

**YOUTH CORRECTIONS AMENDMENTS**

2005 GENERAL SESSION

STATE OF UTAH

**Sponsor: Carol Spackman Moss**

M. Susan Lawrence

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**LONG TITLE**

**General Description:**

This bill prohibits the Division of Juvenile Justice Services, within the Department of Human Services, from placing a minor in certain division facilities located within a residential zoning district if the minor has been convicted of, or adjudicated for, a violent offense.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ prohibits the Division of Juvenile Justice Services, within the Department of Human Services, from placing a minor in certain division facilities located within a residential zoning district of a city or county if:
  - the minor has been convicted of, or adjudicated for, a violent offense; and
  - the city or county allows certain division facilities that provide services to a minor convicted of, or adjudicated for, a violent offense to be established in an area of the city or county outside of a residential zoning district; and
- ▶ provides that the preceding prohibition does not apply if compliance with the prohibition would cause the Division of Child and Family Services to be in violation of a contract that is entered into before May 2, 2005.

**Monies Appropriated in this Bill:**

None



## Other Special Clauses:

None

## Utah Code Sections Affected:

ENACTS:

62A-7-120.5, Utah Code Annotated 1953

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

Section 1. Section 62A-7-120.5 is enacted to read:

**62A-7-120.5. Restriction on placement of a minor in certain division facilities.**(1) For purposes of this section:(a) "Convicted" means that a person has received:(i) an adjudication, as defined in Section 78-3a-103, for a delinquent act that would constitute a felony if committed by an adult; or(ii) a conviction as defined in Section 77-18-9.(b) "Cooperating city" means a city that:(i) allows a level one division facility to be located in an area of the city outside of a residential zoning district; and(ii) regulates the location of a level one division facility in a manner that provides a reasonable opportunity for a level one division facility to be located in the city.(c) "Cooperating county" means a county that:(i) allows a level one division facility to be located in an unincorporated area of the county that is outside of a residential zoning district; and(ii) regulates the location of a level one division facility in a manner that provides a reasonable opportunity for a level one division facility to be located in the unincorporated area of the county.(d) (i) "Division facility" means:(A) a community-based program;(B) a day/night reporting center; or(C) except as provided in Subsection (1)(d)(ii), a facility operated by the division, or under contract with the division, to provide residential or nonresidential services to a minor.(ii) "Division facility" does not include:

59           (A) a secure facility; or

60           (B) a detention center operated by or under contract with the division that provides  
61 secure 24-hour supervision and confinement of the minors in the detention center.

62           (e) "Level one division facility" means a division facility that provides services to a  
63 minor who has been convicted of a violent offense.

64           (f) "Minor" means a person under the age of 21.

65           (g) "Place" or "placement" means to refer or assign a minor to receive services in or  
66 from a division facility.

67           (h) "Residential zoning district" means a zoning district that is designated by a county  
68 or city as an area that is used primarily for residential purposes.

69           (i) "Violent offense" means a violent felony, as defined in Section 76-3-203.5.

70           (2) Except as provided in Subsection (4), the division may not place, or permit the  
71 placement of, a minor in a division facility if:

72           (a) the minor has been convicted of a violent offense; and

73           (b) the division facility is located in a residential zoning district of a:

74           (i) cooperating city; or

75           (ii) cooperating county.

76           (3) The division may place, or permit the placement of, any minor, including a minor  
77 that has been convicted of a violent offense, in a division facility that is located in a residential  
78 zoning district of a:

79           (a) city that is not a cooperating city; or

80           (b) county that is not a cooperating county.

81           (4) (a) Notwithstanding Subsection (2), the division may place in a division facility  
82 located in a residential zoning district of any city or county a minor who has been convicted of  
83 a violent offense if compliance with Subsection (2) would cause the division to be in violation  
84 of a contract that is entered into before May 2, 2005.

85           (b) Subsection (4)(a) does not apply to a contract for renewal or extension that the  
86 division enters into on or after May 2, 2005, if the division is not obligated to renew or extend  
87 the contract under:

88           (i) the terms of the contract; or

89           (ii) applicable law.

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**Legislative Review Note**  
**as of 1-20-05 2:17 PM**

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

**Office of Legislative Research and General Counsel**

**State Impact**

An ongoing General Fund appropriation of \$1.81 million to the Division of Juvenile Justice Services is required to implement the provisions of this bill. The funding is necessary to pay the incremental cost to house the youth offenders no longer qualified for community placement. It would require more secure care at an additional cost of approximately \$29 per day per bed. There could be a loss of federal and other funding sources if youth are put into secure facilities. Over time, this expense to the State should decrease as alternate opportunities are developed.

	<u>FY 2006</u> <u>Approp.</u>	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2006</u> <u>Revenue</u>	<u>FY 2007</u> <u>Revenue</u>
General Fund	\$1,810,000	\$1,500,000	\$0	\$0
<b>TOTAL</b>	<b>\$1,810,000</b>	<b>\$1,500,000</b>	<b>\$0</b>	<b>\$0</b>

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**Individual and Business Impact**

Some contracted providers may be adversely impacted since they may no longer be able to contract with the Division using their current facilities.

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**Office of the Legislative Fiscal Analyst**