

? Approved for Filing: RHR ?

? 01-24-01 11:54 AM ?

**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 eliminates a requirement that residential facilities for persons with a disability be a permitted use in any zoning area where residential dwellings are allowed. The act also 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

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

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

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

34 (b) may require~~[, if consistent with Subsection (2)(a);]~~ residential facilities for persons
35 with a disability:

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

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

38 ~~[(c)]~~ (B) ~~[shall provide that a]~~ for residential [facility] facilities for persons with a
39 disability that are substance abuse facilities and are located within 1,000 feet of a school, to
40 provide:

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

42 (I) 24-hour supervision for residents; and

43 (II) other 24-hour security measures; and

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

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

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

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

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

56 **17-27-605. Residences for persons with a disability.**

57 (1) As used in this section:

58 (a) "Disability" is defined in Section 57-21-2.

59 (b) "Residential facility for persons with a disability" means a residence:
60 (i) in which more than one person with a disability resides; and
61 (ii) (A) is licensed or certified by the Department of Human Services under Title 62A,
62 Chapter 2, Licensure of Programs and Facilities; or
63 (B) is licensed or certified by the Department of Health under Title 26, Chapter 21, Health
64 Care Facility Licensing and Inspection Act.
65 (2) Each county shall adopt an ordinance for residential facilities for persons with a
66 disability. The ordinance:
67 (a) shall comply with Title 57, Chapter 21, Utah Fair Housing Act, and the federal Fair
68 Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq.;

69 (b) may require~~[, if consistent with Subsection (2)(a),]~~ residential facilities for persons
70 with a disability:
71 (i) if consistent with the statutory provisions referred to in Subsection (2)(a):
72 (A) to be reasonably dispersed throughout the county; and
73 ~~[(c)]~~ (B) [shall provide that a] for residential [facility] facilities for persons with a
74 disability that are substance abuse facilities and are located within 1,000 feet of a school, to
75 provide:
76 ~~[(i) is a permitted use in any zoning area where residential dwellings are allowed; and]~~
77 (I) 24-hour supervision for residents; and
78 (II) other 24-hour security measures; and
79 (ii) ~~[may only be required]~~ to obtain permits that verify compliance with the building,
80 safety, and health regulations that are applicable to similar structures.

81 (3) The responsibility to license programs or entities that operate facilities for persons with
82 a disability, as well as to require and monitor the provision of adequate services to persons residing
83 in those facilities, shall rest with:
84 (a) for programs or entities licensed or certified by the Department of Human Services, the
85 Department of Human Services as provided in Title 62A, Chapter 5, Services to People with
86 Disabilities; and
87 (b) for programs or entities licensed or certified by the Department of Health, the
88 Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection
89 Act.

Legislative Review Note
as of 1-18-01 2:52 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel