

**Representative Greg J. Curtis** proposes the following substitute bill:

**RESIDENTIAL FACILITIES FOR THE  
DISABLED AMENDMENTS**

2003 GENERAL SESSION

STATE OF UTAH

**Sponsor: Greg J. Curtis**

**This act modifies the Utah Municipal Code and provisions relating to counties. The act modifies the permissible and required provisions of a county or municipal ordinance relating to residential facilities for persons with a disability. The act authorizes a limit on the number of occupants of a residential facility for persons with a disability, authorizes an ordinance to provide for residential facilities for persons with a disability to be excluded from a zoning area under certain circumstances, and authorizes the creation of a security plan for certain residential facilities for persons with a disability, if consistent with other applicable law. The act also makes technical changes.**

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**10-9-605**, as last amended by Chapters 102 and 203, Laws of Utah 2001

**17-27-605**, as last amended by Chapters 102 and 203, Laws of Utah 2001

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

Section 1. Section **10-9-605** is amended to read:

**10-9-605. Residences for persons with a disability.**

(1) As used in this section:

(a) "Disability" is defined in Section 57-21-2.

(b) "Residential facility for persons with a disability" means a residence:

(i) in which more than one person with a disability resides; and

(ii) (A) is licensed or certified by the Department of Human Services under Title 62A,



26 Chapter 2, Licensure of Programs and Facilities; or

27 (B) is licensed or certified by the Department of Health under Title 26, Chapter 21,  
28 Health Care Facility Licensing and Inspection Act.

29 (2) Each municipality shall adopt an ordinance for residential facilities for persons with  
30 a disability. ~~[The]~~

31 (3) Each ordinance~~[(a)]~~ under Subsection (2) shall:

32 ~~[(i)]~~ (a) comply with Title 57, Chapter 21, Utah Fair Housing Act, and the federal Fair  
33 Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq.; and

34 ~~[(ii)]~~ (b) to the extent required by federal law, provide that a residential facility for  
35 persons with a disability is a permitted use in any zoning area where similar residential  
36 dwellings that are not residential facilities for persons with a disability are allowed~~[-; and (b)].~~

37 (4) Subject to Subsection (3), an ordinance under Subsection (2) may:

38 (a) require residential facilities for persons with a disability:

39 ~~[(i) if consistent with the statutory provisions referred to in Subsection (2)(a)(i):]~~

40 ~~[(A)]~~ (i) to be reasonably dispersed throughout the municipality; ~~[and]~~

41 (ii) to be limited by number of occupants;

42 ~~[(B)]~~ (iii) for residential facilities for persons with a disability that are substance abuse  
43 facilities and are located within 500 feet of a school, to provide, in accordance with rules  
44 established by the Department of Human Services under Title 62A, Chapter 2, Licensure of  
45 Programs and Facilities:

46 (A) a security plan satisfactory to local school district and law enforcement authorities;

47 ~~[(B)]~~ (B) 24-hour supervision for residents; and

48 ~~[(C)]~~ (C) other 24-hour security measures; and

49 ~~[(iv)]~~ (iv) to obtain permits that verify compliance with the same building, safety, and  
50 health regulations as are applicable in the same zoning area to similar uses that are not  
51 residential facilities for persons with a disability~~[-]; and~~

52 (b) provide that a residential facility for persons with a disability that would likely  
53 create a fundamental change in the character of a residential neighborhood may be excluded  
54 from a zoning area.

55 ~~[(3)]~~ (5) The responsibility to license programs or entities that operate facilities for  
56 persons with a disability, as well as to require and monitor the provision of adequate services to

57 persons residing in those facilities, shall rest with:

58 (a) for programs or entities licensed or certified by the Department of Human Services,  
59 the Department of Human Services as provided in Title 62A, Chapter 5, Services to People  
60 with Disabilities; and

61 (b) for programs or entities licensed or certified by the Department of Health, the  
62 Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and  
63 Inspection Act.

64 Section 2. Section **17-27-605** is amended to read:

65 **17-27-605. Residences for persons with a disability.**

66 (1) As used in this section:

67 (a) "Disability" is defined in Section 57-21-2.

68 (b) "Residential facility for persons with a disability" means a residence:

69 (i) in which more than one person with a disability resides; and

70 (ii) (A) is licensed or certified by the Department of Human Services under Title 62A,  
71 Chapter 2, Licensure of Programs and Facilities; or

72 (B) is licensed or certified by the Department of Health under Title 26, Chapter 21,  
73 Health Care Facility Licensing and Inspection Act.

74 (2) Each county shall adopt an ordinance for residential facilities for persons with a  
75 disability. [~~The ordinance: (a)~~]

76 (3) Each ordinance under Subsection (2) shall:

77 [~~(i)~~] (a) comply with Title 57, Chapter 21, Utah Fair Housing Act, and the federal Fair  
78 Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq.; and

79 [~~(ii)~~] (b) to the extent required by federal law, provide that a residential facility for  
80 persons with a disability is a permitted use in any zoning area where similar residential  
81 dwellings that are not residential facilities for persons with a disability are allowed[~~; and (b)~~].

82 (4) Subject to Subsection (3), an ordinance under Subsection (2) may:

83 (a) require residential facilities for persons with a disability:

84 [~~(i) if consistent with the statutory provisions referred to in Subsection (2)(a)(i):~~]

85 [~~(A)~~] (i) to be reasonably dispersed throughout the county; [~~and~~]

86 (ii) to be limited by number of occupants;

87 [~~(B)~~] (iii) for residential facilities for persons with a disability that are substance abuse

88 facilities and are located within 500 feet of a school, to provide, in accordance with rules  
89 established by the Department of Human Services under Title 62A, Chapter 2, Licensure of  
90 Programs and Facilities:

91 (A) a security plan satisfactory to local school districts and law enforcement  
92 authorities;

93 [~~(B)~~] (B) 24-hour supervision for residents; and

94 [~~(C)~~] (C) other 24-hour security measures; and

95 [~~(iv)~~] (iv) to obtain permits that verify compliance with the same building, safety, and  
96 health regulations as are applicable in the same zoning area to similar uses that are not  
97 residential facilities for persons with a disability[-]; and

98 (b) provide that a residential facility for persons with a disability that would likely  
99 create a fundamental change in the character of a residential neighborhood may be excluded  
100 from a zoning area.

101 [~~(5)~~] (5) The responsibility to license programs or entities that operate facilities for  
102 persons with a disability, as well as to require and monitor the provision of adequate services to  
103 persons residing in those facilities, shall rest with:

104 (a) for programs or entities licensed or certified by the Department of Human Services,  
105 the Department of Human Services as provided in Title 62A, Chapter 5, Services to People  
106 with Disabilities; and

107 (b) for programs or entities licensed or certified by the Department of Health, the  
108 Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and  
109 Inspection Act.