

**PLACEMENT OF CERTAIN RESIDENTIAL
FACILITIES FOR PERSONS WITH A
DISABILITY**

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Ed P. Mayne

This act modifies provisions relating to Counties and the Utah Municipal Code to modify the allowable restrictions that county and municipal ordinances may contain relating to residential facilities for persons with a disability. The act allows county and municipal ordinances, if consistent with federal and state law, to require supervision and security for residential substance abuse facilities located within a certain distance of a school. The act also provides a coordination clause and makes technical changes.

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

AMENDS:

10-9-605, as last amended by Chapters 21 and 140, Laws of Utah 1999

17-27-605, as last amended by Chapters 21 and 140, Laws of Utah 1999

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,

Chapter 2, Licensure of Programs and Facilities; or

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

(2) Each municipality shall adopt an ordinance for residential facilities for persons with a disability. The ordinance:

(a) shall:

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

~~[(b)] (ii) [may require, if consistent with Subsection (2)(a), residential facilities]~~ provide that a residential facility for persons with a disability [to be reasonably dispersed throughout the municipality] is a permitted use in any zoning area where residential dwellings are allowed; and

~~[(c)] (b) [shall provide that a residential facility]~~ may require residential facilities for persons with a disability:

~~[(i) is a permitted use in any zoning area where residential dwellings are allowed; and]~~

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

(A) to be reasonably dispersed throughout the municipality; and

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

(I) 24-hour supervision for residents; and

(II) other 24-hour security measures; and

(ii) ~~[may only be required]~~ to obtain permits that verify compliance with the building, safety, and health regulations that are applicable to similar structures.

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

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

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

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

17-27-605. 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, Chapter 2, Licensure of Programs and Facilities; or

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

(2) Each county shall adopt an ordinance for residential facilities for persons with a disability. The ordinance:

(a) shall:

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

~~[(b)]~~ (ii) [may require, if consistent with Subsection (2)(a), residential facilities] provide that a residential facility for persons with a disability [to be reasonably dispersed throughout the county] is a permitted use in any zoning area where residential dwellings are allowed; and

~~[(c)]~~ (b) [shall provide that a residential facility] may require residential facilities for persons with a disability:

~~[(i) is a permitted use in any zoning area where residential dwellings are allowed; and]~~

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

(A) to be reasonably dispersed throughout the county; and

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

(I) 24-hour supervision for residents; and

(II) other 24-hour security measures; and

(ii) [may only be required] to obtain permits that verify compliance with the building, safety, and health regulations that are applicable to similar structures.

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

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

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

Section 3. Coordination clause.

If this bill and 1st Substitute H.B. 90, Residential Facilities For Persons With A Disability, both pass, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, shall:

(1) Revise Subsection 10-9-605(2) to read as follows:

"(2) Each municipality shall adopt an ordinance for residential facilities for persons with a disability. The ordinance:

(a) shall;

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

~~[(b)] (ii) [may require, if consistent with Subsection (2)(a), residential facilities] to the extent required by federal law, provide that a residential facility for persons with a disability [to be reasonably dispersed throughout the municipality] is a permitted use in any zoning area where residential dwellings are allowed; and~~

~~[(c)] (b) [shall provide that a residential facility] may require residential facilities for persons with a disability:~~

~~[(i) is a permitted use in any zoning area where residential dwellings are allowed; and]~~

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

~~(A) to be reasonably dispersed throughout the municipality; and~~

~~(B) for residential facilities for persons with a disability that are substance abuse facilities~~

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

(I) 24-hour supervision for residents; and

(II) other 24-hour security measures; and

(ii) [~~may only be required~~] to obtain permits that verify compliance with the same building, safety, and health regulations [~~that~~] as are applicable in the same zoning area to similar [~~structures~~] uses that are not residential facilities for persons with a disability."

(2) Revise Subsection 17-27-605(2) to read as follows:

"(2) Each county shall adopt an ordinance for residential facilities for persons with a disability. The ordinance:

(a) shall:

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

~~[(b)]~~ (ii) [may require, if consistent with Subsection (2)(a), residential facilities] to the extent required by federal law, provide that a residential facility for persons with a disability [to be reasonably dispersed throughout the county] is a permitted use in any zoning area where residential dwellings are allowed; and

~~[(c)]~~ (b) [shall provide that a residential facility] may require residential facilities for persons with a disability:

~~[(i) is a permitted use in any zoning area where residential dwellings are allowed; and]~~

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

(A) to be reasonably dispersed throughout the county; and

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

(I) 24-hour supervision for residents; and

(II) other 24-hour security measures; and

(ii) [~~may only be required~~] to obtain permits that verify compliance with the same building,

safety, and health regulations [~~that~~] as are applicable in the same zoning area to similar [~~structures~~]
uses that are not residential facilities for persons with a disability."