

**HARBORING A RUNAWAY**

2009 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Lorie D. Fowlke**

Senate Sponsor: Curtis S. Bramble

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**LONG TITLE**

**General Description:**

This bill amends the section of the Utah Criminal Code that relates to harboring a runaway.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ provides that a person who harbors a minor who is a runaway must provide notice to the parent or legal guardian of the minor, a youth services center, the Division of Child and Family Services, or, under certain circumstances, a peace officer or a detention center, within eight hours from the later of the time that the person begins providing the shelter or the time that the person becomes aware that the minor is a runaway;
- ▶ provides an affirmative defense to the crime of harboring a runaway if the person fails to provide the required notice due to circumstances beyond the control of the person;
- ▶ provides that an individual or a temporary homeless youth shelter may continue to provide shelter to a runaway after providing the notice required by this bill if the parent or legal guardian of the minor consents to the continued provision of shelter or if the person notified fails to retrieve the runaway;
- ▶ clarifies that this bill does not prohibit an individual, a temporary homeless shelter, or a government agency from providing shelter to an abandoned minor;
- ▶ clarifies that this bill does not release a person from the obligation to report abuse

30 or neglect of a child; and

31       ▶ makes technical changes.

32 **Monies Appropriated in this Bill:**

33       None

34 **Other Special Clauses:**

35       None

36 **Utah Code Sections Affected:**

37 AMENDS:

38       **62A-4a-501**, as enacted by Laws of Utah 1996, Chapter 245

39       **78A-6-1001**, as renumbered and amended by Laws of Utah 2008, Chapter 3



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

42       Section 1. Section **62A-4a-501** is amended to read:

43       **62A-4a-501. Harboring a runaway -- Reporting requirements -- Division to**  
44 **provide assistance -- Affirmative defense -- Providing shelter after notice.**

45       (1) As used in this section:

46       (a) "Harbor" means to provide shelter in:

47       (i) the home of the person who is providing the shelter; or

48       (ii) any structure over which the person providing the shelter has any control.

49       (b) "Promptly" means within eight hours after the later of:

50       (i) the time that the person becomes aware that the minor is a runaway; or

51       (ii) the time that the person begins harboring the minor.

52       (c) "Receiving center" is as defined in Section 62A-7-101.

53       (d) "Runaway" means a minor, other than an emancipated minor, who is absent from  
54 the home or lawfully prescribed residence of the parent or legal guardian of the minor without  
55 the permission of the parent or legal guardian.

56       (e) "Temporary homeless youth shelter" means a facility that:

57       (i) provides temporary shelter to a runaway; and

58 (ii) is licensed by the Office of Licensing, created in Section 62A-1-105, as a  
59 residential support program.

60 (f) "Youth services center" means a center established by, or under contract with, the  
61 Division of Juvenile Justice Services, created in Section 62A-1-105, to provide youth services,  
62 as defined in Section 62A-7-101.

63 ~~[(1) Any person who]~~

64 (2) A person is guilty of a class B misdemeanor if the person:

65 (a) knowingly and intentionally harbors a minor ~~[and who];~~

66 (b) knows at the time of harboring the minor that the minor is ~~[away from the parent's~~  
67 or legal guardian's home, or other lawfully prescribed residence, without the permission of the  
68 parent or legal guardian, shall promptly notify the parent or legal guardian of the minor's  
69 location or report the location of the minor to the division. ~~The report may be made by~~  
70 telephone or any other reasonable means.] a runaway; and

71 ~~[(2) Unless the context clearly requires otherwise:]~~

72 ~~[(a) "Promptly" means within eight hours after the person has knowledge that the~~  
73 ~~minor is away from home without parental permission.]~~

74 ~~[(b) "Shelter" means the person's home or any structure over which the person has any~~  
75 ~~control.]~~

76 (c) except as provided in Subsection (3), fails to promptly notify one of the following,  
77 by telephone or other reasonable means, of the location of the minor:

78 (i) the parent or legal guardian of the minor;

79 (ii) the division; or

80 (iii) a youth services center.

81 (3) A person described in Subsection (2) is not required to comply with Subsection  
82 (2)(c), if:

83 (a) a court order is issued authorizing a peace officer to take the minor into custody;

84 and

85 (b) the person promptly notifies a peace officer or the nearest detention center, as

86 defined in Section 62A-7-101, by telephone or other reasonable means, of the location of the  
87 minor.

88 (4) It is an affirmative defense to the crime described in Subsection (2) that:

89 (a) the person failed to promptly provide notice as described in Subsection (2)(c) or  
90 (3) due to circumstances beyond the control of the person providing the shelter; and

91 (b) the person provided the notice described in Subsection (2)(c) or (3) as soon as it  
92 was reasonably practicable to do so.

93 ~~[(3)]~~ (5) Upon receipt of a report that a [minor] runaway is being harbored by a person  
94 ~~[the division]:~~

95 (a) a youth services center shall:

96 (i) notify the parent or legal guardian that a report has been made; and

97 (ii) inform the parent or legal guardian of assistance available from the [division.]  
98 youth services center; or

99 (b) the division shall:

100 (i) determine whether the runaway is abused, neglected, or dependent; and

101 (ii) if appropriate, make a referral for services for the runaway.

102 ~~[(4)]~~ (6) A parent or legal guardian of a runaway who is aware that [his minor] the  
103 runaway is being harbored may notify [the division or] a law enforcement agency and request  
104 assistance in retrieving the [minor from the place of shelter] runaway. The [division or] local  
105 law enforcement agency may assist the parent or legal guardian in retrieving the [minor]  
106 runaway.

107 ~~[(5) Any person who knowingly and intentionally harbors a minor and who knows at~~  
108 ~~the time of harboring the minor that the minor is away from the parent's or legal guardian's~~  
109 ~~home, or other lawfully prescribed residence, without the permission of the parent or guardian~~  
110 ~~and without making the notification required by this section is guilty of a class B~~  
111 ~~misdemeanor.]~~

112 (7) Nothing in this section prohibits an individual or a temporary homeless youth  
113 shelter from continuing to provide shelter to a runaway, after giving the notice described in

114 Subsection (2)(c) or (3), if:

115 (a) a parent or legal guardian of the minor consents to the continued provision of  
116 shelter; or

117 (b) a peace officer or a parent or legal guardian of the minor fails to retrieve the  
118 runaway.

119 (8) Nothing in this section prohibits an individual or a temporary homeless youth  
120 shelter from providing shelter to a non-emancipated minor whose parents or legal guardians  
121 have intentionally:

122 (a) ceased to maintain physical custody of the minor;

123 (b) failed to make reasonable arrangements for the safety, care, and physical custody  
124 of the minor; and

125 (c) failed to provide the minor with food, shelter, or clothing.

126 (9) Nothing in this section prohibits:

127 (a) a receiving center or a youth services center from providing shelter to a runaway in  
128 accordance with the requirements of Title 62A, Chapter 7, Juvenile Justice Services, and the  
129 rules relating to a receiving center or a youth services center; or

130 (b) a government agency from taking custody of a minor as otherwise provided by  
131 law.

132 (10) Nothing in this section releases a person from the obligation, under Section  
133 62A-4a-403, to report abuse or neglect of a child.

134 Section 2. Section **78A-6-1001** is amended to read:

135 **78A-6-1001. Jurisdiction over adults for offenses against minors -- Proof of**  
136 **delinquency not required for conviction.**

137 (1) The court shall have jurisdiction, concurrent with the district court or justice court  
138 otherwise having subject matter jurisdiction, to try adults for the following offenses committed  
139 against minors:

140 (a) unlawful sale or supply of alcohol beverage or product to minors in violation of  
141 Section 32A-12-203;

- 142 (b) failure to report abuse or neglect, as required by Title 62A, Chapter 4a, Part 4,  
143 Child Abuse or Neglect Reporting Requirements;
- 144 (c) harboring a [~~minor~~] runaway in violation of Section 62A-4a-501;
- 145 (d) misdemeanor custodial interference in violation of Section 76-5-303;
- 146 (e) contributing to the delinquency of a minor in violation of Section 76-10-2301; and
- 147 (f) failure to comply with compulsory education requirements in violation of Section  
148 53A-11-101.5.
- 149 (2) It is not necessary for the minor to be found to be delinquent or to have committed  
150 a delinquent act for the court to exercise jurisdiction under Subsection (1).