

Nelson T. Abbott proposes the following substitute bill:

**Competency Amendments**

2026 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Nelson T. Abbott**

Senate Sponsor:

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**LONG TITLE**

**General Description:**

This bill amends provisions related to competency evaluations.

**Highlighted Provisions:**

This bill:

- requires that when a court orders two competency evaluations, the evaluations must be ordered in the same order;
- provides that a court may order the Department of Health and Human Services to conduct additional or updated competency evaluations under certain circumstances;
- permits a defendant to be transferred to a clinical or inpatient setting for a competency evaluation;
- clarifies that certain provisions do not apply to progress toward competency evaluations;
- amends a provision related to a report of a progress toward competency evaluation;
- provides for the portability of an involuntary medication order when an individual is transferred between facilities;
- defines terms; and
- makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**77-15-5**, as last amended by Laws of Utah 2025, Chapter 46

**77-15-6**, as last amended by Laws of Utah 2025, Chapter 46

ENACTS:

29           **77-15-10**, Utah Code Annotated 1953

30

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

32           Section 1. Section **77-15-5** is amended to read:

33           **77-15-5 . Order for hearing -- Stay of other proceedings -- Examinations of**  
34 **defendant -- Scope of examination and report.**

35           (1) A court in which criminal proceedings are pending shall stay all criminal proceedings, if:

36           (a) a petition is filed under Section 77-15-3 or 77-15-3.5; or

37           (b) the court raises the issue of the defendant's competency under Section 77-15-4.

38           (2) The court in which the petition described in Subsection (1)(a) is filed:

39           (a) shall inform the court in which criminal proceedings are pending of the petition, if  
40           the petition is not filed in the court in which criminal proceedings are pending;

41           (b) shall review the allegations of incompetency;

42           (c) may hold a limited hearing solely for the purpose of determining the sufficiency of  
43           the petition, if the court finds the petition is not clearly sufficient on its face;

44           (d) shall hold a hearing, if the petition is opposed by either party; and

45           (e) may not order an examination of the defendant or order a hearing on the mental  
46           condition of the defendant unless the court finds that the allegations in the petition  
47           raise a bona fide doubt as to the defendant's competency to stand trial.

48           (3)(a)(i) If the court finds that there is a bona fide doubt as to the defendant's

49           competency to stand trial, the court shall order the department to have one or two  
50           forensic evaluators complete a competency evaluation for the defendant in  
51           accordance with Subsection (3)(b) and provide a report to the court regarding the  
52           competency of the defendant to stand trial.

53           (ii) If the court orders two competency evaluations, the competency evaluations must  
54           be ordered in the same order.

55           (b) The court shall order the department to have the defendant evaluated by one forensic  
56           evaluator unless:

57           (i) the defendant is charged with a capital felony; or

58           (ii) the defendant is charged with a felony that is not a capital felony, and the court  
59           determines, based on the allegations in the petition, that good cause exists to order  
60           two competency evaluations.

61           (c)(i) This section does not prohibit a party from seeking an additional forensic  
62           evaluator to conduct a competency evaluation of the defendant.

- 63 (ii) If a party seeks an additional competency evaluation under this Subsection (3)(c),  
64 the party shall:
- 65 (A) select the additional forensic evaluator; and  
66 (B) pay the costs of the additional forensic evaluator.
- 67 (d)(i) After the court receives the reports of all evaluations ordered under this  
68 Subsection (3), the court may order the department to conduct an additional  
69 evaluation or an updated evaluation:
- 70 (A) upon motion of a party or the court's own motion; and  
71 (B) if the court finds good cause based on:
- 72 (I) a change in circumstances; or  
73 (II) the receipt of new information that was not previously considered and that  
74 could materially affect the determination of the defendant's competency to  
75 stand trial.
- 76 (ii) An additional or updated evaluation that the department conducts as ordered by  
77 the court as described in Subsection (3)(d)(i), may, at the discretion of the  
78 department, be limited to addressing the change in circumstances or new  
79 information described in Subsection (3)(d)(i)(B)(II).
- 80 (iii) This Subsection (3)(d) does not prohibit or limit a party from seeking an  
81 additional competency evaluation under Subsection (3)(c) or Subsection (11).
- 82 ~~[(d)]~~ (e) The stipulation by parties to a bona fide doubt as to the defendant's competency  
83 to stand trial alone may not take the place of a competency evaluation ordered under  
84 this Subsection (3).
- 85 ~~[(e)]~~ (f) In accordance with state licensing laws, the court may only order the department  
86 to provide an initial evaluation and progress toward competency evaluation for a  
87 defendant who is located within the state.
- 88 (4)(a) If the petition or other information sufficiently raises concerns that the defendant  
89 may have an intellectual disability, at least one forensic evaluator who is experienced  
90 in assessments of intellectual disabilities shall conduct a competency evaluation.
- 91 (b) The petitioner or other party, as directed by the court or requested by the department,  
92 shall provide to the forensic evaluator nonmedical information and materials relevant  
93 to a determination of the defendant's competency, including the charging document,  
94 arrest or incident reports pertaining to the charged offense, known criminal history  
95 information, and known prior mental health evaluations and treatments.
- 96 (c) For purposes of a competency evaluation, a custodian of mental health records

97           pertaining to the defendant, including the defendant's prior mental health evaluations  
98           or records relating to the defendant's substance use disorder, may provide the records  
99           to:

100          (i) with the defendant's consent, a forensic evaluator or the department on the  
101             department's request; or

102          (ii) a forensic evaluator by court order.

103          (d) A court order under Subsection (4)(c) shall include a protective order that expires  
104             180 days after the day on which:

105            (i) the defendant is found guilty;

106            (ii) the defendant enters a guilty plea;

107            (iii) the court sentences the defendant; or

108            (iv) if the case is appealed, the day on which the final appeal is resolved.

109          (e)(i) Except as otherwise provided by law and in Subsections (4)(e)(ii) and (4)(f),  
110             the court shall order the forensic evaluator to destroy all records subject to the  
111             protective order within the 180 day period described in Subsection (4)(d).

112          (ii) A forensic evaluator is not required to destroy the records subject to the  
113             protective order if destroying the records is a violation of ethical standards to  
114             which the forensic evaluator is subject for occupational licensing.

115          (f) The court may extend the protective order described in Subsection (4)(d) if:

116            (i) the court finds the defendant incompetent to proceed without a substantial  
117             probability that the defendant will become competent in the foreseeable future;

118            (ii) the prosecutor or another individual indicates to the court that the prosecutor or  
119             other individual will seek civil commitment of the defendant under Section  
120             77-15-6; and

121            (iii) the court orders the records be maintained and used only for the purposes of  
122             examining the defendant in connection with the petition for civil commitment.

123          (g) An order for a competency evaluation may not contain an order for any other inquiry  
124             into the mental state of the defendant that is not described in this Subsection (4).

125          (5)(a) Pending a competency evaluation, unless the court or the department directs  
126             otherwise, the defendant shall be retained in the same custody or status that the  
127             defendant was in at the time the examination was ordered.

128          (b) If clinically appropriate, based on the department's recommendation and request, the  
129             defendant may be transferred to a clinical or inpatient setting temporarily for the  
130             purpose of the competency evaluation.

- 131 (c) If the department transfers the defendant as described Subsection (5)(b), the  
132 department shall provide notice of the transfer to the court and the parties.
- 133 (6) In the conduct of a competency evaluation and in a report to the court, a forensic  
134 evaluator shall consider and address, in addition to any other factors determined to be  
135 relevant by the forensic evaluator:
- 136 (a) the impact of the defendant's mental illness or intellectual disability on the  
137 defendant's present ability to:
- 138 (i) rationally and factually understand the criminal proceedings against the defendant;  
139 and
- 140 (ii) consult with the defendant's legal counsel with a reasonable degree of rational  
141 understanding in order to assist in the defense;
- 142 (b) in making the determinations described in Subsection (6)(a), the forensic evaluator  
143 shall consider, as applicable the defendant's present ability to:
- 144 (i) understand the charges or allegations against the defendant;  
145 (ii) communicate facts, events, and states of mind;  
146 (iii) understand the range of possible penalties associated with the charges or  
147 allegations against the defendant;  
148 (iv) engage in reasoned choice of legal strategies and options;  
149 (v) understand the adversarial nature of the proceedings against the defendant;  
150 (vi) manifest behavior sufficient to allow the court to proceed; and  
151 (vii) testify relevantly, if applicable; and
- 152 (c) whether the defendant is exhibiting false or exaggerated physical or psychological  
153 symptoms relevant to the defendant's capacity to stand trial.
- 154 (7) Upon a determination that the defendant is incompetent to proceed, the forensic  
155 evaluator shall indicate in the report to the court:
- 156 (a) the factors that contribute to the defendant's incompetency, including the nature of  
157 the defendant's mental illness or intellectual disability, if any, and its relationship to  
158 the factors contributing to the defendant's incompetency;
- 159 (b) whether there is a substantial probability that:
- 160 (i) restoration treatment may bring the defendant to competency to stand trial in the  
161 foreseeable future; or
- 162 (ii) the defendant cannot become competent to stand trial in the foreseeable future;
- 163 (c) whether the defendant would benefit from restoration treatment; and
- 164 (d) if the forensic evaluator makes the determination under Subsection (7)(b)(i) or (7)(c),

165 an explanation of the reason for the determination and a summary of the treatment  
166 provided to the defendant in the past.

167 (8)(a) A forensic evaluator shall provide an initial report to the court and the prosecuting  
168 and defense attorneys within 30 days of the receipt of the court's order. The report  
169 shall inform the court of the examiner's opinion concerning the competency of the  
170 defendant to stand trial.

171 (b)(i) If the forensic evaluator is unable to complete the report in the time specified in  
172 Subsection (8)(a), the forensic evaluator shall give written notice to the court.

173 (ii) A forensic evaluator who provides the notice described in Subsection (8)(b)(i)  
174 shall receive a 15-day extension, giving the forensic evaluator a total of 45 days  
175 after the day on which the forensic evaluator received the court's order to conduct  
176 a competency evaluation and file a report.

177 (iii) The court may further extend the deadline for completion of the evaluation and  
178 report if the court determines that there is good cause for the extension.

179 (iv) Upon receipt of an extension described in Subsection (8)(b)(iii), the forensic  
180 evaluator shall file the report as soon as reasonably possible.

181 (9) Any written report submitted by a forensic evaluator shall:

182 (a) identify the case ordered for evaluation by the case number;

183 (b) describe the procedures, techniques, and tests used in the examination and the  
184 purpose or purposes for each, the time spent by the forensic evaluator with the  
185 defendant for purposes of the examination, and the compensation to be paid to the  
186 evaluator for the report;

187 (c) state the forensic evaluator's clinical observations, findings, and opinions on each  
188 factor described in Subsection (6); and

189 (d) identify the sources of information used by the forensic evaluator and present the  
190 basis for the forensic evaluator's clinical findings and opinions.

191 (10)(a) Any statement made by the defendant in the course of any competency  
192 examination, whether the examination is with or without the consent of the  
193 defendant, any testimony by a forensic evaluator based upon the statement, and any  
194 other fruits of the statement may not be admitted in evidence against the defendant in  
195 any criminal proceeding except on an issue respecting mental condition on which the  
196 defendant has introduced evidence, unless the evidence is relevant to a determination  
197 of the defendant's competency.

198 (b) Before examining the defendant, the forensic evaluator shall specifically advise the

- 199 defendant of the limits of confidentiality as provided under Subsection (10)(a).  
200 (11)(a) Upon receipt of the forensic evaluators' reports, the court shall set a date for a  
201 competency hearing. The hearing shall be held not less than five and not more than  
202 15 days after the day on which the court received the forensic evaluators' reports,  
203 unless for good cause the court sets a later date.
- 204 (b) Any person directed by the department to conduct the competency evaluation may be  
205 subpoenaed to testify at the hearing.
- 206 (c) The court may call any forensic evaluator to testify at the hearing who is not called  
207 by the parties. If the court calls a forensic evaluator, counsel for the parties may  
208 cross-examine the forensic evaluator.
- 209 (d)(i) If the forensic evaluators are in conflict as to the competency of the defendant,  
210 all forensic evaluators should be called to testify at the hearing if reasonably  
211 available.
- 212 (ii) A conflict in the opinions of the forensic evaluators does not require the  
213 appointment of an additional forensic evaluator unless the court finds good cause  
214 for the appointment.
- 215 (iii) If a party seeks an additional competency evaluation under this Subsection (11),  
216 that party shall:
- 217 (A) select the additional forensic evaluator; and  
218 (B) pay the costs of the additional forensic evaluator.
- 219 (12)(a)(i) A defendant shall be presumed competent to stand trial unless the court, by  
220 a preponderance of the evidence, finds the defendant incompetent to proceed.
- 221 (ii) The burden of proof is upon the proponent of incompetency at the hearing.
- 222 (b) An adjudication of incompetent to proceed does not operate as an adjudication of  
223 incompetency to give informed consent for medical treatment or for any other  
224 purpose, unless specifically set forth in the court order.
- 225 (13) In determining the defendant's competency to stand trial, the court shall consider the  
226 totality of the circumstances, including:
- 227 (a) the petition;  
228 (b) the defendant's criminal and arrest history;  
229 (c) prior mental health evaluations and treatments provided to the court by the defendant;  
230 (d) subject to Subsection (15), whether the defendant was found incompetent to proceed  
231 in a criminal action unrelated to the charged offense for which the petition is filed;  
232 (e) the testimony of lay witnesses, if any;

- 233 (f) the forensic evaluator's testimony and report;
- 234 (g) the materials on which the forensic evaluator's report is based; and
- 235 (h) any other relevant evidence or consideration bearing on the competency of the
- 236 defendant.
- 237 (14) If the court finds the defendant incompetent to proceed:
- 238 (a) the court shall issue the order described in Subsection 77-15-6(1), which shall:
- 239 (i) include findings addressing each of the factors in Subsection (6)(a);
- 240 (ii) include a transportation order, if necessary;
- 241 (iii) be accompanied by the forensic evaluators' reports, any psychiatric,
- 242 psychological, or social work reports submitted to the court relative to the mental
- 243 condition of the defendant, and any other documents made available to the court
- 244 by either the defense or the prosecution, pertaining to the defendant's current or
- 245 past mental condition; and
- 246 (iv) be sent by the court to the department; and
- 247 (b) the prosecuting attorney shall provide to the department:
- 248 (i) the charging document and probable cause statement, if any;
- 249 (ii) arrest or incident reports prepared by law enforcement and pertaining to the
- 250 charged offense; and
- 251 (iii) additional supporting documents.
- 252 (15) The court may not find the defendant incompetent to proceed based solely on a court
- 253 having ordered the release of the defendant under Section 77-15-3.5 or Section 77-15-6
- 254 in an unrelated criminal action if the court in the unrelated criminal action ordered the
- 255 release more than one year before the day on which the petition described in Subsection
- 256 (13)(a) is filed.
- 257 (16) The court may make any reasonable order to ensure compliance with this section.
- 258 (17) Failure to comply with this section does not result in the dismissal of criminal charges.
- 259 (18) This section does not apply to progress toward competency evaluations.
- 260 Section 2. Section **77-15-6** is amended to read:
- 261 **77-15-6 . Commitment on finding of incompetency to stand trial -- Subsequent**
- 262 **hearings -- Notice to prosecuting attorneys.**
- 263 (1)(a) Except as provided in Subsection (5), if after a hearing a court finds a defendant to
- 264 be incompetent to proceed, the court shall order the defendant committed to the
- 265 department for restoration treatment.
- 266 (b)(i) Except as provided in Subsection (1)(b)(ii), the court may recommend but may

- 267 not order placement of a defendant who is found incompetent to proceed.
- 268 (ii) The court may order that the defendant be placed in a secure setting rather than a  
269 nonsecure setting.
- 270 (c) Following restoration screening, the department's designee shall designate and  
271 inform the court of the specific placement and restoration treatment program for the  
272 defendant.
- 273 (d) Restoration treatment shall be of sufficient scope and duration to:
- 274 (i) restore the defendant to competency; or  
275 (ii) determine whether the defendant can be restored to competency in the foreseeable  
276 future.
- 277 (e) A defendant who a court determines is incompetent to proceed may not be held for  
278 restoration treatment longer than:
- 279 (i) the time reasonably necessary to determine that the defendant cannot become  
280 competent to stand trial in the foreseeable future; and  
281 (ii) the maximum period of incarceration that the defendant could receive if the  
282 defendant were convicted of the most severe offense of the offenses charged.
- 283 (2)(a) A defendant who is receiving restoration treatment shall receive a progress toward  
284 competency evaluation, by:
- 285 (i) a forensic evaluator, designated by the department; and  
286 (ii) an additional forensic evaluator, if requested by a party and paid for by the  
287 requesting party.
- 288 (b) A forensic evaluator shall complete a progress toward competency evaluation and  
289 submit a report within 90 days after the day on which the forensic evaluator receives  
290 the commitment order from the department.
- 291 (c) The report shall:
- 292 (i) assess whether the defendant is exhibiting false or exaggerated physical or  
293 psychological symptoms;
- 294 (ii) describe any diagnostic instruments, methods, and observations used by the  
295 evaluator to make the determination;
- 296 (iii) describe the defendant's current mental illness or intellectual disability, if any;
- 297 (iv) state the forensic evaluator's opinion as to the effect of any false or exaggerated  
298 symptoms on the defendant's competency to stand trial;
- 299 (v) assess the facility's or program's capacity to provide appropriate restoration  
300 treatment for the defendant;

- 301 (vi) assess the nature of restoration treatment provided to the defendant;
- 302 (vii) assess what progress the defendant has made toward competency restoration,
- 303 with respect to the factors identified by the court in its initial order;
- 304 (viii) assess whether the defendant can reasonably be restored to competency in the
- 305 foreseeable future given the restoration treatment currently being provided and the
- 306 facility's or program's capacity to provide appropriate restoration treatment for the
- 307 defendant; and
- 308 (ix) assess the likelihood of restoration to competency, the amount of time estimated
- 309 to achieve competency, or the amount of time estimated to determine whether
- 310 restoration to competency may be achieved~~;~~ and .
- 311 ~~[(\*)]~~ (d) If clinically appropriate, a report concluding that the defendant is competent to
- 312 proceed may include a statement by the facility's treating physician regarding:
- 313 ~~[(A)]~~ (i) whether the defendant is taking any antipsychotic medication as prescribed;
- 314 ~~[(B)]~~ (ii) whether ongoing administration of antipsychotic medication is necessary to
- 315 maintain the defendant's competency to stand trial;
- 316 ~~[(C)]~~ (iii) whether antipsychotic medication is substantially likely to maintain the
- 317 defendant's competency to stand trial;
- 318 ~~[(D)]~~ (iv) whether antipsychotic medication is substantially unlikely to produce side
- 319 effects which would significantly interfere with the defendant's ability to assist in
- 320 the defendant's defense;
- 321 ~~[(E)]~~ (v) that no less intrusive means are available, and whether any of those means
- 322 have been attempted to render the defendant competent; and
- 323 ~~[(F)]~~ (vi) whether antipsychotic medication is medically appropriate and in the
- 324 defendant's best medical interest in light of the defendant's medical condition.
- 325 (3)(a) The court on its own motion or upon motion by either party or the department
- 326 may appoint an additional forensic evaluator to conduct a progress toward
- 327 competency evaluation.
- 328 (b) If the court appoints an additional forensic evaluator upon motion of a party, that
- 329 party shall pay the costs of the additional forensic evaluator.
- 330 (4)(a) Within 15 days after the day on which the court receives the forensic evaluator's
- 331 report of the progress toward competency evaluation, the court shall hold a hearing to
- 332 review the defendant's competency.
- 333 (b) At the hearing, the burden of proving that the defendant is competent to stand trial is
- 334 on the proponent of competency.

- 335 (c) Following the hearing, the court shall determine by a preponderance of evidence  
336 whether the defendant:
- 337 (i) is competent to stand trial;
- 338 (ii) is competent, but requires the ongoing administration of antipsychotic medication  
339 in order to maintain the defendant's competency to stand trial;
- 340 (iii) is incompetent to proceed, with a substantial probability that the defendant may  
341 become competent in the foreseeable future; or
- 342 (iv) is incompetent to proceed, without a substantial probability that the defendant  
343 may become competent in the foreseeable future.
- 344 (5)(a) If at any time the court determines that the defendant is competent to stand trial,  
345 the court shall:
- 346 (i) proceed with the trial or other procedures as may be necessary to adjudicate the  
347 charges;
- 348 (ii) order that the defendant be returned to the placement and status that the defendant  
349 was in at the time when the petition for the adjudication of competency was filed  
350 or raised by the court, unless the court determines that placement of the defendant  
351 in a less restrictive environment is more appropriate;
- 352 (iii) order the ongoing administration of antipsychotic medication to the defendant for  
353 the purpose of maintaining the defendant's competency to stand trial, if the court  
354 finds that the administration of antipsychotic medication is necessary to maintain  
355 the defendant's competency to stand trial under Subsection (4)(c)(ii); and
- 356 (iv) require the agency, jail, or prison with custody over the defendant to report to the  
357 court any noncompliance with the court's orders under this Subsection (5) within  
358 48 hours of the noncompliance.
- 359 (b) If the court determines that the defendant is incompetent to proceed with a  
360 substantial probability that the defendant may become competent in the foreseeable  
361 future, the court may order that the defendant remain committed to the department or  
362 the department's designee for the purpose of restoration treatment.
- 363 (c)(i) If the court determines that the defendant is incompetent to proceed without a  
364 substantial probability that the defendant may become competent in the  
365 foreseeable future, the court shall order the defendant released from commitment  
366 to the department, unless the prosecutor or another individual informs the court  
367 that civil commitment proceedings pursuant to Title 26B, Chapter 5, Health Care -  
368 Substance Use and Mental Health, or Title 26B, Chapter 6, Part 4, Division of

- 369 Services for People with Disabilities, will be initiated.
- 370 (ii) The commitment proceedings must be initiated by a petition filed within seven  
371 days after the day on which the court makes the determination described in  
372 Subsection (4)(c)(iv), unless the court finds that there is good cause to delay the  
373 initiation of the civil commitment proceedings.
- 374 (iii) The court may order the defendant to remain committed to the department until  
375 the civil commitment proceedings conclude.
- 376 (iv) If the defendant is civilly committed and admitted to a secure setting, the  
377 department shall provide notice to the court that adjudicated the defendant  
378 incompetent to proceed and to the prosecution agency that prosecuted the case at  
379 least 15 days before any proposed release of the committed individual from the  
380 secure setting.
- 381 (v) If the prosecution agency that prosecuted the case intends to refile charges against  
382 the committed individual:
- 383 (A) the prosecution agency shall provide written notice of that intent to the  
384 department within 15 days after the department provides the notice described  
385 in Subsection (5)(c)(iv); and
- 386 (B) the department shall postpone release of the committed individual for at least  
387 30 days after the day on which the department receives the written notice of  
388 intent from the prosecution agency.
- 389 (vi) If the prosecution agency that prosecuted the case refiles charges against the  
390 committed individual and the individual's competency is raised, the department  
391 shall postpone release of the individual until the competency proceedings  
392 conclude.
- 393 (6)(a) At any time following the court's order under Subsection (5)(a)(iii), the defendant,  
394 the prosecuting attorney, the department, the treating physician, or the agency, jail, or  
395 prison with custody over the defendant, may notify the court of the need to review  
396 the medication order under Subsection (5)(a)(iii) for continued appropriateness and  
397 feasibility.
- 398 (b) The court shall set the matter for a hearing if the notification under Subsection (6)(a)  
399 establishes good cause to review the matter.
- 400 (7) If a court, under Subsection (5)(b), extends a defendant's commitment, the court shall  
401 schedule a competency review hearing for the earlier of:
- 402 (a) the department's best estimate of when the defendant may be restored to competency;

- 403                   or
- 404           (b) three months after the day on which the court determined under Subsection (5)(b) to
- 405           extend the defendant's commitment.
- 406   (8) Unless the defendant is charged with a crime listed in Subsection (9), if a defendant is
- 407   incompetent to proceed by the day of the competency review hearing that follows the
- 408   extension of a defendant's commitment, the court shall:
- 409   (a) order the defendant be:
- 410           (i) released or temporarily detained pending civil commitment proceedings as
- 411           described in Subsection (5)(c); and
- 412           (ii) terminate the defendant's commitment to the department for restoration treatment;
- 413           or
- 414   (b) if the forensic evaluator reports to the court that there is a substantial probability that
- 415   restoration treatment will bring the defendant to competency to stand trial in the
- 416   foreseeable future, extend the defendant's commitment for restoration treatment up to
- 417   45 additional days.
- 418   (9) If the defendant is charged with aggravated murder, murder, attempted murder,
- 419   manslaughter, or a first degree felony and the court determines that the defendant is
- 420   making reasonable progress towards restoration of competency at the time of the hearing
- 421   held pursuant to Subsection (7), the court may extend the commitment for a period not
- 422   to exceed nine months for the purpose of restoration treatment, with a mandatory review
- 423   hearing at the end of the nine-month period.
- 424   (10) Unless the defendant is charged with aggravated murder or murder, if, at the
- 425   nine-month review hearing described in Subsection (9), the court determines that the
- 426   defendant is incompetent to proceed, the court shall:
- 427   (a)(i) order the defendant be released or temporarily detained pending civil
- 428           commitment proceedings as provided in Subsection (5)(c); and
- 429           (ii) terminate the defendant's commitment to the department for restoration treatment;
- 430           or
- 431   (b) if the forensic evaluator reports to the court that there is a substantial probability that
- 432   restoration treatment will bring the defendant to competency to stand trial in the
- 433   foreseeable future, extend the defendant's commitment for restoration treatment for
- 434   up to 135 additional days.
- 435   (11) If the defendant is charged with aggravated murder or murder and the court determines
- 436   that the defendant is making reasonable progress towards restoration of competency at

- 437 the time of the nine-month review hearing described in Subsection (9), the court may  
438 extend the commitment for a period not to exceed 24 months for the purpose of  
439 restoration treatment.
- 440 (12) If the court extends the defendant's commitment term under Subsection (11), the court  
441 shall hold a hearing no less frequently than at 12-month intervals following the  
442 extension for the purpose of determining the defendant's competency status.
- 443 (13) If, at the end of the 24-month commitment period described in Subsection (11), the  
444 court determines that the defendant is incompetent to proceed, the court shall:
- 445 (a)(i) order the defendant be released or temporarily detained pending civil  
446 commitment proceedings as provided in Subsection (5)(c); and  
447 (ii) terminate the defendant's commitment to the department for restoration treatment;  
448 or
- 449 (b) if the forensic evaluator reports to the court that there is a substantial probability that  
450 restoration treatment will bring the defendant to competency to stand trial in the  
451 foreseeable future, extend the defendant's commitment for restoration treatment for  
452 up to 12 additional months.
- 453 (14)(a) Neither release from a pretrial incompetency commitment under the provisions  
454 of this section nor civil commitment requires dismissal of criminal charges.
- 455 (b) The court may retain jurisdiction over the criminal case and may order periodic  
456 reviews.
- 457 (15) A defendant who is civilly committed pursuant to Title 26B, Chapter 5, Health Care -  
458 Substance Use and Mental Health, or Title 26B, Chapter 6, Part 4, Division of Services  
459 for People with Disabilities, may still be adjudicated competent to stand trial under this  
460 chapter.
- 461 (16)(a) The remedy for a violation of the time periods specified in this section, other  
462 than those specified in Subsection (5)(c), (8), (10), or (13), shall be a motion to  
463 compel the hearing, or mandamus, but not release from detention or dismissal of the  
464 criminal charges.
- 465 (b) The remedy for a violation of the time periods specified in Subsection (5)(c), (8), (9),  
466 or (13), or is not dismissal of the criminal charges.
- 467 (17) In cases in which the treatment of the defendant is precluded by court order for a  
468 period of time, that time period may not be considered in computing time limitations  
469 under this section.
- 470 (18)(a) If, at any time, the defendant becomes competent to stand trial while the

471 defendant is committed to the department, the clinical director of the Utah State  
 472 Hospital, the department, or the department's designee shall certify that fact to the  
 473 court.

474 (b) The court shall conduct a competency review hearing:

475 (i) within 15 working days after the day on which the court receives the certification  
 476 described in Subsection (18)(a); or

477 (ii) within 30 working days after the day on which the court receives the certification  
 478 described in Subsection (18)(a), if the court determines that more than 15 working  
 479 days are necessary for good cause related to the defendant's competency.

480 (19) The court may order a hearing at any time on the court's own motion or upon  
 481 recommendations of the clinical director of the Utah State Hospital or other facility or  
 482 the department.

483 (20) Notice of a hearing on competency to stand trial shall be given to the prosecuting  
 484 attorney and all counsel of record.

485 Section 3. Section **77-15-10** is enacted to read:

486 **77-15-10 . Involuntary medication order portability.**

487 (1) As used in this section:

488 (a) "Covered individual" means an individual subject to an involuntary medication order.

489 (b) "Facility" means:

490 (i) a county jail;

491 (ii) the Utah State Hospital established in Section 26B-5-302; or

492 (iii) a facility where a covered individual is receiving treatment as described in  
 493 Section 77-15-6.5.

494 (c) "Involuntary medication order" means a court order for involuntary medication of a  
 495 defendant that a court orders in accordance with Section 77-15-6.5.

496 (d) "Qualified medical professional" means an individual who is licensed as:

497 (i) a physician under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58,  
 498 Chapter 68, Utah Osteopathic Medical Practice Act;

499 (ii) a psychiatrist under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58,  
 500 Chapter 68, Utah Osteopathic Medical Practice Act;

501 (iii) a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act;  
 502 or

503 (iv) a nurse practitioner under Title 58, Chapter 31b, Nurse Practice Act.

504 (e) "Receiving facility" means a facility where a covered individual is being transferred.

- 505 (f) "Sending facility" means a facility where a covered individual is held or incarcerated.
- 506 (2) An involuntary medication order remains valid and in effect when a covered individual
- 507 is transferred from a sending facility to a receiving facility.
- 508 (3) Before a receiving facility continues administering medication to an individual
- 509 transferred from a sending facility under an involuntary medication order:
- 510 (a) a qualified medical professional employed by the receiving facility shall:
- 511 (i) review the covered individual's medical record from the sending facility and the
- 512 involuntary medication order;
- 513 (ii) conduct a face-to-face assessment of the covered individual's current mental and
- 514 physical condition;
- 515 (iii) assess whether the covered individual can be transitioned to receiving medication
- 516 on a voluntary basis if the covered individual continues to need medication; and
- 517 (b) the qualified medical professional shall document in the covered individual's medical
- 518 record a signed statement affirming that:
- 519 (i) the covered individual continues to suffer from a mental illness and, as a result of
- 520 the mental illness, poses a likelihood of serious harm to the covered individual or
- 521 others if treatment ordered in the involuntary medication order is discontinued; and
- 522 (ii) the administration of psychiatric medication as ordered in the involuntary
- 523 medication order is:
- 524 (A) medically appropriate;
- 525 (B) in the covered individual's best interest; and
- 526 (C) the least restrictive treatment necessary to maintain the safety of the covered
- 527 individual and others.
- 528 (4)(a) A sending facility and receiving facility shall coordinate transfer of a covered
- 529 individual's medication plan.
- 530 (b) If the covered individual's medication is unavailable under the receiving facility's
- 531 formulary, the medical director of the sending facility, or the medical director's
- 532 designee, and the medical director of the receiving facility, or the medical director's
- 533 designee, shall agree on a therapeutic equivalent or alternative that prevents
- 534 interruption of the covered individual's treatment.
- 535 (c) If the medical director of the receiving facility does not agree to a therapeutic
- 536 equivalent or alternative described in Subsection (4)(b), the receiving facility may not
- 537 continue to involuntarily medicate the covered individual unless the receiving facility
- 538 seeks a new involuntary medication order under Section 77-15-6.5.

- 539 (5) This section does not affect:
- 540 (a) the rights of a covered individual under this chapter; or
- 541 (b) the original expiration date of an involuntary medication order.
- 542 Section 4. **Effective Date.**
- 543 This bill takes effect on May 6, 2026.