

**Representative Brad M. Daw** proposes the following substitute bill:

**FOSTER HOME AMENDMENTS**

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Brad M. Daw**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends the definitions in the Utah Human Services Code.

**Highlighted Provisions:**

This bill:

- ▶ provides a definition of "certified foster home"; and
- ▶ amends the definition of "foster home."

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**62A-2-101**, as last amended by Laws of Utah 2014, Chapter 240

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

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

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

As used in this chapter:



- 26 (1) "Adult day care" means nonresidential care and supervision:  
27 (a) for three or more adults for at least four but less than 24 hours a day; and  
28 (b) that meets the needs of functionally impaired adults through a comprehensive  
29 program that provides a variety of health, social, recreational, and related support services in a  
30 protective setting.
- 31 (2) (a) "Boarding school" means a private school that:  
32 (i) uses a regionally accredited education program;  
33 (ii) provides a residence to the school's students:  
34 (A) for the purpose of enabling the school's students to attend classes at the school; and  
35 (B) as an ancillary service to educating the students at the school;  
36 (iii) has the primary purpose of providing the school's students with an education, as  
37 defined in Subsection (2)(b)(i); and  
38 (iv) (A) does not provide the treatment or services described in Subsection [~~(26)~~  
39 (27)](a); or  
40 (B) provides the treatment or services described in Subsection [~~(26)~~ (27)](a) on a  
41 limited basis, as described in Subsection (2)(b)(ii).
- 42 (b) (i) For purposes of Subsection (2)(a)(iii), "education" means a course of study for  
43 one or more of grades kindergarten through 12th grade.  
44 (ii) For purposes of Subsection (2)(a)(iv)(B), a private school provides the treatment or  
45 services described in Subsection [~~(26)~~ (27)](a) on a limited basis if:  
46 (A) the treatment or services described in Subsection [~~(26)~~ (27)](a) are provided only  
47 as an incidental service to a student; and  
48 (B) the school does not:  
49 (I) specifically solicit a student for the purpose of providing the treatment or services  
50 described in Subsection [~~(26)~~ (27)](a); or  
51 (II) have a primary purpose of providing the services described in Subsection [~~(26)~~  
52 (27)](a).
- 53 (c) "Boarding school" does not include a therapeutic school.
- 54 (3) "Certified foster home" means a temporary residential living environment, certified  
55 by a child placing service, for the care of:  
56 (a) fewer than four foster children in the home of a certified foster parent; or

57 (b) four or more foster children in the home of a certified foster parent if there are no  
58 foster children or if there is one foster child in the home at the time of the placement of a  
59 sibling group.

60 [~~3~~] (4) "Child" means a person under 18 years of age.

61 [~~4~~] (5) "Child placing" means receiving, accepting, or providing custody or care for  
62 any child, temporarily or permanently, for the purpose of:

- 63 (a) finding a person to adopt the child;
- 64 (b) placing the child in a home for adoption; or
- 65 (c) foster home placement.

66 [~~5~~] (6) "Client" means an individual who receives or has received services from a  
67 licensee.

68 [~~6~~] (7) "Day treatment" means specialized treatment that is provided to:

- 69 (a) a client less than 24 hours a day; and
  - 70 (b) four or more persons who:
    - 71 (i) are unrelated to the owner or provider; and
    - 72 (ii) have emotional, psychological, developmental, physical, or behavioral
- 73 dysfunctions, impairments, or chemical dependencies.

74 [~~7~~] (8) "Department" means the Department of Human Services.

75 [~~8~~] (9) "Direct access" means that an individual has, or likely will have, contact with  
76 or access to a child or vulnerable adult that provides the individual with an opportunity for  
77 personal communication or touch.

78 [~~9~~] (10) "Director" means the director of the Office of Licensing.

79 [~~10~~] (11) "Domestic violence" [~~is as~~] means the same as that term is defined in  
80 Section [77-36-1](#).

81 [~~11~~] (12) "Domestic violence treatment program" means a nonresidential program  
82 designed to provide psychological treatment and educational services to perpetrators and  
83 victims of domestic violence.

84 [~~12~~] (13) "Elder adult" means a person 65 years of age or older.

85 [~~13~~] (14) "Executive director" means the executive director of the department.

86 [~~14~~] (15) "Foster home" means a temporary residential living environment for the  
87 care of:

88 (a) fewer than ~~[four]~~ five foster children in the home of a licensed ~~[or certified]~~ foster  
89 parent; or

90 (b) ~~[four]~~ five or more foster children in the home of a licensed ~~[or certified]~~ foster  
91 parent if ~~[the children are siblings]~~ there are no foster children or if there is one foster child in  
92 the home at the time of the placement of a sibling group.

93 ~~[(15)]~~ (16) (a) "Human services program" means a:

94 (i) foster home;

95 (ii) therapeutic school;

96 (iii) youth program;

97 (iv) resource family home;

98 (v) recovery residence; or

99 (vi) facility or program that provides:

100 (A) secure treatment;

101 (B) inpatient treatment;

102 (C) residential treatment;

103 (D) residential support;

104 (E) adult day care;

105 (F) day treatment;

106 (G) outpatient treatment;

107 (H) domestic violence treatment;

108 (I) child placing services;

109 (J) social detoxification; or

110 (K) any other human services that are required by contract with the department to be  
111 licensed with the department.

112 (b) "Human services program" does not include a boarding school.

113 ~~[(16)]~~ (17) "Licensee" means a person or human services program licensed by the  
114 office.

115 ~~[(17)]~~ (18) "Local government" means a:

116 (a) city; or

117 (b) county.

118 ~~[(18)]~~ (19) "Minor" has the same meaning as "child."

119            [~~(19)~~] (20) "Office" means the Office of Licensing within the Department of Human  
120 Services.

121            [~~(20)~~] (21) "Outpatient treatment" means individual, family, or group therapy or  
122 counseling designed to improve and enhance social or psychological functioning for those  
123 whose physical and emotional status allows them to continue functioning in their usual living  
124 environment.

125            [~~(21)~~] (22) (a) "Person associated with the licensee" means a person:

126            (i) affiliated with a licensee as an owner, director, member of the governing body,  
127 employee, agent, provider of care, or volunteer; or

128            (ii) applying to become affiliated with a licensee in any capacity listed under  
129 Subsection [~~(21)~~] (22)(a)(i).

130            (b) Notwithstanding Subsection [~~(21)~~] (22)(a), "person associated with the licensee"  
131 does not include an individual serving on the following bodies unless that individual has direct  
132 access to children or vulnerable adults:

133            (i) a local mental health authority under Section [17-43-301](#);

134            (ii) a local substance abuse authority under Section [17-43-201](#); or

135            (iii) a board of an organization operating under a contract to provide:

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

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

138            (c) "Person associated with the licensee" does not include a guest or visitor whose  
139 access to children or vulnerable adults is directly supervised by the licensee at all times.

140            [~~(22)~~] (23) "Recovery residence" means a home or facility, other than a residential  
141 treatment or residential support program, that meets at least two of the following requirements:

142            (a) provides a supervised living environment for individuals recovering from a  
143 substance abuse disorder;

144            (b) requires more than half of the individuals in the residence to be recovering from a  
145 substance abuse disorder;

146            (c) provides or arranges for residents to receive services related to their recovery from a  
147 substance abuse disorder, either on or off site;

148            (d) holds the home or facility out as being a recovery residence; or

149            (e) (i) receives public funding; or

- 150 (ii) runs the home or facility as a commercial venture for financial gain.
- 151 [~~(23)~~] (24) "Regular business hours" means:
- 152 (a) the hours during which services of any kind are provided to a client; or
- 153 (b) the hours during which a client is present at the facility of a licensee.
- 154 [~~(24)~~] (25) (a) "Residential support" means arranging for or providing the necessities of
- 155 life as a protective service to individuals or families who have a disability or who are
- 156 experiencing a dislocation or emergency that prevents them from providing these services for
- 157 themselves or their families.
- 158 (b) "Residential support" includes providing a supervised living environment for
- 159 persons with dysfunctions or impairments that are:
- 160 (i) emotional;
- 161 (ii) psychological;
- 162 (iii) developmental; or
- 163 (iv) behavioral.
- 164 (c) Treatment is not a necessary component of residential support.
- 165 (d) "Residential support" does not include:
- 166 (i) a recovery residence; or
- 167 (ii) residential services that are performed:
- 168 (A) exclusively under contract with the Division of Services for People with
- 169 Disabilities; or
- 170 (B) in a facility that serves fewer than four individuals.
- 171 [~~(25)~~] (26) (a) "Residential treatment" means a 24-hour group living environment for
- 172 four or more individuals unrelated to the owner or provider that offers room or board and
- 173 specialized treatment, behavior modification, rehabilitation, discipline, emotional growth, or
- 174 habilitation services for persons with emotional, psychological, developmental, or behavioral
- 175 dysfunctions, impairments, or chemical dependencies.
- 176 (b) "Residential treatment" does not include a:
- 177 (i) boarding school;
- 178 (ii) foster home; or
- 179 (iii) recovery residence.
- 180 [~~(26)~~] (27) "Residential treatment program" means a human services program that

181 provides:

182 (a) residential treatment; or

183 (b) secure treatment.

184 [~~(27)~~] (28) (a) "Secure treatment" means 24-hour specialized residential treatment or  
185 care for persons whose current functioning is such that they cannot live independently or in a  
186 less restrictive environment.

187 (b) "Secure treatment" differs from residential treatment to the extent that it requires  
188 intensive supervision, locked doors, and other security measures that are imposed on residents  
189 with neither their consent nor control.

190 [~~(28)~~] (29) "Social detoxification" means short-term residential services for persons  
191 who are experiencing or have recently experienced drug or alcohol intoxication, that are  
192 provided outside of a health care facility licensed under Title 26, Chapter 21, Health Care  
193 Facility Licensing and Inspection Act, and that include:

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

196 (b) specialized rehabilitation to acquire sobriety; and

197 (c) aftercare services.

198 [~~(29)~~] (30) "Substance abuse treatment program" means a program:

199 (a) designed to provide:

200 (i) specialized drug or alcohol treatment;

201 (ii) rehabilitation; or

202 (iii) habilitation services; and

203 (b) that provides the treatment or services described in Subsection [~~(29)~~] (30)(a) to  
204 persons with:

205 (i) a diagnosed substance abuse disorder; or

206 (ii) chemical dependency disorder.

207 [~~(30)~~] (31) "Therapeutic school" means a residential group living facility:

208 (a) for four or more individuals that are not related to:

209 (i) the owner of the facility; or

210 (ii) the primary service provider of the facility;

211 (b) that serves students who have a history of failing to function:

- 212 (i) at home;
- 213 (ii) in a public school; or
- 214 (iii) in a nonresidential private school; and
- 215 (c) that offers:
  - 216 (i) room and board; and
  - 217 (ii) an academic education integrated with:
    - 218 (A) specialized structure and supervision; or
    - 219 (B) services or treatment related to:
      - 220 (I) a disability;
      - 221 (II) emotional development;
      - 222 (III) behavioral development;
      - 223 (IV) familial development; or
      - 224 (V) social development.

225 [~~31~~] (32) "Unrelated persons" means persons other than parents, legal guardians,  
226 grandparents, brothers, sisters, uncles, or aunts.

227 [~~32~~] (33) "Vulnerable adult" means an elder adult or an adult who has a temporary or  
228 permanent mental or physical impairment that substantially affects the person's ability to:

- 229 (a) provide personal protection;
- 230 (b) provide necessities such as food, shelter, clothing, or mental or other health care;
- 231 (c) obtain services necessary for health, safety, or welfare;
- 232 (d) carry out the activities of daily living;
- 233 (e) manage the adult's own resources; or
- 234 (f) comprehend the nature and consequences of remaining in a situation of abuse,  
235 neglect, or exploitation.

236 [~~33~~] (34) (a) "Youth program" means a nonresidential program designed to provide  
237 behavioral, substance abuse, or mental health services to minors that:

- 238 (i) serves adjudicated or nonadjudicated youth;
- 239 (ii) charges a fee for its services;
- 240 (iii) may or may not provide host homes or other arrangements for overnight  
241 accommodation of the youth;
- 242 (iv) may or may not provide all or part of its services in the outdoors;

243 (v) may or may not limit or censor access to parents or guardians; and

244 (vi) prohibits or restricts a minor's ability to leave the program at any time of the  
245 minor's own free will.

246 (b) "Youth program" does not include recreational programs such as Boy Scouts, Girl  
247 Scouts, 4-H, and other such organizations.