

1 **PROGRAMS AND FACILITIES LICENSING**

2 **AMENDMENTS**

3 2005 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: D. Chris Butters**

6

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions of the Utah Human Services Code relating to licensing of
10 programs and facilities.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ defines terms;
- 14 ▶ changes definitions;
- 15 ▶ provides that a boarding school:
 - 16 • is not a "human services licensee" or "licensee"; and
 - 17 • is not subject to regulation and licensing by the Office of Licensing within the
18 Department of Human Services;
- 19 ▶ removes the provision that day treatment is provided in lieu of, or in coordination
20 with, a more restrictive residential or inpatient environment or service;
- 21 ▶ provides that a therapeutic school:
 - 22 • is a "human services licensee" or "licensee"; and
 - 23 • is subject to regulation and licensing by the Office of Licensing within the
24 Department of Human Services; and
- 25 ▶ makes technical changes.

26 **Monies Appropriated in this Bill:**

27 None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **62A-2-101**, as last amended by Chapter 22, Laws of Utah 2003



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

35 Section 1. Section **62A-2-101** is amended to read:

36 **62A-2-101. Definitions.**

37 As used in this chapter:

38 (1) "Adult day care" means ~~continuous~~ nonresidential care and supervision;

39 (a) for three or more adults for at least four but less than 24 hours a day[;]; and

40 (b) that meets the needs of functionally impaired adults through a comprehensive
41 program that provides a variety of health, social, recreational, and related support services in a
42 protective setting.

43 (2) (a) "Boarding school" means a private school that:

44 (i) uses a regionally accredited education program;

45 (ii) provides a residence to the school's students:

46 (A) for the purpose of enabling the school's students to attend classes at the school; and

47 (B) as an ancillary service to educating the students at the school;

48 (iii) has the primary purpose of providing the school's students with an education, as
49 defined in Subsection (2)(b)(i); and

50 (iv) (A) does not provide the treatment or services described in Subsection (20); or

51 (B) provides the treatment or services described in Subsection (20) on a limited basis,

52 as described in Subsection (2)(b)(ii).

53 (b) (i) For purposes of Subsection (2)(a)(iii), "education" means a course of study for
54 one or more of grades kindergarten through 12th grade.

55 (ii) For purposes of Subsection (2)(a)(iv)(B), a private school provides the treatment or
56 services described in Subsection (20) on a limited basis if:

57 (A) the treatment or services described in Subsection (20) are provided only as an
58 incidental service to a student; and

- 59 (B) the school does not:
- 60 (I) specifically solicit a student for the purpose of providing the treatment or services
- 61 described in Subsection (20); or
- 62 (II) have a primary purpose of providing the services described in Subsection (20).
- 63 (c) "Boarding school" does not include a therapeutic school.
- 64 ~~[(2)]~~ (3) "Child" means a person under 18 years of age.
- 65 ~~[(3)]~~ (4) "Child placing" means receiving, accepting, or providing custody or care for
- 66 any child ~~[under 18 years of age]~~, temporarily or permanently, for the purpose of:
- 67 (a) finding a person to adopt the child;
- 68 (b) placing the child ~~[temporarily or permanently]~~ in a home for adoption; or
- 69 (c) foster home placement.
- 70 ~~[(4)]~~ (5) "Client" means an individual who receives or has received services from a
- 71 human services licensee ~~[under this chapter]~~.
- 72 ~~[(5)]~~ (6) "Day treatment" means specialized treatment ~~[for]~~ that is provided to:
- 73 (a) a client less than 24 hours a day [for]; and
- 74 (b) four or more persons who:
- 75 (i) are unrelated to the owner or provider; and [who]
- 76 (ii) have emotional, psychological, developmental, physical, or behavioral
- 77 dysfunctions, impairments, or chemical dependencies. [Day treatment is provided in lieu of, or
- 78 in coordination with, a more restrictive residential or inpatient environment or service.]
- 79 ~~[(6)]~~ (7) "Department" means the Department of Human Services.
- 80 ~~[(7)]~~ (8) "Direct access" means that an individual has, or likely will have, contact with
- 81 or access to a child or vulnerable adult that provides the individual with an opportunity for
- 82 personal communication or touch.
- 83 ~~[(8)]~~ (9) "Director" means the director of the Office of Licensing.
- 84 ~~[(9)]~~ (10) "Domestic violence treatment program" means a nonresidential program
- 85 designed to provide psychological treatment and educational services to perpetrators and
- 86 victims of domestic violence.
- 87 ~~[(10)]~~ (11) "Elder adult" means a person 65 years of age or older.
- 88 ~~[(11)]~~ (12) "Executive director" means the executive director of the department.
- 89 ~~[(12)]~~ (13) (a) "Human services licensee" or "licensee" means a:

- 90 (i) therapeutic school;
- 91 (ii) youth program[;];
- 92 (iii) resource family home[;]; or [a]
- 93 (iv) facility or program, licensed by the department, that provides [care;];
- 94 (A) secure treatment[;];
- 95 (B) inpatient treatment[;];
- 96 (C) residential treatment[;];
- 97 (D) residential support[;];
- 98 (E) adult day care[;];
- 99 (F) day treatment[;];
- 100 (G) outpatient treatment[;];
- 101 (H) domestic violence treatment[;];
- 102 (I) child placing services[;]; or
- 103 (J) social detoxification.

104 (b) "Human services licensee" or "licensee" does not include a boarding school.

105 [~~(13)~~] (14) "Licensing board" means the Human Services Licensing Board.

106 [~~(14)~~] (15) "Minor" has the same meaning as "child."

107 [~~(15)~~] (16) "Office" means the Office of Licensing within the Department of Human
108 Services.

109 [~~(16)~~] (17) "Outpatient treatment" means individual, family, or group therapy or
110 counseling designed to improve and enhance social or psychological functioning for those
111 whose physical and emotional status allows them to continue functioning in their usual living
112 environment.

113 [~~(17)~~] (18) (a) "Person associated with the licensee" means an owner, director, member
114 of the governing body, employee, provider of care, or volunteer of;

115 (i) a human services licensee; or [of]

116 (ii) an applicant to become a licensee.

117 (b) Notwithstanding Subsection [~~(17)~~] (18)(a), "person associated with the licensee"
118 does not include an individual serving on [either of] the following bodies unless that individual
119 has direct access to children or vulnerable adults:

120 (i) a local mental health authority under Section 17-43-301 [~~or~~];

121 (ii) a local substance abuse authority under Section 17-43-201; or
122 [(ii)] (iii) a board of an organization operating under a contract to provide

123 [comprehensive]:

124 (A) mental health or substance abuse programs; or

125 (B) services for the local mental health authority or substance abuse authority.

126 [(18)] (19) (a) "Residential support" means arranging for or providing the necessities of
127 life as a protective service to individuals or families who are disabled or who are experiencing
128 a dislocation or emergency [which] that prevents them from providing these services for
129 themselves or their families.

130 (b) Treatment is not a necessary component of residential support.

131 [(19)] (20) "Residential treatment" means a 24-hour group living environment for four
132 or more individuals unrelated to the owner or provider that offers room or board and
133 specialized treatment, behavior modification, rehabilitation, discipline, emotional growth, or
134 habilitation services for persons with emotional, psychological, developmental, or behavioral
135 dysfunctions, impairments, or chemical dependencies. [~~In residential treatment, individuals are
136 assisted in acquiring the social and behavioral skills necessary for living independently in the
137 community.~~]

138 [(20)] (21) "Resource family home" means a home licensed to provide services to a
139 child in the custody of the state and includes a foster care home and a legal risk home.

140 [(21)] (22) (a) "Secure treatment" means 24-hour specialized residential treatment or
141 care for persons whose current functioning is such that they cannot live independently or in a
142 less restrictive environment.

143 (b) "Secure treatment" differs from residential treatment to the extent that it requires
144 intensive supervision, locked doors, and other security measures [which] that are imposed on
145 residents with neither their consent nor control.

146 [(22)] (23) "Social detoxification" means short-term residential services for persons
147 who are intoxicated, that are provided outside of a health care facility licensed under Title 26,
148 Chapter 21, Health Care Facility [~~Licensure~~] Licensing and Inspection Act, and that include:

149 (a) room and board for persons who are unrelated to the owner or manager of the
150 facility;

151 (b) specialized rehabilitation to acquire sobriety; and

- 152 (c) aftercare services.
- 153 (24) "Therapeutic school" means a residential group living facility:
- 154 (a) for four or more individuals that are not related to:
- 155 (i) the owner of the facility; or
- 156 (ii) the primary service provider of the facility;
- 157 (b) that serves students who have a history of failing to function:
- 158 (i) at home;
- 159 (ii) in a public school; or
- 160 (iii) in a nonresidential private school; and
- 161 (c) that offers:
- 162 (i) room and board; and
- 163 (ii) an academic education integrated with:
- 164 (A) specialized structure and supervision; or
- 165 (B) services or treatment related to:
- 166 (I) a disability;
- 167 (II) emotional development;
- 168 (III) behavioral development;
- 169 (IV) familial development; or
- 170 (V) social development.
- 171 [~~23~~] (25) "Unrelated persons" means persons other than parents, legal guardians,
- 172 grandparents, brothers, sisters, uncles, or aunts.
- 173 [~~24~~] (26) "Vulnerable adult" means an elder adult or an adult who has a mental or
- 174 physical impairment that substantially affects the person's ability to:
- 175 (a) provide personal protection;
- 176 (b) provide necessities such as food, shelter, clothing, or mental or other health care;
- 177 (c) obtain services necessary for health, safety, or welfare;
- 178 (d) carry out the activities of daily living;
- 179 (e) manage the adult's own resources; or
- 180 (f) comprehend the nature and consequences of remaining in a situation of abuse,
- 181 neglect, or exploitation.
- 182 [~~25~~] (27) (a) "Youth program" means a nonresidential program, designed to provide

- 183 behavioral, substance abuse or mental health services to minors that:
- 184 (i) serves [~~either~~] adjudicated or nonadjudicated youth;
- 185 (ii) charges a fee for its services;
- 186 (iii) may or may not provide host homes or other arrangements for overnight
187 accommodation of the youth;
- 188 (iv) may or may not provide all or part of its services in the outdoors;
- 189 (v) may or may not limit or censor access to parents or guardians; and
- 190 (vi) prohibits or restricts a minor's ability to leave the program at any time of his own
191 free will.
- 192 (b) "Youth program" does not include recreational programs such as Boy Scouts, Girl
193 Scouts, 4-H, and other such organizations.

Legislative Review Note

as of 1-28-05 11:42 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0176

Programs and Facilities Licensing Amendments

03-Feb-05

8:29 AM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst