

AGING AND ADULT SERVICES PROGRAM

AMENDMENTS

2005 GENERAL SESSION

STATE OF UTAH

Sponsor: Eric K. Hutchings

LONG TITLE

General Description:

This bill adds home and community based in-home care programs to the responsibilities of the Division of Aging and Adult Services.

Highlighted Provisions:

This bill:

► adds home and community based in-home care programs to the responsibilities of the Division of Aging and Adult Services.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

62A-3-104, as last amended by Chapter 352, Laws of Utah 2004

62A-3-104.1, as last amended by Chapter 254, Laws of Utah 1998

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

Section 1. Section **62A-3-104** is amended to read:

62A-3-104. Authority of division.

(1) The division is the sole state agency, as defined by the Older Americans Act of



1965, 42 U.S.C. 3001 et seq., to:

(a) serve as an effective and visible advocate for the aging and adult population of this state~~[-to];~~

(b) develop and administer a state plan under the policy direction of the board~~[-and to];~~

(c) coordinate and monitor home and community based in-home care and other alternatives for the aging and adult population of the state; and

(d) take primary responsibility for state activities relating to provisions of the Older Americans Act of 1965, as amended.

(2) (a) The division has authority to:

(i) designate planning and service areas for the state~~[-];~~ and ~~[to]~~

(ii) designate an area agency on aging within each planning and service area to design and implement a comprehensive and coordinated system of services and programs for the aged, including home and community based in-home care programs, within appropriations from the Legislature.

(b) Designation as an area agency on aging may be withdrawn:

(i) upon request of the area agency on aging; or

(ii) upon noncompliance with:

(A) the provisions of the Older Americans Act of 1965, 42 U.S.C. 3001 et seq.~~[-]~~ or the federal regulations enacted under that act~~[-];~~

(B) the provisions of this chapter~~[-];~~ or

(C) the rules, policies, or procedures established by the division.

(3) (a) The division has the authority to:

(i) designate planning and service areas for the state~~[-];~~ and ~~[to]~~

(ii) designate an area agency on high risk adults within each planning and service area in accordance with Subsection (3)(b) to design and implement a comprehensive and coordinated system of case management and programs for high risk adults, including home and community based in-home care programs, within appropriations from the Legislature.

(b) ~~[Before October 1, 1998, the]~~ The division shall designate as the area agency on high risk adults in a planning and service area:

(i) the area agency on aging that operates within the same geographic area if that

59 agency has requested[~~, before July 1, 1998,~~] to expand its current contract with the division to
60 include the responsibility of:

61 (A) being the area agency on high risk adults; or

62 (B) operating the area agency on high risk adults through joint cooperation with one or
63 more existing area agencies on aging without reducing geographical coverage in any service
64 area; or

65 (ii) a public or private nonprofit agency or office if the area agency on aging that
66 operates within the same geographic area has not made a request in accordance with Subsection
67 (3)(b)(i).

68 (c) Area agencies on high risk adults shall be in operation before July 1, 1999. The
69 division's efforts to establish area agencies on high risk adults shall start with counties with a
70 population of more than 150,000 people.

71 (d) Designation as an area agency on high risk adults may be withdrawn:

72 (i) upon request by the area agency; or

73 (ii) upon noncompliance with state or federal laws, or rules, policies, or procedures
74 established by the division.

75 (4) The division may, by following the procedures and requirements of Title 63,
76 Chapter 38e, Federal Funds Procedures, seek federal grants, loans, or participation in federal
77 programs and receive and distribute state and federal funds for the division's programs and
78 services to the aging and adult populations of the state.

79 (5) The division has authority to establish, either directly or by contract, programs of
80 advocacy, home and community based in-home care, monitoring, evaluation, technical
81 assistance, and public education to enhance the quality of life for aging and adult citizens of the
82 state.

83 (6) In accordance with the rules of the division and Title 63, Chapter 56, Utah
84 Procurement Code, the division may:

85 (a) contract with the governing body of an area agency to provide a comprehensive
86 program of services; and

87 (b) contract with public and private entities for special services.

88 (7) The division has authority to provide for collection, compilation, and dissemination
89 of information, statistics, and reports relating to issues facing aging and adult citizens.

(8) The division has authority to prepare and submit reports regarding the operation and administration of the division to the department, the Legislature, and the governor, as requested.

(9) The division shall:

(a) implement and enforce policies established by the board governing all aspects of the division's programs for aging and adult persons in the state;

(b) monitor and evaluate programs provided by or under contract with the division, area agencies, and any entity that receives funds from an area agency to ensure compliance with all applicable state and federal statutes, policies, and procedures;

(c) examine expenditures of public funds;

(d) withhold funds from programs based on contract noncompliance;

(e) review and approve plans of area agencies in order to ensure compliance with division policies and to ensure a statewide comprehensive program;

(f) promote and establish cooperative relationships with state and federal agencies, social and health agencies, education and research organizations, and other related groups in order to further programs for aging and adult persons, and prevent duplication of services;

(g) advocate for the aging and adult populations;

(h) promote and conduct research on the problems and needs of aging and adult persons, and submit recommendations for changes in policies, programs, and funding to the governor and the Legislature; and

(i) (i) accept contributions to and administer the funds contained in the "Out and About" Homebound Transportation Assistance Fund created in Section 62A-3-110; and

(ii) make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, to facilitate the administration of the "Out and About" Homebound Transportation Assistance Fund in accordance with Section 62A-3-110.

Section 2. Section **62A-3-104.1** is amended to read:

62A-3-104.1. Powers and duties of area agencies.

(1) An area agency that provides services to the aged, high risk adults, or both shall within its respective jurisdiction:

(a) advocate by monitoring, evaluating, and providing input on all policies, programs, hearings, and levies that affect those persons;

(b) design and implement a comprehensive and coordinated system of services including home and community based in-home care within a designated planning and service area;

(c) conduct periodic reviews and evaluations of needs and services;

(d) prepare and submit to the division plans for funding and service delivery for services within the designated planning and service area;

(e) establish, either directly or by contract, programs licensed under Chapter 2 [~~of this title~~], Licensure of Programs and Facilities;

(f) appoint an area director, prescribe his duties, and provide adequate and qualified staff to carry out the area plan described in Subsection (1)(d);

(g) establish rules not contrary to policies of the board and rules of the division, regulating local services and facilities;

(h) operate other services and programs funded by sources other than those administered by the division;

(i) establish mechanisms to provide direct citizen input, including an area agency advisory council with a majority of members who are eligible for services from the area agency;

(j) establish fee schedules; and

(k) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal Cooperation Act, and with the requirements and procedures of Title 51, Chapter [2] 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities.

(2) Before disbursing any public funds, an area agency shall require that all entities receiving any public funds agree in writing that:

(a) the division may examine the entity's program and financial records; and

(b) the auditor of the local area agency may examine and audit the entity's program and financial records, if requested by the local area agency.

(3) Local area agencies may receive property, grants, gifts, supplies, materials, including any benefit derived therefrom, and contributions for the purpose of providing services pursuant to this part. If those gifts are conditioned upon their use for a specified service or program, they shall be so used.

152 (4) (a) Area agencies shall award all public funds in compliance with the requirements
153 of Title 63, Chapter 56, Utah Procurement Code, or with a county procurement ordinance that
154 requires similar procurement procedures.

155 (b) If all initial bids on a project are rejected, the area agency shall publish a new
156 invitation to bid. If no satisfactory bid is received by the area agency when the bids received
157 from the second invitation are opened, the area agency may execute a contract without
158 requiring competitive bidding.

159 (c) An area agency need not comply with the procurement provisions of this section
160 when it disburses public funds to other governmental entities. For purposes of this Subsection
161 (4)(c), "governmental entity" means any political subdivision or institution of higher education
162 of the state.

163 (d) Contracts awarded by an area agency shall be for a fixed amount and limited
164 period. Contracts may be modified due to changes in available funding for the same contract
165 purpose without competition.

166 (5) Local area agencies shall comply with all applicable state and federal statutes,
167 policies, audit requirements, and any directives resulting from those audits.

Legislative Review Note
as of 2-7-05 3:40 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

Fiscal Note
Bill Number HB0310

Aging and Adult Services Program Amendments

10-Feb-05

8:21 PM

State Impact

Provisions of this legislation may be handled within existing resources.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst