rule; and
- 9875 (B) is delivered by mail or electronic means.
- 9876 (4) (a) A person may obtain a food handler permit by:
- 9877 (i) providing a valid certificate of completion of an approved food handler training
9878 program and an application, approved by the local health department, to a local health
9879 department; and
- 9880 (ii) paying a food handler permit fee to the local health department.
- 9881 (b) (i) A local health department may charge a food handler permit fee that is
9882 reasonable and that reflects the cost of managing the food safety program.
- 9883 (ii) The department shall establish by rule the maximum amount a local health

9884 department may charge for the fee described in Subsection (4)(b)(i).

9885 (5) A person working as a food handler for a food service establishment shall obtain a
9886 food handler permit:

9887 (a) before handling any food;

9888 (b) within 30 days of initial employment with a food service establishment; and

9889 (c) within seven days of the expiration of an existing food handler permit.

9890 (6) (a) A person who holds a valid food handler permit under this section may serve as
9891 a food handler throughout the state without restriction.

9892 (b) A food handler permit granted after June 30, 2013, is valid for three years from the
9893 date of issuance.

9894 (7) An individual may not serve as an instructor, unless the provider includes the
9895 individual on the provider's list of instructors.

9896 (8) The department, in consultation with local health departments, shall:

9897 (a) approve the content of an approved food handler training program required under
9898 Subsection (3);

9899 (b) approve, as qualified, each provider; and

9900 (c) in accordance with applicable rules made under Subsection (12), provide a means to
9901 authenticate:

9902 (i) documents used in an approved food handler training program;

9903 (ii) the identity of an approved instructor; and

9904 (iii) an approved provider.

9905 (9) An approved food handler training program shall:

9906 (a) provide basic instruction on the Centers for Disease Control and Prevention's top
9907 five foodborne illness risk factors, including:

9908 (i) improper hot and cold holding temperatures of potentially hazardous food;

9909 (ii) improper cooking temperatures of food;

9910 (iii) dirty or contaminated utensils and equipment;

- 9911 (iv) poor employee health and hygiene; and
9912 (v) food from unsafe sources;
9913 (b) be offered through:
9914 (i) a trainer-led class;
9915 (ii) the Internet; or
9916 (iii) a combination of a trainer-led class and the Internet;
9917 (c) maintain a system to verify a certificate of completion of an approved food handler
9918 training program issued under Subsection (3) to the department, a local health department, and
9919 a food service establishment; and
9920 (d) provide to the department unrestricted access to classroom training sessions and
9921 online course materials at any time for audit purposes.
9922 (10) (a) A provider that provides an approved food handler training program may
9923 charge a reasonable fee.
9924 (b) If a person or an entity is not approved by the department to provide an approved
9925 food handler training program, the person or entity may not represent, in connection with the
9926 person's or entity's name or business, including in advertising, that the person or entity is a
9927 provider of an approved food handler training program or otherwise represent that a program
9928 offered by the person or entity will qualify an individual to work as a food handler in the state.
9929 (11) (a) Subject to the approval of the department every three years, a provider may use
9930 an exam that consists of questions that do not conform with the provisions of Subsection
9931 (3)(b), if:
9932 (i) the provider complies with the provisions of this Subsection (11);
9933 (ii) the provider pays a fee every three years to the department, which fee shall be
9934 determined by the department and shall reflect the cost of the review of the alternative test
9935 questions; and
9936 (iii) an independent instructional design and testing expert provides a written report to
9937 the department containing a positive recommendation based on the expert's analysis as

9938 described in Subsection 11(b).

9939 (b) (i) A provider may request approval of a different bank of test questions other than
9940 the questions developed under Subsection (3) by submitting to the department a proposed bank
9941 of at least 200 test questions organized by learning objective in accordance with Subsection
9942 (9)(a).

9943 (ii) A provider proposing a different bank of test questions under this Subsection (11)
9944 shall contract with an independent instructional design and testing expert approved by the
9945 department at the provider's expense to analyze the provider's bank of test questions to ensure
9946 the questions:

9947 (A) effectively measure the applicant's knowledge of the required learning objectives;
9948 and

9949 (B) meet the appropriate testing standards for question structure.

9950 (c) If the department provides written notice to a provider that any test question of the
9951 provider's approved exam under this Subsection (11) inadequately tests the required learning
9952 objectives, the provider shall make required changes to the question within 30 days after the
9953 day on which written notice is received by the provider.

9954 (d) A food handler exam offered by a provider may be:

9955 (i) a written exam;

9956 (ii) an online exam; or

9957 (iii) an oral exam, if circumstances require, including when an applicant's language or
9958 reading abilities interfere with taking a written or online exam.

9959 (e) A provider shall routinely rotate test questions from the test question bank, change
9960 the order of test questions in tests, and change the order of multiple-choice answers in test
9961 questions to discourage cheating.

9962 (12) (a) When exercising rulemaking authority under this section the department shall
9963 comply with the requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

9964 (b) The department shall, by rule, establish requirements designed to inhibit fraud for

9965 an approved food handler training program described in this section.

9966 (c) The requirements described in Subsection (12)(b) may include requirements to
9967 ensure that:

9968 (i) an individual does not attempt to complete the program or exam in another
9969 individual's place;

9970 (ii) an individual taking the approved food handler training program is focused on
9971 training material and actively engaged throughout the training period;

9972 (iii) if the individual is unable to participate online because of technical difficulties, an
9973 approved food handler training program provides technical support, such as requiring a
9974 telephone number, email, or other method of communication to allow an individual taking the
9975 online course or test to receive assistance;

9976 (iv) an approved food handler training program provider maintains a system to reduce
9977 fraud as to who completes an approved food handler training program, such as requiring a
9978 distinct online certificate with information printed on the certificate that identifies a person
9979 taking an online course or exam, or requiring measures to inhibit duplication of a certificate of
9980 completion or of a food handler permit;

9981 (v) the department may audit an approved food handler training program;

9982 (vi) an individual taking an online course or certification exam has the opportunity to
9983 provide an evaluation of the online course or test;

9984 (vii) an approved food handler training program provider track the Internet protocol
9985 address or similar electronic location of an individual who takes an online course or
9986 certification exam;

9987 (viii) an individual who takes an online course or exam uses an electronic signature; or

9988 (ix) if the approved food handler training program provider learns that a certificate of
9989 completion does not accurately reflect the identity of the individual who took the online course
9990 or certification exam, an approved food handler training program provider invalidates the
9991 certificate of completion.

9992 (13) An instructor is not required to satisfy any additional training requirements if the
 9993 instructor:

9994 (a) is an educator in a public or private school; and

9995 (b) teaches a food program that includes food safety in a public or private school in
 9996 which the instructor is an educator.

9997 (14) (a) This section does not apply to an individual who handles food:

9998 (i) at an event sponsored by a charitable organization where the organization provides
 9999 food to a disadvantaged group free of charge; and

10000 (ii) in compliance with rules established by the department under Subsection (2).

10001 (b) The department may establish additional requirements, in accordance with Title
 10002 63G, Chapter 3, Utah Administrative Rulemaking Act, for individuals handling food at an
 10003 event sponsored by a charitable organization under Subsection (14)(a).

10004 Section 307. Section **26B-7-414**, which is renumbered from Section 26-15-9 is
 10005 renumbered and amended to read:

10006 ~~[26-15-9].~~ **26B-7-414. Impoundment of adulterated food products authorized.**

10007 The department and local health departments may impound any food products found in
 10008 places where food or drink is handled, sold, or served to the public that is intended for but
 10009 found to be adulterated and unfit for human consumption; and, upon five ~~[days]~~ days' notice
 10010 and reasonable opportunity for a hearing to the interested parties, to condemn and destroy the
 10011 same if deemed necessary for the protection of the public health.

10012 Section 308. Section **26B-7-415**, which is renumbered from Section 26-15b-105 is
 10013 renumbered and amended to read:

10014 ~~[26-15b-105].~~ **26B-7-415. Agritourism food establishment permits --**
 10015 **Permit requirements -- Inspections.**

10016 (1) As used in this section, "operator" means a person who owns, manages, or controls,
 10017 or who has the duty to manage or control, the farm.

10018 (2) (a) A farm may not operate an agritourism food establishment unless the farm

10019 obtains a permit from the local health department that has jurisdiction over the area in which
10020 the farm is located.

10021 (b) In accordance with Section 26A-1-121, and subject to the restrictions of this
10022 section, a local health department shall make standards and regulations relating to the
10023 permitting of an agritourism food establishment.

10024 (c) In accordance with Section 26A-1-114, a local health department shall impose a fee
10025 for an agritourism food establishment permit in an amount that reimburses the local health
10026 department for the cost of regulating the agritourism food establishment.

10027 (3) (a) A local health department with jurisdiction over an area in which a farm is
10028 located may grant an agritourism food establishment permit to the farm.

10029 (b) Nothing in this section prevents a local health department from revoking an
10030 agritourism food establishment permit issued by the local health department if the operation of
10031 the agritourism food establishment violates the terms of the permit or the requirements of this
10032 section.

10033 ~~[(+)]~~ (4) A farm may qualify for an agritourism food establishment permit if:

10034 (a) poultry products that are served at the agritourism food establishment are
10035 slaughtered and processed in compliance with the Poultry Products Inspection Act, 21 U.S.C.
10036 Sec. 451 et seq., and the applicable regulations issued pursuant to that act;

10037 (b) meat not described in Subsection ~~[(+)]~~ (4)(a) that is served at the agritourism food
10038 establishment is slaughtered and processed in compliance with the Federal Meat Inspection
10039 Act, 21 U.S.C. Sec. 601 et seq., and the applicable regulations issued pursuant to that act;

10040 (c) a kitchen facility used to prepare food for the agritourism food establishment meets
10041 the requirements established by the department;

10042 (d) the farm operates the agritourism food establishment for no more than 14
10043 consecutive days at a time; and

10044 (e) the farm complies with the requirements of this section.

10045 ~~[(2)]~~ (5) The department shall, in accordance with Title 63G, Chapter 3, Utah

10046 Administrative Rulemaking Act, make rules regarding sanitation, equipment, and maintenance
10047 requirements for agritourism food establishments.

10048 ~~[(3)]~~ (6) A local health department shall:

10049 (a) ensure compliance with the rules described in Subsection ~~[(2)]~~ (5) when inspecting
10050 a kitchen facility;

10051 (b) notwithstanding Section [26A-1-113](#), inspect the kitchen facility of a farm that
10052 requests an agritourism food establishment permit only:

10053 (i) for an initial inspection, no more than one week before the agritourism food
10054 establishment is scheduled to begin operation;

10055 (ii) for an unscheduled inspection:

10056 (A) of an event scheduled to last no more than three days if the local health department
10057 conducts the inspection within three days before or after the day on which the agritourism food
10058 establishment is scheduled to begin operation; or

10059 (B) of an event scheduled to last longer than three days if the local health department
10060 conducts the inspection within three days before or after the day on which the agritourism food
10061 establishment is scheduled to begin operation, or conducts the inspection during operating
10062 hours of the agritourism food establishment; or

10063 (iii) for subsequent inspections if:

10064 (A) the local health department provides the operator with reasonable advanced notice
10065 about an inspection; or

10066 (B) the local health department has a valid reason to suspect that the agritourism food
10067 establishment is the source of an adulterated food or of an outbreak of illness caused by a
10068 contaminated food; and

10069 (c) document the reason for any inspection after the permitting inspection, keep a copy
10070 of that documentation on file with the agritourism food establishment's permit, and provide a
10071 copy of that documentation to the operator.

10072 ~~[(4)]~~ (7) An agritourism food establishment shall:

- 10073 (a) take steps to avoid any potential contamination to:
- 10074 (i) food;
- 10075 (ii) equipment;
- 10076 (iii) utensils; or
- 10077 (iv) unwrapped single-service and single-use articles; and
- 10078 (b) prevent an individual from entering the food preparation area while food is being
- 10079 prepared if the individual is known to be suffering from:
- 10080 (i) symptoms associated with acute gastrointestinal illness; or
- 10081 (ii) a communicable disease that is transmissible through food.
- 10082 [~~(5)~~] (8) When making the rules described in Subsection [~~(2)~~] (5), the department may
- 10083 not make rules regarding:
- 10084 (a) hand washing facilities, except to require that a hand washing station supplied with
- 10085 warm water, soap, and disposable hand towels is conveniently located;
- 10086 (b) kitchen sinks, kitchen sink compartments, and dish sanitation, except to require that
- 10087 the kitchen sink has hot and cold water, a sanitizing agent, is fully operational, and that dishes
- 10088 are sanitized between each use;
- 10089 (c) the individuals allowed access to the food preparation areas, food storage, and
- 10090 washing areas, except during food preparation;
- 10091 (d) display guards, covers, or containers for display foods, except to require that any
- 10092 food on display that is not protected from the direct line of a consumer's mouth by an effective
- 10093 means is not served or sold to any subsequent consumer;
- 10094 (e) outdoor display and sale of food, except to require that food is maintained at proper
- 10095 holding temperatures;
- 10096 (f) reuse by an individual of drinking cups and tableware for multiple portions;
- 10097 (g) utensils and equipment, except to require that utensils and equipment used in the
- 10098 home kitchen:
- 10099 (i) retain their characteristic qualities under normal use conditions;

- 10100 (ii) are properly sanitized after use; and
- 10101 (iii) are maintained in a sanitary manner between uses;
- 10102 (h) food contact surfaces, except to require that food contact surfaces are smooth,
- 10103 easily cleanable, in good repair, and properly sanitized between tasks;
- 10104 (i) non-food contact surfaces, if those surfaces are made of materials ordinarily used in
- 10105 residential settings, except to require that those surfaces are kept clean from the accumulation
- 10106 of residue and debris;
- 10107 (j) clean-in-place equipment, except to require that the equipment is cleaned and
- 10108 sanitized between uses;
- 10109 (k) ventilation, except to require that gases, odors, steam, heat, grease, vapors, and
- 10110 smoke are able to escape the kitchen;
- 10111 (l) fixed temperature measuring devices or product mimicking sensors for the holding
- 10112 equipment for [~~time/temperature control~~] time or temperature controlled food, except to require
- 10113 non-fixed temperature measuring devices for hot and cold holding of food during storage,
- 10114 serving, and cooling;
- 10115 (m) fixed floor-mounted and table-mounted equipment except to require that
- 10116 floor-mounted and table-mounted equipment be in good repair and sanitized between uses;
- 10117 (n) dedicated laundry facilities, except to require that linens used for the agritourism
- 10118 food establishment are stored and laundered separately from household laundry and that soiled
- 10119 laundry is stored to prevent contamination of food and equipment;
- 10120 (o) water, plumbing, drainage, and waste, except to require that sinks be supplied with
- 10121 hot water;
- 10122 (p) the number of and path of access to toilet facilities, except to require that toilet
- 10123 facilities are equipped with proper handwashing stations;
- 10124 (q) lighting, except to require that food preparation areas are well lit by natural or
- 10125 artificial light whenever food is being prepared;
- 10126 (r) designated dressing areas and storage facilities, except to require that items not

10127 ordinarily found in a home kitchen are placed or stored away from food preparation areas, that
10128 dressing takes place outside of the kitchen facility, and that food items are stored in a manner
10129 that does not allow for contamination;

10130 (s) the presence and handling of animals, except to require that all animals are kept
10131 outside of food preparation and service areas during food service and food preparation;

10132 (t) food storage, floor, wall, ceiling, and toilet surfaces, except to require that surfaces
10133 are smooth, of durable construction, easily cleanable, and kept clean and free of debris;

10134 (u) kitchen facilities open to living areas, except to require that food is only prepared,
10135 handled, or stored in kitchen and food storage areas;

10136 (v) submission of plans and specifications before construction or remodel of a kitchen
10137 facility;

10138 (w) the number and type of [~~time/temperature~~] time or temperature controlled food
10139 offered for sale;

10140 (x) approved food sources, except those required by 9 C.F.R. Sec. 303.1;

10141 (y) the use of an open air barbeque, grill, or outdoor wood-burning oven; or

10142 (z) food safety certification, except any individual who is involved in the preparation,
10143 storage, or service of food in the agritourism food establishment shall hold a food handler
10144 permit as defined in Section [~~26-15-5~~] 26B-7-413.

10145 [~~(6)~~] (9) An operator applying for an agritourism food establishment permit shall
10146 provide to the local health department:

10147 (a) written consent to enter the premises where food is prepared, cooked, stored, or
10148 harvested for the agritourism food establishment; and

10149 (b) written standard operating procedures that include:

10150 (i) all food that will be stored, handled, and prepared;

10151 (ii) the proposed procedures and methods of food preparation and handling;

10152 (iii) procedures, methods, and schedules for cleaning utensils and equipment;

10153 (iv) procedures and methods for the disposal of refuse; and

10154 (v) a plan for maintaining [~~time/temperature~~] time or temperature controlled food at the
 10155 appropriate temperatures for each [~~time/temperature~~] time or temperature controlled food.

10156 [~~(7)~~] (10) In addition to a fee charged under [~~Section 26-15b-103~~] Subsection (2), if the
 10157 local health department is required to inspect the farm as a source of an adulterated food or an
 10158 outbreak of illness caused by a contaminated food and finds, as a result of that inspection, that
 10159 the farm has produced an adulterated food or was the source of an outbreak of illness caused by
 10160 a contaminated food, the local health department may charge and collect from the farm a fee
 10161 for that inspection.

10162 [~~(8)~~] (11) An agritourism food establishment permit:

- 10163 (a) is nontransferable;
- 10164 (b) is renewable on an annual basis;
- 10165 (c) is restricted to the location listed on the permit; and
- 10166 (d) shall provide the operator the opportunity to update the food types and products
 10167 handled without requiring the operator to renew the permit.

10168 [~~(9)~~] (12) This section does not prohibit an operator from applying for a different type
 10169 of food event permit from a local health department.

10170 Section 309. Section **26B-7-416**, which is renumbered from Section 26-15c-105 is
 10171 renumbered and amended to read:

10172 [~~26-15c-105~~]. **26B-7-416. Microenterprise home kitchen permits -- Fees --**
 10173 **Safety and health inspections -- Permit requirements.**

10174 (1) As used in this section, "operator" means an individual who resides in the private
 10175 home and who manages or controls the microenterprise home kitchen.

10176 (2) (a) An operator may not operate a microenterprise home kitchen unless the operator
 10177 obtains a permit from the local health department that has jurisdiction over the area in which
 10178 the microenterprise home kitchen is located.

10179 (b) In accordance with Section **26A-1-121**, and subject to the restrictions of this
 10180 section, the department shall make standards and regulations relating to the permitting of a

10181 microenterprise home kitchen.

10182 (c) In accordance with Section 26A-1-114, a local health department shall impose a fee
10183 for a microenterprise home kitchen permit in an amount that reimburses the local health
10184 department for the cost of regulating the microenterprise home kitchen.

10185 (3) (a) A local health department with jurisdiction over an area in which a
10186 microenterprise home kitchen is located may grant a microenterprise home kitchen permit to
10187 the operator.

10188 (b) Nothing in this section prevents a local health department from revoking a
10189 microenterprise home kitchen permit issued by the local health department if the operation of
10190 the microenterprise home kitchen violates the terms of the permit or this section.

10191 ~~[(4)]~~ (4) An operator may qualify for a microenterprise home kitchen permit if:

10192 (a) food that is served at the microenterprise home kitchen is processed in compliance
10193 with state and federal regulations;

10194 (b) a kitchen facility used to prepare food for the microenterprise home kitchen meets
10195 the requirements established by the department;

10196 (c) the microenterprise home kitchen operates only during the hours approved in the
10197 microenterprise home kitchen permit; and

10198 (d) the microenterprise home kitchen complies with the requirements of this section.

10199 ~~[(2)]~~ (5) The department shall, in accordance with Title 63G, Chapter 3, Utah
10200 Administrative Rulemaking Act, make rules regarding sanitation, equipment, and maintenance
10201 requirements for microenterprise home kitchens.

10202 ~~[(3)]~~ (6) A local health department shall:

10203 (a) ensure compliance with the rules described in Subsection ~~[(2)]~~ (5) when inspecting
10204 a microenterprise home kitchen;

10205 (b) notwithstanding Section 26A-1-113, inspect a microenterprise home kitchen that
10206 requests a microenterprise home kitchen permit only:

10207 (i) for an initial inspection, no more than one week before the microenterprise home

- 10208 kitchen is scheduled to begin operation;
- 10209 (ii) for an unscheduled inspection, if the local health department conducts the
- 10210 inspection:
- 10211 (A) within three days before or after the day on which the microenterprise home
- 10212 kitchen is scheduled to begin operation; or
- 10213 (B) during operating hours of the microenterprise home kitchen; or
- 10214 (iii) for subsequent inspections if:
- 10215 (A) the local health department provides the operator with reasonable advanced notice
- 10216 of the inspection; or
- 10217 (B) the local health department has a valid reason to suspect that the microenterprise
- 10218 home kitchen is the source of an adulterated food or of an outbreak of illness caused by a
- 10219 contaminated food; and
- 10220 (c) document the reason for any inspection after the initial inspection, keep a copy of
- 10221 that documentation on file with the microenterprise home kitchen's permit, and provide a copy
- 10222 of that documentation to the operator.
- 10223 ~~[(4)]~~ (7) A microenterprise home kitchen shall:
- 10224 (a) take steps to avoid any potential contamination to:
- 10225 (i) food;
- 10226 (ii) equipment;
- 10227 (iii) utensils; or
- 10228 (iv) unwrapped single-service and single-use articles;
- 10229 (b) prevent an individual from entering the food preparation area while food is being
- 10230 prepared if the individual is known to be suffering from:
- 10231 (i) symptoms associated with acute gastrointestinal illness; or
- 10232 (ii) a communicable disease that is transmissible through food; and
- 10233 (c) comply with the following requirements:
- 10234 (i) time or temperature control food shall be prepared, cooked, and served on the same

- 10235 day;
- 10236 (ii) food that is sold or provided to a customer may not be consumed onsite at the
- 10237 microenterprise home kitchen operation;
- 10238 (iii) food that is sold or provided to a customer shall be picked up by the consumer or
- 10239 delivered within a safe time period based on holding equipment capacity;
- 10240 (iv) food preparation may not involve processes that require a HACCP plan, or the
- 10241 production, service, or sale of raw milk or raw milk products;
- 10242 (v) molluscan shellfish may not be served or sold;
- 10243 (vi) the operator may only sell or provide food directly to consumers and may not sell
- 10244 or provide food to any wholesaler or retailer; and
- 10245 (vii) the operator shall provide the consumer with a notification that, while a permit
- 10246 has been issued by the local health department, the kitchen may not meet all of the
- 10247 requirements of a commercial retail food establishment.
- 10248 [~~(5)~~] (8) When making the rules described in Subsection [~~(2)~~] (5), the department may
- 10249 not make rules regarding:
- 10250 (a) hand washing facilities, except to require that a hand washing station supplied with
- 10251 warm water, soap, and disposable hand towels is conveniently located in food preparation, food
- 10252 dispensing, and warewashing areas;
- 10253 (b) kitchen sinks, kitchen sink compartments, and dish sanitation, except to require that
- 10254 the kitchen sink has hot and cold water, a sanitizing agent, is fully operational, and that dishes
- 10255 are sanitized between each use;
- 10256 (c) the individuals allowed access to the food preparation areas, food storage areas, and
- 10257 washing areas, except during food preparation;
- 10258 (d) display guards, covers, or containers for display foods, except to require that
- 10259 ready-to-eat food is protected from contamination during storage, preparation, handling,
- 10260 transport, and display;
- 10261 (e) outdoor display and sale of food, except to require that food is maintained at proper

- 10262 holding temperatures;
- 10263 (f) utensils and equipment, except to require that utensils and equipment used in the
- 10264 home kitchen:
 - 10265 (i) retain their characteristic qualities under normal use conditions;
 - 10266 (ii) are properly sanitized after use; and
 - 10267 (iii) are maintained in a sanitary manner between uses;
- 10268 (g) food contact surfaces, except to require that food contact surfaces are smooth,
- 10269 easily cleanable, in good repair, and properly sanitized between tasks;
- 10270 (h) non-food contact surfaces, if those surfaces are made of materials ordinarily used in
- 10271 residential settings, except to require that those surfaces are kept clean from the accumulation
- 10272 of residue and debris;
 - 10273 (i) clean-in-place equipment, except to require that the equipment is cleaned and
 - 10274 sanitized between uses;
 - 10275 (j) ventilation, except to require that gases, odors, steam, heat, grease, vapors, and
 - 10276 smoke are able to escape the kitchen;
 - 10277 (k) fixed temperature measuring devices or product mimicking sensors for the holding
 - 10278 equipment for time or temperature control food, except to require non-fixed temperature
 - 10279 measuring devices for hot and cold holding of food during storage, serving, and cooling;
 - 10280 (l) fixed floor-mounted and table-mounted equipment, except to require that
 - 10281 floor-mounted and table-mounted equipment be in good repair and sanitized between uses;
 - 10282 (m) dedicated laundry facilities, except to require that linens used for the
 - 10283 microenterprise home kitchen are stored and laundered separately from household laundry and
 - 10284 that soiled laundry is stored to prevent contamination of food and equipment;
 - 10285 (n) water, plumbing, drainage, and waste, except to require that:
 - 10286 (i) sinks be supplied with hot and cold potable water from:
 - 10287 (A) an approved public water system as defined in Section [19-4-102](#);
 - 10288 (B) if the local health department with jurisdiction over the microenterprise home

10289 kitchen has regulations regarding the safety of drinking water, a source that meets the local
10290 health department's regulations regarding the safety of drinking water; or
10291 (C) a water source that is tested at least once per month for bacteriologic quality, and at
10292 least once in every three year period for lead and copper; and
10293 (ii) food preparation and service is discontinued in the event of a disruption of potable
10294 water service;
10295 (o) the number of and path of access to toilet facilities, except to require that toilet
10296 facilities are equipped with proper handwashing stations;
10297 (p) lighting, except to require that food preparations are well lit by natural or artificial
10298 light whenever food is being prepared;
10299 (q) designated dressing areas and storage facilities, except to require that items not
10300 ordinarily found in a home kitchen are placed or stored away from food preparation areas, that
10301 dressing takes place outside of the kitchen facility, and that food items are stored in a manner
10302 that does not allow for contamination;
10303 (r) the presence and handling of animals, except to require that all animals are kept
10304 outside of food preparation and service areas;
10305 (s) food storage, floor, wall, ceiling, and toilet surfaces, except to require that surfaces
10306 are smooth, of durable construction, easily cleanable, and kept clean and free of debris;
10307 (t) kitchen facilities open to living areas, except to require that food is only prepared,
10308 handled, or stored in kitchen and food storage areas;
10309 (u) submission of plans and specifications before construction or remodel of a kitchen
10310 facility;
10311 (v) the number and type of time or temperature controlled food offered for sale, except:
10312 (i) a raw time or temperature controlled food such as raw fish, raw milk, and raw
10313 shellfish;
10314 (ii) any food requiring special processes that would necessitate a HACCP plan; and
10315 (iii) fish from waters of the state;

10316 (w) approved food sources, except to require that:
10317 (i) food in a hermetically sealed container is obtained from a regulated food processing
10318 plant;
10319 (ii) liquid milk and milk products are obtained from sources that comply with Grade A
10320 standards specified by the Department of Agriculture and Food by rule made in accordance
10321 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
10322 (iii) fish for sale or service are commercially and legally caught;
10323 (iv) mushrooms picked in the wild are not offered for sale or service; and
10324 (v) game animals offered for sale or service are raised, slaughtered, and processed
10325 according to rules governing meat and poultry as specified by the Department of Agriculture
10326 and Food by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
10327 Rulemaking Act;
10328 (x) the use of items produced under this ~~[chapter]~~ section; or
10329 (y) the use of an open air barbeque, grill, or outdoor wood-burning oven.
10330 ~~[(6)]~~ (9) An operator applying for a microenterprise home kitchen permit shall provide
10331 to the local health department:
10332 (a) written consent to enter the premises where food is prepared, cooked, stored, or
10333 harvested for the microenterprise home kitchen; and
10334 (b) written standard operating procedures that include:
10335 (i) all food that will be stored, handled, and prepared;
10336 (ii) the proposed procedures and methods of food preparation and handling;
10337 (iii) procedures, methods, and schedules for cleaning utensils and equipment;
10338 (iv) procedures and methods for the disposal of refuse; and
10339 (v) a plan for maintaining time or temperature controlled food at the appropriate
10340 temperatures for each time or temperature controlled food.
10341 ~~[(7)]~~ (10) In addition to a fee charged under ~~[Section 26-15c-103]~~ Subsection (2), if the
10342 local health department is required to inspect the microenterprise home kitchen as a source of

10343 an adulterated food or an outbreak of illness caused by a contaminated food and finds, as a
10344 result of that inspection, that the microenterprise home kitchen has produced an adulterated
10345 food or was the source of an outbreak of illness caused by a contaminated food, the local health
10346 department may charge and collect from the microenterprise home kitchen a fee for that
10347 inspection.

10348 ~~[(8)]~~ (11) A microenterprise home kitchen permit:

10349 (a) is nontransferable;

10350 (b) is renewable on an annual basis;

10351 (c) is restricted to the location and hours listed on the permit;

10352 (d) shall include a statement that reads: "This location is permitted under modified
10353 FDA requirements."; and

10354 (e) shall provide the operator the opportunity to update the food types and products
10355 handled without requiring the operator to renew the permit.

10356 ~~[(9)]~~ (12) This section does not prohibit an operator from applying for a different type
10357 of food event permit from a local health department.

10358 Section 310. Section **26B-7-501**, which is renumbered from Section 26-62-102 is
10359 renumbered and amended to read:

10360 **Part 5. Regulation of Smoking, Tobacco Products, and Nicotine Products**

10361 ~~[26-62-102].~~ **26B-7-501. Definitions.**

10362 As used in this ~~[chapter]~~ part:

10363 (1) "Community location" means the same as that term is defined:

10364 (a) as it relates to a municipality, in Section [10-8-41.6](#); and

10365 (b) as it relates to a county, in Section [17-50-333](#).

10366 (2) "Electronic cigarette" means the same as that term is defined in Section [76-10-101](#).

10367 ~~[(2)]~~ (3) "Electronic cigarette product" means the same as that term is defined in
10368 Section [76-10-101](#).

10369 (4) "Electronic cigarette substance" means the same as that term is defined in Section

10370 [76-10-101.](#)

10371 ~~[(3)]~~ (5) "Employee" means an employee of a tobacco retailer.

10372 ~~[(4)]~~ (6) "Enforcing agency" means the ~~[state Department of Health]~~ department, or

10373 any local health department enforcing the provisions of this ~~[chapter]~~ part.

10374 ~~[(5)]~~ (7) "General tobacco retailer" means a tobacco retailer that is not a retail tobacco

10375 specialty business.

10376 ~~[(6)]~~ (8) "Local health department" means the same as that term is defined in Section

10377 [26A-1-102.](#)

10378 (9) "Manufacture" includes:

10379 (a) to cast, construct, or make electronic cigarettes; or

10380 (b) to blend, make, process, or prepare an electronic cigarette substance.

10381 (10) "Manufacturer sealed electronic cigarette substance" means an electronic cigarette

10382 substance that is sold in a container that:

10383 (a) is prefilled by the electronic cigarette substance manufacturer; and

10384 (b) the electronic cigarette manufacturer does not intend for a consumer to open.

10385 (11) "Manufacturer sealed electronic cigarette product" means:

10386 (a) an electronic cigarette substance or container that the electronic cigarette

10387 manufacturer does not intend for a consumer to open or refill; or

10388 (b) a prefilled electronic cigarette as that term is defined in Section [76-10-101.](#)

10389 (12) "Nicotine" means the same as that term is defined in Section [76-10-101.](#)

10390 ~~[(7)]~~ (13) "Nicotine product" means the same as that term is defined in Section

10391 [76-10-101.](#)

10392 (14) "Non-tobacco shisha" means any product that:

10393 (a) does not contain tobacco or nicotine; and

10394 (b) is smoked or intended to be smoked in a hookah or water pipe.

10395 ~~[(8)]~~ (15) "Owner" means a person holding a 20% ownership interest in the business

10396 that is required to obtain a permit under this ~~[chapter]~~ part.

10397 [~~(9)~~] (16) "Permit" means a tobacco retail permit issued under [~~this chapter~~] Section
10398 26B-7-507.

10399 (17) "Place of public access" means any enclosed indoor place of business, commerce,
10400 banking, financial service, or other service-related activity, whether publicly or privately owned
10401 and whether operated for profit or not, to which persons not employed at the place of public
10402 access have general and regular access or which the public uses, including:

10403 (a) buildings, offices, shops, elevators, or restrooms;

10404 (b) means of transportation or common carrier waiting rooms;

10405 (c) restaurants, cafes, or cafeterias;

10406 (d) taverns as defined in Section 32B-1-102, or cabarets;

10407 (e) shopping malls, retail stores, grocery stores, or arcades;

10408 (f) libraries, theaters, concert halls, museums, art galleries, planetariums, historical
10409 sites, auditoriums, or arenas;

10410 (g) barber shops, hair salons, or laundromats;

10411 (h) sports or fitness facilities;

10412 (i) common areas of nursing homes, hospitals, resorts, hotels, motels, "bed and
10413 breakfast" lodging facilities, and other similar lodging facilities, including the lobbies,
10414 hallways, elevators, restaurants, cafeterias, other designated dining areas, and restrooms of any
10415 of these;

10416 (j) (i) any child care facility or program subject to licensure or certification under this
10417 title, including those operated in private homes, when any child cared for under that license is
10418 present; and

10419 (ii) any child care, other than child care as defined in Section 26B-2-401, that is not
10420 subject to licensure or certification under this title, when any child cared for by the provider,
10421 other than the child of the provider, is present;

10422 (k) public or private elementary or secondary school buildings and educational
10423 facilities or the property on which those facilities are located;

10424 (l) any building owned, rented, leased, or otherwise operated by a social, fraternal, or
10425 religious organization when used solely by the organization members or the members' guests or
10426 families;

10427 (m) any facility rented or leased for private functions from which the general public is
10428 excluded and arrangements for the function are under the control of the function sponsor;

10429 (n) any workplace that is not a place of public access or a publicly owned building or
10430 office but has one or more employees who are not owner-operators of the business;

10431 (o) any area where the proprietor or manager of the area has posted a conspicuous sign
10432 stating "no smoking", "thank you for not smoking", or similar statement; and

10433 (p) a holder of a bar establishment license, as defined in Section [32B-1-102](#).

10434 ~~[(10)]~~ (18) (a) "Proof of age" means:

10435 (i) a valid identification card issued under Title 53, Chapter 3, Part 8, Identification
10436 Card Act;

10437 (ii) a valid identification that:

10438 (A) is substantially similar to an identification card issued under Title 53, Chapter 3,
10439 Part 8, Identification Card Act;

10440 (B) is issued in accordance with the laws of a state other than Utah in which the
10441 identification is issued;

10442 (C) includes date of birth; and

10443 (D) has a picture affixed;

10444 (iii) a valid driver license certificate that is issued under Title 53, Chapter 3, Uniform
10445 Driver License Act, or in accordance with the laws of the state in which the valid driver license
10446 is issued;

10447 (iv) a valid United States military identification card that:

10448 (A) includes date of birth; and

10449 (B) has a picture affixed; or

10450 (v) a valid passport.

10451 (b) "Proof of age" does not include a valid driving privilege card issued in accordance
10452 with Section 53-3-207.

10453 (19) "Publicly owned building or office" means any enclosed indoor place or portion of
10454 a place owned, leased, or rented by any state, county, or municipal government, or by any
10455 agency supported by appropriation of, or by contracts or grants from, funds derived from the
10456 collection of federal, state, county, or municipal taxes.

10457 [~~H~~] (20) "Retail tobacco specialty business" means the same as that term is defined:

10458 (a) as it relates to a municipality, in Section 10-8-41.6; and

10459 (b) as it relates to a county, in Section 17-50-333.

10460 (21) "Shisha" means any product that:

10461 (a) contains tobacco or nicotine; and

10462 (b) is smoked or intended to be smoked in a hookah or water pipe.

10463 (22) "Smoking" means:

10464 (a) the possession of any lighted or heated tobacco product in any form;

10465 (b) inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, pipe,

10466 or hookah that contains:

10467 (i) tobacco or any plant product intended for inhalation;

10468 (ii) shisha or non-tobacco shisha;

10469 (iii) nicotine;

10470 (iv) a natural or synthetic tobacco substitute; or

10471 (v) a natural or synthetic flavored tobacco product;

10472 (c) using an electronic cigarette; or

10473 (d) using an oral smoking device intended to circumvent the prohibition of smoking in

10474 this part.

10475 [~~12~~] (23) "Tax commission license" means a license issued by the State Tax

10476 Commission under:

10477 (a) Section 59-14-201 to sell a cigarette at retail;

- 10478 (b) Section [59-14-301](#) to sell a tobacco product at retail; or
- 10479 (c) Section [59-14-803](#) to sell an electronic cigarette product or a nicotine product.

10480 ~~[(13)]~~ (24) "Tobacco product" means:

- 10481 (a) a tobacco product as defined in Section [76-10-101](#); or
- 10482 (b) tobacco paraphernalia as defined in Section [76-10-101](#).

10483 ~~[(14)]~~ (25) "Tobacco retailer" means a person that is required to obtain a tax
10484 commission license.

10485 Section 311. Section [26B-7-502](#), which is renumbered from Section 26-15-11 is
10486 renumbered and amended to read:

10487 ~~[26-15-11]~~. **26B-7-502. Statutes on smoking considered public health laws.**

10488 ~~[Title 26, Chapter 38, Utah Indoor Clean Air Act,]~~ Section [26B-7-503](#) is a public health
10489 law and shall be enforced by the department and local health departments.

10490 Section 312. Section [26B-7-503](#), which is renumbered from Section 26-38-3 is
10491 renumbered and amended to read:

10492 ~~[26-38-3]~~. **26B-7-503. Utah Indoor Clean Air Act -- Restriction on smoking in**
10493 **public places and in specified places -- Exceptions -- Enforcement -- Penalties -- Local**
10494 **ordinances.**

10495 (1) Except as provided in ~~[Subsection (2)]~~ Subsections (2) and (3), smoking is
10496 prohibited in all enclosed indoor places of public access and publicly owned buildings and
10497 offices.

10498 (2) Subsection (1) does not apply to:

10499 (a) areas not commonly open to the public of owner-operated businesses having no
10500 employees other than the owner-operator;

10501 (b) guest rooms in hotels, motels, "bed and breakfast" lodging facilities, and other
10502 similar lodging facilities, but smoking is prohibited under Subsection (1) in the common areas
10503 of these facilities, including dining areas and lobby areas; and

10504 (c) separate enclosed smoking areas:

10505 (i) located in the passenger terminals of an international airport located in the city of
10506 the first class;

10507 (ii) vented directly to the outdoors; and

10508 (iii) certified, by a heating, ventilation, and air conditioning engineer licensed by the
10509 state, to prevent the drift of any smoke to any nonsmoking area of the terminal.

10510 (3) (a) A person is exempt from the restrictions of Subsection (1) if the person:

10511 (i) is a member of an American Indian tribe whose members are recognized as eligible
10512 for the special programs and services provided by the United States to American Indians who
10513 are members of those tribes;

10514 (ii) is an American Indian who actively practices an American Indian religion, the
10515 origin and interpretation of which is from a traditional American Indian culture;

10516 (iii) is smoking tobacco using the traditional pipe of an American Indian tribal
10517 religious ceremony, of which tribe the person is a member, and is smoking the pipe as part of
10518 that ceremony; and

10519 (iv) the ceremony is conducted by a pipe carrier, Indian spiritual person, or medicine
10520 person recognized by the tribe of which the person is a member and the Indian community.

10521 (b) This Subsection (3) takes precedence over Subsection (1).

10522 (c) A religious ceremony using a traditional pipe under this section is subject to any
10523 applicable state or local law, except as provided in this section.

10524 (4) (a) An owner or the agent or employee of the owner of a place where smoking is
10525 prohibited under Subsection (1) who observes a person smoking in apparent violation of this
10526 section shall request the person to stop smoking.

10527 (b) If the person fails to comply, the proprietor or the agent or employee of the
10528 proprietor shall ask the person to leave the premises.

10529 (5) (a) A first violation of Subsection (1) is subject to a civil penalty of not more than
10530 \$100.

10531 (b) Any second or subsequent violation of Subsection (1) is subject to a civil penalty of

10532 not less than \$100 and not more than \$500.

10533 (6) (a) The department and local health departments shall:

10534 (i) enforce this section and shall coordinate their efforts to promote the most effective
10535 enforcement of this section; and

10536 (ii) impose the penalties under Subsection (5) in accordance with this Subsection (6).

10537 (b) When enforcing this section, the department and the local health departments shall
10538 notify persons of alleged violations of this part, conduct hearings, and impose penalties in
10539 accordance with Title 63G, Chapter 4, Administrative Procedures Act.

10540 (c) The department shall adopt rules necessary and reasonable to implement the
10541 provisions of this section.

10542 (7) Civil penalties collected under this section by:

10543 (a) a local health department shall be paid to the treasurer of the county in which the
10544 violation was committed; and

10545 (b) the department shall be deposited into the General Fund.

10546 (8) (a) This section supersedes any ordinance enacted by the governing body of a
10547 political subdivision that restricts smoking in a place of public access as defined in Section
10548 26B-7-501 and that is not essentially identical to the provisions of this section.

10549 (b) This Subsection (8) does not supersede an ordinance enacted by the governing body
10550 of a political subdivision that restricts smoking in outdoor places of public access which are
10551 owned or operated by:

10552 (i) a political subdivision as defined in Section 17B-1-102;

10553 (ii) a state institution of higher education; or

10554 (iii) a state institution of public education.

10555 Section 313. Section **26B-7-504**, which is renumbered from Section 26-43-102 is
10556 renumbered and amended to read:

10557 ~~[26-43-102].~~ **26B-7-504. Gathering of information related to cigarettes**
10558 **and tobacco products.**

10559 (1) The department shall obtain annually publicly available information regarding
10560 cigarettes and tobacco products from other states and sources concerning:

10561 ~~[(1)]~~ (a) the presence of the following substances in detectable levels in a burned state
10562 and, if the cigarette or tobacco product is typically burned when consumed, in a burned state:

10563 ~~[(a)]~~ (i) ammonia or ammonia compounds;

10564 ~~[(b)]~~ (ii) arsenic;

10565 ~~[(c)]~~ (iii) cadmium;

10566 ~~[(d)]~~ (iv) formaldehyde; and

10567 ~~[(e)]~~ (v) lead; and

10568 ~~[(2)]~~ (b) a nicotine yield rating for the cigarette or tobacco product for which a rating
10569 has been developed.

10570 (2) Information obtained by the department under Subsection (1) is a public record and
10571 may be disclosed in accordance with Section 63G-2-201 and disseminated generally by the
10572 department.

10573 Section 314. Section **26B-7-505**, which is renumbered from Section 26-57-103 is
10574 renumbered and amended to read:

10575 ~~[26-57-103].~~ **26B-7-505. Electronic cigarette products -- Labeling --**
10576 **Requirements to sell -- Advertising -- Labeling of nicotine products containing nicotine.**

10577 (1) The department shall, in consultation with a local health department and with input
10578 from members of the public, establish by rule made in accordance with Title 63G, Chapter 3,
10579 Utah Administrative Rulemaking Act, the requirements to sell an electronic cigarette substance
10580 that is not a manufacturer sealed electronic cigarette substance regarding:

10581 (a) labeling;

10582 (b) nicotine content;

10583 (c) packaging; and

10584 (d) product quality.

10585 (2) On or before January 1, 2021, the department shall, in consultation with a local

10586 health department and with input from members of the public, establish by rule made in
10587 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements
10588 to sell a manufacturer sealed electronic cigarette product regarding:

- 10589 (a) labeling;
- 10590 (b) nicotine content;
- 10591 (c) packaging; and
- 10592 (d) product quality.

10593 (3) (a) A person may not sell an electronic cigarette substance unless the electronic
10594 cigarette substance complies with the requirements established by the department under
10595 Subsection (1).

10596 (b) Beginning on July 1, 2021, a person may not sell a manufacturer sealed electronic
10597 cigarette product unless the manufacturer sealed electronic cigarette product complies with the
10598 requirements established by the department under Subsection (2).

10599 (4) (a) A local health department may not enact a rule or regulation regarding
10600 electronic cigarette substance labeling, nicotine content, packaging, or product quality that is
10601 not identical to the requirements established by the department under Subsections (1) and (2).

10602 (b) Except as provided in Subsection (4)(c), a local health department may enact a rule
10603 or regulation regarding electronic cigarette substance manufacturing.

10604 (c) A local health department may not enact a rule or regulation regarding a
10605 manufacturer sealed electronic cigarette product.

10606 (5) A person may not advertise an electronic cigarette product as a tobacco cessation
10607 device.

10608 (6) Any nicotine product shall contain the statement described in Subsection (7) if the
10609 nicotine product:

10610 (a) (i) is not a tobacco product as defined in 21 U.S.C. Sec. 321 and related federal
10611 regulations; or

10612 (ii) is not otherwise required under federal or state law to contain a nicotine warning;

10613 and

10614 (b) contains nicotine.

10615 (7) A statement shall appear on the exterior packaging of a nicotine product described

10616 in Subsection (6) as follows:

10617 "This product contains nicotine."

10618 Section 315. Section **26B-7-506**, which is renumbered from Section 26-62-103 is

10619 renumbered and amended to read:

10620 **~~[26-62-103].~~ 26B-7-506. Regulation of tobacco retailers.**

10621 The regulation of a tobacco retailer is an exercise of the police powers of the state, and

10622 through delegation, to other governmental entities.

10623 Section 316. Section **26B-7-507**, which is renumbered from Section 26-62-201 is

10624 renumbered and amended to read:

10625 **~~[26-62-201].~~ 26B-7-507. Permitting requirement.**

10626 (1) (a) A tobacco retailer shall hold a valid tobacco retail permit issued in accordance

10627 with this ~~[chapter]~~ part by the local health department with jurisdiction over the physical

10628 location where the tobacco retailer operates.

10629 (b) A tobacco retailer without a valid permit may not:

10630 (i) place a tobacco product, an electronic cigarette product, or a nicotine product in

10631 public view;

10632 (ii) display any advertisement related to a tobacco product, an electronic cigarette

10633 product, or a nicotine product that promotes the sale, distribution, or use of those products; or

10634 (iii) sell, offer for sale, or offer to exchange for any form of consideration, tobacco, a

10635 tobacco product, an electronic cigarette product, or a nicotine product.

10636 (2) A local health department may issue a permit under this ~~[chapter]~~ part for a tobacco

10637 retailer in the classification of:

10638 (a) a general tobacco retailer; or

10639 (b) a retail tobacco specialty business.

- 10640 (3) A permit under this [~~chapter~~] part is:
- 10641 (a) valid only for one physical location, including a vending machine;
- 10642 (b) valid only at one fixed business address; and
- 10643 (c) if multiple tobacco retailers are at the same address, separately required for each
- 10644 tobacco retailer.

10645 Section 317. Section **26B-7-508**, which is renumbered from Section 26-62-202 is

10646 renumbered and amended to read:

10647 ~~[26-62-202]~~. **26B-7-508. Permit application.**

10648 (1) A local health department shall issue a permit [~~under this chapter~~] for a tobacco

10649 retailer if the local health department determines that the applicant:

10650 (a) accurately provided all information required under Subsection (3) and, if applicable,

10651 Subsection (4); and

10652 (b) meets all requirements for a permit under this [~~chapter~~] part.

10653 (2) An applicant for a permit shall:

10654 (a) submit an application described in Subsection (3) to the local health department

10655 with jurisdiction over the area where the tobacco retailer is located; and

10656 (b) pay all applicable fees described in Section [~~26-62-203~~] 26B-7-509.

10657 (3) The application for a permit shall include:

10658 (a) the name, address, and telephone number of each proprietor;

10659 (b) the name and mailing address of each proprietor authorized to receive

10660 permit-related communication and notices;

10661 (c) the business name, address, and telephone number of the single, fixed location for

10662 which a permit is sought;

10663 (d) evidence that the location for which a permit is sought has a valid tax commission

10664 license;

10665 (e) information regarding whether, in the past 24 months, any proprietor of the tobacco

10666 retailer has been determined to have violated, or has been a proprietor at a location that has

10667 been determined to have violated:

10668 (i) a provision of this ~~[chapter]~~ part;

10669 ~~[(ii) Chapter 38, Utah Indoor Clean Air Act;]~~

10670 (ii) Section 26B-7-503;

10671 (iii) Title 76, Chapter 10, Part 1, Cigarettes and Tobacco and Psychotoxic Chemical

10672 Solvents;

10673 (iv) Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

10674 (v) regulations restricting the sale and distribution of cigarettes and smokeless tobacco

10675 issued by the United States Food and Drug Administration, 21 C.F.R. Part 1140; or

10676 (vi) any other provision of state law or local ordinance regarding the sale, marketing, or

10677 distribution of a tobacco product, an electronic cigarette product, or a nicotine product; and

10678 (f) the dates of all violations disclosed under this Subsection (3).

10679 (4) (a) In addition to the information described in Subsection (3), an applicant for a

10680 retail tobacco specialty business permit shall include evidence showing whether the business is

10681 located within:

10682 (i) 1,000 feet of a community location;

10683 (ii) 600 feet of another retail tobacco specialty business; or

10684 (iii) 600 feet of property used or zoned for agricultural or residential use.

10685 (b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in

10686 a straight line from the nearest entrance of the retail tobacco specialty business to the nearest

10687 property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard

10688 to intervening structures or zoning districts.

10689 (5) The department or a local health department may not deny a permit to a retail

10690 tobacco specialty business under Subsection (4) if the retail tobacco specialty business meets

10691 the requirements described in Subsection 10-8-41.6(7) or 17-50-333(7).

10692 (6) (a) The department shall establish by rule made in accordance with Title 63G,

10693 Chapter 3, Utah Administrative Rulemaking Act, a permit process for local health departments

10694 in accordance with this ~~[chapter]~~ part.

10695 (b) The permit process established by the department under Subsection (6)(a) may not
10696 require any information in an application that is not required by this section.

10697 Section 318. Section **26B-7-509**, which is renumbered from Section 26-62-203 is
10698 renumbered and amended to read:

10699 ~~[26-62-203]~~. **26B-7-509. Permit term and fees.**

10700 (1) (a) The term of a permit issued ~~[under this chapter]~~ to a retail tobacco specialty
10701 business is one year.

10702 (b) The term of a permit issued ~~[under this chapter]~~ to a general tobacco retailer is two
10703 years.

10704 (2) (a) A local health department may not issue a permit ~~[under this chapter]~~ until the
10705 applicant has paid a permit fee to the local health department of:

10706 (i) \$30 for a new permit;

10707 (ii) \$20 for a permit renewal; or

10708 (iii) \$30 for reinstatement of a permit that has been revoked, suspended, or allowed to
10709 expire.

10710 (b) A local health department that collects fees under Subsection (2)(a) shall use the
10711 fees to administer the permit requirements ~~[under this chapter]~~ described in Sections
10712 26B-7-506 through 26B-7-521.

10713 (c) In addition to the fee described in Subsection (2)(a), a local health department may
10714 establish and collect a fee to perform a plan review for a retail tobacco specialty business
10715 permit.

10716 (3) A permit holder may apply for a renewal of a permit no earlier than 30 days before
10717 the day on which the permit expires.

10718 (4) A tobacco retailer that fails to renew a permit before the permit expires may apply
10719 to reinstate the permit by submitting to the local health department:

10720 (a) the information required in Subsection ~~[26-62-202]~~ 26B-7-508(3) and, if

10721 applicable, Subsection [~~26-62-202~~] [26B-7-508](#)(4);

10722 (b) the fee for the reinstatement of a permit; and

10723 (c) a signed affidavit affirming that the tobacco retailer has not violated the

10724 prohibitions in Subsection [~~26-62-201~~] [26B-7-507](#)(1)(b) after the permit expired.

10725 Section 319. Section **26B-7-510**, which is renumbered from Section 26-62-204 is

10726 renumbered and amended to read:

10727 ~~[26-62-204]~~. **26B-7-510**. **Permit nontransferable.**

10728 (1) A permit is nontransferable.

10729 (2) If the information described in Subsection [~~26-62-202~~] [26B-7-508](#)(3) changes, a

10730 tobacco retailer:

10731 (a) may not renew the permit; and

10732 (b) shall apply for a new permit no later than 15 days after the information in

10733 Subsection [~~26-62-202~~] [26B-7-508](#)(3) changes.

10734 Section 320. Section **26B-7-511**, which is renumbered from Section 26-62-205 is

10735 renumbered and amended to read:

10736 ~~[26-62-205]~~. **26B-7-511**. **Permit requirements for a retail tobacco**

10737 **specialty business.**

10738 (1) A retail tobacco specialty business shall:

10739 (a) electronically verify proof of age for any individual that enters the premises of the

10740 business in accordance with [~~Part 4, Proof of Age Requirements~~] [Section 26B-7-521](#);

10741 (b) except as provided in Subsection [76-10-105.1](#)(4), prohibit any individual from

10742 entering the business if the individual is under 21 years old; and

10743 (c) prominently display at the retail tobacco specialty business a sign on the public

10744 entrance of the business that communicates:

10745 (i) the prohibition on the presence of an individual under 21 years old in a retail

10746 tobacco specialty business in Subsection [76-10-105.1](#)(4); and

10747 (ii) the prohibition on the sale of tobacco products and electronic cigarette products to

10748 an individual under 21 years old as described in Sections 76-10-104, 76-10-104.1, 76-10-105.1,
10749 and 76-10-114.

10750 (2) A retail tobacco specialty business may not:

10751 (a) employ an individual under 21 years old to sell a tobacco product, an electronic
10752 cigarette product, or a nicotine product; or

10753 (b) permit an employee under 21 years old to sell a tobacco product, an electronic
10754 cigarette product, or a nicotine product.

10755 Section 321. Section **26B-7-512**, which is renumbered from Section 26-62-206 is
10756 renumbered and amended to read:

10757 ~~[26-62-206]~~. **26B-7-512**. **Requirements for the sale of tobacco product,**
10758 **electronic cigarette product, or nicotine product.**

10759 (1) A tobacco retailer shall:

10760 (a) provide the customer with an itemized receipt for each sale of a tobacco product, an
10761 electronic cigarette product, or a nicotine product that separately identifies:

10762 (i) the name of the tobacco product, the electronic cigarette product, or the nicotine
10763 product;

10764 (ii) the amount charged for each tobacco product, electronic cigarette product, or
10765 nicotine product; and

10766 (iii) the date and time of the sale; and

10767 (b) maintain an itemized transaction log for each sale of a tobacco product, an
10768 electronic cigarette product, or a nicotine product that separately identifies:

10769 (i) the name of the tobacco product, the electronic cigarette product, or the nicotine
10770 product;

10771 (ii) the amount charged for each tobacco product, electronic cigarette product, or
10772 nicotine product; and

10773 (iii) the date and time of the sale.

10774 (2) The itemized transaction log described in Subsection (1)(b) shall be:

- 10775 (a) maintained for at least one year after the date of each transaction in the itemized
10776 transaction log;
- 10777 (b) made available to an enforcing agency or a peace officer at the request of the
10778 enforcing agency or the peace officer; and
- 10779 (c) in addition to any documentation required under Section 59-1-1406 and Subsection
10780 59-14-805(2).

10781 Section 322. Section **26B-7-513**, which is renumbered from Section 26-62-207 is
10782 renumbered and amended to read:

10783 ~~[26-62-207]~~. **26B-7-513. Permit requirements for the sale of tobacco**
10784 **products and electronic cigarette products.**

10785 (1) A tobacco retailer shall:

10786 (a) provide the customer with an itemized receipt for each sale of a tobacco product or
10787 an electronic cigarette product that separately identifies:

- 10788 (i) the name of the tobacco product or the electronic cigarette product;
- 10789 (ii) the amount charged for each tobacco product or electronic cigarette product; and
- 10790 (iii) the time and date of the sale; and

10791 (b) maintain an itemized transaction log for each sale of a tobacco product or an
10792 electronic cigarette product that separately identifies:

- 10793 (i) the name of the tobacco product or the electronic cigarette product;
- 10794 (ii) the amount charged for each tobacco product or electronic cigarette product; and
- 10795 (iii) the date and time of the sale.

10796 (2) The itemized transaction log described in Subsection (1)(b) shall be:

10797 (a) maintained for at least one year after the date of each transaction in the itemized
10798 transaction log; and

10799 (b) made available to an enforcing agency or a peace officer at the request of the
10800 enforcing agency or the peace officer that is no less restrictive than the provisions in this part.

10801 Section 323. Section **26B-7-514**, which is renumbered from Section 26-62-301 is

10802 renumbered and amended to read:

10803 ~~[26-62-301]~~. **26B-7-514. Permit violation.**

10804 A person is in violation of the permit issued under this ~~[chapter]~~ part if the person

10805 violates:

10806 (1) a provision of this ~~[chapter]~~ part;

10807 (2) a provision of licensing laws under Section [10-8-41.6](#) or Section [17-50-333](#);

10808 (3) a provision of Title 76, Chapter 10, Part 1, Cigarettes and Tobacco and Psychotoxic

10809 Chemical Solvents;

10810 (4) a provision of Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

10811 (5) a regulation restricting the sale and distribution of cigarettes and smokeless tobacco

10812 issued by the United States Food and Drug Administration under 21 C.F.R. Part 1140; or

10813 (6) any other provision of state law or local ordinance regarding the sale, marketing, or

10814 distribution of a tobacco product, an electronic cigarette product, or a nicotine product.

10815 Section 324. Section **26B-7-515**, which is renumbered from Section 26-62-302 is

10816 renumbered and amended to read:

10817 ~~[26-62-302]~~. **26B-7-515. Enforcement by state and local health**

10818 **departments.**

10819 The department and local health departments shall enforce ~~[this chapter]~~ Sections

10820 [26B-7-506](#) through [26B-7-521](#) under the procedures of Title 63G, Chapter 4, Administrative

10821 Procedures Act, as an informal adjudicative proceeding, including:

10822 (1) notifying a tobacco retailer of alleged violations ~~[of this chapter]~~;

10823 (2) conducting hearings;

10824 (3) determining violations ~~[of this chapter]~~; and

10825 (4) imposing civil administrative penalties.

10826 Section 325. Section **26B-7-516**, which is renumbered from Section 26-62-303 is

10827 renumbered and amended to read:

10828 ~~[26-62-303]~~. **26B-7-516. Inspection of retail tobacco businesses.**

10829 The department or a local health department may inspect a tobacco retailer to determine
10830 whether the tobacco retailer:

10831 (1) continues to meet the qualifications for the permit issued under this [chapter] part;

10832 (2) if applicable, continues to meet the requirements for a retail tobacco specialty
10833 business license issued under Section 10-8-41.6 or Section 17-50-333;

10834 (3) engaged in a pattern of unlawful activity under Title 76, Chapter 10, Part 16,
10835 Pattern of Unlawful Activity Act;

10836 (4) violated any of the regulations restricting the sale and distribution of cigarettes and
10837 smokeless tobacco issued by the United States Food and Drug Administration under 21 C.F.R.
10838 Part 1140; or

10839 (5) has violated any other provision of state law or local ordinance.

10840 Section 326. Section **26B-7-517**, which is renumbered from Section 26-62-304 is
10841 renumbered and amended to read:

10842 ~~[26-62-304]~~. **26B-7-517. Hearing -- Evidence of criminal conviction.**

10843 (1) At a civil hearing conducted under Section ~~[26-62-302]~~ 26B-7-515, evidence of the
10844 final criminal conviction of a tobacco retailer for violation of Section 76-10-114 at the same
10845 location and within the same time period as the location and time period alleged in the civil
10846 hearing for violation of this [chapter] part for sale of a tobacco product, an electronic cigarette
10847 product, or a nicotine product to an individual under 21 years old is prima facie evidence of a
10848 violation of this [chapter] part.

10849 (2) If the tobacco retailer is convicted of violating Section 76-10-114, the enforcing
10850 agency:

10851 (a) shall assess an additional monetary penalty under this [chapter] part for the same
10852 offense for which the conviction was obtained; and

10853 (b) shall revoke or suspend a permit in accordance with Section ~~[26-62-305]~~
10854 26B-7-518.

10855 Section 327. Section **26B-7-518**, which is renumbered from Section 26-62-305 is

10856 renumbered and amended to read:

10857 ~~[26-62-305]~~. 26B-7-518. Penalties.

10858 (1) (a) If an enforcing agency determines that a person has violated the terms of a
10859 permit issued under this ~~[chapter]~~ part, the enforcing agency may impose the penalties
10860 described in this section.

10861 (b) If multiple violations are found in a single inspection by an enforcing agency or a
10862 single investigation by a law enforcement agency under Section 77-39-101, the enforcing
10863 agency shall treat the multiple violations as one single violation under Subsections (2), (3), and
10864 (4).

10865 (2) Except as provided in Subsections (3) and (4), if a violation is found in an
10866 investigation by a law enforcement agency under Section 77-39-101 or an inspection by an
10867 enforcing agency, the enforcing agency shall:

10868 (a) on a first violation at a retail location, impose a penalty of \$1,000;

10869 (b) on a second violation at the same retail location that occurs within one year of a
10870 previous violation, impose a penalty of \$1,500;

10871 (c) on a third violation at the same retail location that occurs within two years after two
10872 previous violations, impose:

10873 (i) a suspension of the permit for 30 consecutive business days within 60 days after the
10874 day on which the third violation occurs; or

10875 (ii) a penalty of \$2,000; and

10876 (d) on a fourth or subsequent violation within two years of three previous violations:

10877 (i) impose a penalty of \$2,000;

10878 (ii) revoke a permit of the retailer; and

10879 (iii) if applicable, recommend to a municipality or county that a retail tobacco specialty
10880 business license issued under Section 10-8-41.6 or 17-50-333 be suspended or revoked.

10881 (3) If a violation is found in an investigation of a general tobacco retailer by a law
10882 enforcement agency under Section 77-39-101 for the sale of a tobacco product, an electronic

10883 cigarette product, or a nicotine product to an individual under 21 years old and the violation is
10884 committed by the owner of the general tobacco retailer, the enforcing agency shall:

10885 (a) on a first violation, impose a fine of \$2,000 on the general tobacco retailer; and
10886 (b) on the second violation for the same general tobacco retailer within one year of the
10887 first violation:

10888 (i) impose a fine of \$5,000; and
10889 (ii) revoke the permit for the general tobacco retailer.

10890 (4) If a violation is found in an investigation of a retail tobacco specialty business by a
10891 law enforcement agency under Section 77-39-101 for the sale of a tobacco product, an
10892 electronic cigarette product, or a nicotine product to an individual under 21 years old, the
10893 enforcing agency shall:

10894 (a) on the first violation:
10895 (i) impose a fine of \$5,000; and
10896 (ii) immediately suspend the permit for 30 consecutive days; and
10897 (b) on the second violation at the same retail location within two years of the first
10898 violation:

10899 (i) impose a fine of \$10,000; and
10900 (ii) revoke the permit for the retail tobacco specialty business.

10901 (5) (a) Except when a transfer described in Subsection (6) occurs, a local health
10902 department may not issue a permit to:

10903 (i) a tobacco retailer for whom a permit is suspended or revoked under Subsection (2)
10904 or (3); or

10905 (ii) a tobacco retailer that has the same proprietor, director, corporate officer, partner,
10906 or other holder of significant interest as another tobacco retailer for whom a permit is
10907 suspended or revoked under Subsection (2), (3), or (4).

10908 (b) A person whose permit:

10909 (i) is suspended under this section may not apply for a new permit for any other

10910 tobacco retailer for a period of 12 months after the day on which an enforcing agency suspends
10911 the permit; and

10912 (ii) is revoked under this section may not apply for a new permit for any tobacco
10913 retailer for a period of 24 months after the day on which an enforcing agency revokes the
10914 permit.

10915 (6) Violations of this [chapter] part, Section 10-8-41.6, or Section 17-50-333 that occur
10916 at a tobacco retailer location shall stay on the record for that tobacco retailer location unless:

10917 (a) the tobacco retailer is transferred to a new proprietor; and

10918 (b) the new proprietor provides documentation to the local health department that the
10919 new proprietor is acquiring the tobacco retailer in an arm's length transaction from the previous
10920 proprietor.

10921 Section 328. Section **26B-7-519**, which is renumbered from Section 26-62-306 is
10922 renumbered and amended to read:

10923 ~~[26-62-306]~~. **26B-7-519**. **Recognition of tobacco retailer training program.**

10924 (1) In determining the amount of the monetary penalty to be imposed for a violation of
10925 this [chapter] part, a hearing officer shall reduce the civil penalty by at least 50% if the hearing
10926 officer determines that:

10927 (a) the tobacco retailer has implemented a documented employee training program; and

10928 (b) the employees have completed that training program within 30 days after the day on
10929 which each employee commences the duties of selling a tobacco product, an electronic
10930 cigarette product, or a nicotine product.

10931 (2) (a) For the first offense at a location, if the hearing officer determines under
10932 Subsection (1) that the tobacco retailer has not implemented a documented training program
10933 with a written curriculum for employees at that location regarding compliance with this
10934 chapter, the hearing officer may suspend all or a portion of the penalty if:

10935 (i) the tobacco retailer agrees to initiate a training program for employees at that
10936 location; and

10937 (ii) the training program begins within 30 days after the hearing officer makes a
10938 determination under this Subsection (2)(a).

10939 (b) If the hearing officer determines at a subsequent hearing that the tobacco retailer
10940 has not implemented the training program within the time period required under Subsection
10941 (2)(a)(ii), the hearing officer shall promptly impose the suspended monetary penalty, unless the
10942 tobacco retailer demonstrates good cause for an extension of time for implementation of the
10943 training program.

10944 Section 329. Section **26B-7-520**, which is renumbered from Section 26-62-307 is
10945 renumbered and amended to read:

10946 ~~[26-62-307]~~. **26B-7-520. Allocation of civil penalties.**

10947 Civil monetary penalties collected under ~~[this chapter]~~ Section 26B-7-518 shall be
10948 allocated as follows:

10949 (1) if a local health department conducts an adjudicative proceeding under Section
10950 ~~[26-62-302]~~ 26B-7-515, the penalty shall be paid to the treasurer of the county in which the
10951 violation was committed, and transferred to the local health department; and

10952 (2) if the department conducts a civil hearing under Section ~~[26-62-302]~~ 26B-7-515,
10953 the penalty shall be deposited in the state's General Fund, and may be appropriated by the
10954 Legislature to the department for use in enforcement of this ~~[chapter]~~ part.

10955 Section 330. Section **26B-7-521**, which is renumbered from Section 26-62-401 is
10956 renumbered and amended to read:

10957 ~~[26-62-401]~~. **26B-7-521. Verification of proof of age.**

10958 (1) As used in this section:

10959 (a) "Employee" means an employee of a retail tobacco specialty business.

10960 (b) "Electronic verification program" means a technology used by a retail tobacco
10961 specialty business to confirm proof of age for an individual.

10962 (2) A retail tobacco specialty business shall require that an employee verify proof of
10963 age as provided in this section.

- 10964 (3) To comply with Subsection (2), an employee shall:
- 10965 (a) request the individual present proof of age; and
- 10966 (b) verify the validity of the proof of age electronically in accordance with Subsection
- 10967 (4).
- 10968 (4) A retail tobacco specialty business shall use an electronic verification program to
- 10969 assist the business in complying with the requirements of this section.
- 10970 (5) (a) A retail tobacco specialty business may not disclose information obtained under
- 10971 this section except as provided under this part.
- 10972 (b) Information obtained under this section:
- 10973 (i) shall be kept for at least 180 days; and
- 10974 (ii) is subject to inspection upon request by a peace officer or the representative of an
- 10975 enforcing agency.
- 10976 (6) (a) If an employee does not verify proof of age under this section, the employee
- 10977 may not permit an individual to:
- 10978 (i) except as provided in Subsection (6)(b), enter a retail tobacco specialty business; or
- 10979 (ii) purchase a tobacco product or an electronic cigarette product.
- 10980 (b) In accordance with Subsection 76-10-105.1(4), an individual who is under 21 years
- 10981 old may be permitted to enter a retail tobacco specialty business if the individual is:
- 10982 (i) accompanied by a parent or legal guardian who provides proof of age; or
- 10983 (ii) (A) present at the retail tobacco specialty business solely for the purpose of
- 10984 providing a commercial service to the retail tobacco specialty business, including making a
- 10985 commercial delivery;
- 10986 (B) monitored by the proprietor of the retail tobacco specialty business or an employee
- 10987 of the retail tobacco specialty business; and
- 10988 (C) not permitted to make any purchase or conduct any commercial transaction other
- 10989 than the service described in Subsection (6)(b)(ii)(A).
- 10990 (7) To determine whether the individual described in Subsection (2) is 21 years old or

10991 older, the following may request an individual described in Subsection (2) to present proof of
10992 age:

- 10993 (a) an employee;
- 10994 (b) a peace officer; or
- 10995 (c) a representative of an enforcing agency.

10996 Section 331. **Coordinating S.B. 41 with S.B. 272 -- Substantive and technical**
10997 **amendments.**

10998 If this S.B. 41 and S.B. 272, Funds Amendments, both pass and become law, it is the
10999 intent of the Legislature that the Office of Legislative Research and General Counsel prepare
11000 the Utah Code database for publication on July 1, 2023, by amending Subsection 26B-5-601(8)
11001 (renumbered from Section 62A-17-102) in this S.B. 41 to read:

11002 "(8) "Psychiatrist" means an individual who:

- 11003 (a) is licensed as a physician under Title 58, Chapter 67, Utah Medical Practice Act, or
11004 Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and
- 11005 (b) is board eligible for a psychiatry specialization recognized by the American Board
11006 of Medical Specialists or the American Osteopathic Association's Bureau of Osteopathic
11007 Specialists."

11008 Section 332. **Revisor instructions.**

11009 The Legislature intends that the Office of Legislative Research and General Counsel, in
11010 preparing the Utah Code database for publication:

11011 (1) not enroll this bill if any of the following bills do not pass:

- 11012 (a) S.B. 38, Health and Human Services Recodification - Administration, Licensing,
11013 and Recovery Services;
- 11014 (b) S.B. 39, Health and Human Services Recodification - Health Care Assistance and
11015 Data; or
- 11016 (c) S.B. 40, Health and Human Services Recodification - Health Care Delivery and
11017 Repeals; and

11018 (2) in any new language added to the Utah Code by legislation passed during the 2023
11019 General Session, replace any references to Title 26 or 62A with the renumbered reference as it
11020 is renumbered in this bill.