

CONSENT TO SERVICES FOR HOMELESS YOUTH

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Elizabeth Weight

Senate Sponsor: Luz Escamilla

LONG TITLE

General Description:

This bill relates to a homeless youth's ability to consent to temporary shelter, care, or services.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies the circumstances under which a person who provides temporary shelter to a homeless youth is subject to a criminal penalty;
- ▶ provides that a homeless youth may consent to temporary shelter, care, or services under certain circumstances;
- ▶ requires a person who provides temporary shelter, care, or services, to a consenting homeless youth to keep certain records and report to the Division of Child and Family Services; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



28 **62A-4a-501**, as last amended by Laws of Utah 2018, Chapter 235

29 ENACTS:

30 **62A-4a-502**, Utah Code Annotated 1953



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

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

34 **62A-4a-501. Harboring a runaway -- Reporting requirements -- Division to**
35 **provide assistance -- Affirmative defense -- Providing shelter after notice.**

36 (1) As used in this section:

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

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

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

40 (b) "Homeless youth" means a child, other than an emancipated minor:

41 (i) who is a runaway; or

42 (ii) whose parent or legal guardian has intentionally ceased to maintain physical
43 custody of the child.

44 ~~[(b)]~~ (c) "Receiving center" means the same as that term is defined in Section
45 **62A-7-101**.

46 ~~[(c)]~~ (d) "Runaway" means a child, other than an emancipated minor, who is absent
47 from the home or lawfully prescribed residence of the child's parent or legal guardian ~~[of the~~
48 ~~child]~~ without the permission of the parent or legal guardian.

49 ~~[(d)]~~ (e) "Temporary homeless youth shelter" means a facility that:

50 (i) provides temporary shelter to a ~~[runaway]~~ homeless youth; and

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

53 ~~[(e)]~~ (f) "Youth services center" means a center established by, or under contract with,
54 the Division of Juvenile Justice Services, created in Section **62A-1-105**, to provide youth
55 services, as defined in Section **62A-7-101**.

56 (2) Except as provided in Subsection (3), a person, including a temporary homeless
57 youth shelter, is guilty of a class B misdemeanor if the person:

58 (a) knowingly and intentionally harbors a child;

59 (b) knows at the time of harboring the child that the child is a runaway;
60 (c) fails to notify one of the following, by telephone or other reasonable means, of the
61 location of the child:

- 62 (i) the parent or legal guardian of the child;
- 63 (ii) the division; or
- 64 (iii) a youth services center; and

65 (d) fails to notify a person described in Subsection (2)(c) within eight hours after the
66 later of:

- 67 (i) the time that the person becomes aware that the child is a runaway; or
- 68 (ii) the time that the person begins harboring the child.

69 (3) A person described in Subsection (2), including a temporary homeless youth
70 shelter, is not guilty of a violation of Subsection (2) and is not required to comply with
71 Subsections (2)(c) and (d), if:

72 (a) (i) a court order is issued authorizing a peace officer to take the child into custody;
73 and

74 ~~[(b)]~~ (ii) the person notifies a peace officer or the nearest detention center, as defined in
75 Section [62A-7-101](#), by telephone or other reasonable means, of the location of the child, within
76 eight hours after the later of:

- 77 ~~[(i)]~~ (A) the time that the person becomes aware that the child is a runaway; or
- 78 ~~[(ii)]~~ (B) the time that the person begins harboring the child~~[-];~~ or

79 (b) (i) the child is a runaway who consents to shelter, care, or licensed services under
80 Section [62A-4a-502](#); and

81 (ii) (A) the person determines contacting the child's parent or legal guardian is not in
82 the child's best interest;

83 (B) the person is unable to locate the child's parent or legal guardian; or

84 (C) the child refuses to disclose the contact information for the child's parent or legal
85 guardian.

86 (4) A person described in Subsection (2), including a temporary homeless youth
87 shelter, shall provide a report to the division:

88 (a) if the person has an obligation under Section [62A-4a-403](#) to report child abuse or
89 neglect; or

- 90 (b) if, within 48 hours after the person begins harboring the child:
- 91 (i) the person continues to harbor the child; and
- 92 (ii) the person does not make direct contact with:
- 93 (A) a parent or legal guardian of the child;
- 94 (B) the division;
- 95 (C) a youth services center; or
- 96 (D) a peace officer or the nearest detention center, as defined in Section 62A-7-101, if
- 97 a court order is issued authorizing a peace officer to take the ~~minor~~ child into custody.
- 98 (5) It is an affirmative defense to the crime described in Subsection (2) that:
- 99 (a) the person failed to provide notice as described in Subsection (2) or (3) due to
- 100 circumstances beyond the control of the person providing the shelter; and
- 101 (b) the person provided the notice described in Subsection (2) or (3) as soon as it was
- 102 reasonably practicable to provide the notice.
- 103 (6) Upon receipt of a report that a runaway is being harbored by a person:
- 104 (a) a youth services center shall:
- 105 (i) notify the parent or legal guardian that a report has been made; and
- 106 (ii) inform the parent or legal guardian of assistance available from the youth services
- 107 center; or
- 108 (b) the division shall:
- 109 (i) determine whether the runaway is abused, neglected, or dependent; and
- 110 (ii) if appropriate, make a referral for services for the runaway.
- 111 (7) (a) A parent or legal guardian of a runaway who is aware that the runaway is being
- 112 harbored may notify a law enforcement agency and request assistance in retrieving the
- 113 runaway.
- 114 (b) The local law enforcement agency may assist the parent or legal guardian in
- 115 retrieving the runaway.
- 116 (8) Nothing in this section prohibits a person, including a temporary homeless youth
- 117 shelter, from continuing to provide shelter to a runaway, after giving the notice described in
- 118 Subsections (2) through (4), if:
- 119 (a) a parent or legal guardian of the child consents to the continued provision of
- 120 shelter; or

121 (b) a peace officer or a parent or legal guardian of the child fails to retrieve the
122 runaway.

123 (9) Nothing in this section prohibits a person or a temporary homeless youth shelter
124 from providing shelter to a child whose ~~[parents]~~ parent or legal ~~[guardians have]~~ guardian has
125 intentionally:

126 (a) ceased to maintain physical custody of the child; and

127 (b) failed to make reasonable arrangements for the safety, care, and physical custody of
128 the child~~;~~ and].

129 ~~[(c) failed to provide the child with food, shelter, or clothing.]~~

130 (10) Nothing in this section prohibits:

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

134 (b) a government agency from taking custody of a child as otherwise provided by law.

135 Section 2. Section **62A-4a-502** is enacted to read:

136 **62A-4a-502. Consent to shelter, care, or services by a child.**

137 (1) As used in this section:

138 (a) "Care" means providing:

139 (i) assistance to obtain food, clothing, hygiene products, or other basic necessities;

140 (ii) access to a bed, showering facility, or transportation; or

141 (iii) assistance with school enrollment or attendance.

142 (b) "Homeless youth" means the same as that term is defined in Section [62A-4a-501](#).

143 (c) "Licensed services" means a service provided by a temporary homeless youth
144 shelter, a youth services center, or other facility that is licensed to provide the service to a
145 homeless youth.

146 (d) "Service" means:

147 (i) youth services, as defined in Section [62A-7-101](#);

148 (ii) child welfare or juvenile court case management or advocacy;

149 (iii) aftercare services, as defined in 45 C.F.R. 1351.1; or

150 (iv) independent living skills training.

151 (e) "Temporary homeless youth shelter" means the same as that term is defined in

152 Section 62A-4a-501.

153 (f) "Youth services center" means the same as that term is defined in Section

154 62A-4a-501.

155 (2) A homeless youth may consent to temporary shelter, care, or licensed services if the

156 homeless youth:

157 (a) is at least 15 years old; and

158 (b) manages the homeless youth's own financial affairs, regardless of the source of

159 income.

160 (3) In determining consent under Subsection (2), a person may rely on the homeless

161 youth's verbal or written statement describing the homeless youth's ability to consent to

162 temporary shelter, care, or licensed services.

163 (4) A person who provides shelter, care, or licensed services to a homeless youth who

164 consents to the shelter, care, or licensed services under Subsection (2):

165 (a) shall report to the division as required under Section 62-4a-403 and Subsection

166 62A-4a-501(4); and

167 (b) may provide the homeless youth a referral to safe permanent housing, employment

168 services, medical or dental care, or counseling.