

1                                   **SERVICES FOR PEOPLE WITH BRAIN**  
2   **INJURIES**

3   2006 GENERAL SESSION

4   STATE OF UTAH

5                                   **Chief Sponsor: Ronda Rudd Menlove**

6   Senate Sponsor: Sheldon L. Killpack

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8   **LONG TITLE**

9   **General Description:**

10                   This bill amends the definition of a disability within the Services for People with  
11   Disabilities chapter of the Utah Human Services Code.

12   **Highlighted Provisions:**

13                   This bill:

- 14                   ▶ amends the definition of a disability within the Services for People with Disabilities  
15   chapter of the Utah Human Services Code as it relates to a brain injury; and  
16                   ▶ makes technical changes.

17   **Monies Appropriated in this Bill:**

18                   None

19   **Other Special Clauses:**

20                   None

21   **Utah Code Sections Affected:**

22   AMENDS:

23                   **62A-5-101**, as last amended by Chapters 60 and 61, Laws of Utah 2005

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

26                   Section 1. Section **62A-5-101** is amended to read:

27                   **62A-5-101. Definitions.**



28 As used in this chapter:

29 (1) "Approved provider" means a person approved by the division to provide  
30 home-based services.

31 (2) "Board" means the Board of Services for People with Disabilities established in  
32 accordance with Section 62A-1-105.

33 (3) (a) "Brain injury" means an acquired injury to the brain that is neurological in  
34 nature, including a cerebral vascular accident.

35 (b) "Brain injury" does not include a deteriorating disease.

36 (4) "Designated mental retardation professional" means:

37 (a) a psychologist licensed under Title 58, Chapter 61, Psychologist Licensing Act,  
38 who:

39 (i) (A) has at least one year of specialized training in working with persons with mental  
40 retardation; or

41 (B) has at least one year of clinical experience with persons with mental retardation;  
42 and

43 (ii) is designated by the division as specially qualified, by training and experience, in  
44 the treatment of mental retardation; or

45 (b) a clinical or certified social worker licensed under Title 58, Chapter 60, Mental  
46 Health Professional Practice Act, who:

47 (i) has at least two years of clinical experience with persons with mental retardation;  
48 and

49 (ii) is designated by the division as specially qualified, by training and experience, in  
50 the treatment of mental retardation.

51 (5) "Deteriorating disease" includes:

52 (a) multiple sclerosis;

53 (b) muscular dystrophy;

54 (c) Huntington's chorea;

55 (d) Alzheimer's disease;

56 (e) ataxia; or

57 (f) cancer.

58 (6) "Developmental center" means the Utah State Developmental Center, established in

59 accordance with Part 2, Utah State Developmental Center.

60 (7) "Direct service worker" means a person who provides services to a person with a  
61 disability:

62 (a) when the services are rendered in:

63 (i) the physical presence of the person with a disability; or

64 (ii) a location where the person rendering the services has access to the physical  
65 presence of the person with a disability; and

66 (b) under:

67 (i) a contract with the division; or

68 (ii) a grant agreement with the division.

69 (8) "Director" means the director of the Division of Services for People with  
70 Disabilities.

71 (9) (a) "Disability" means a severe, chronic disability that:

72 (i) is attributable to:

73 (A) mental retardation;

74 (B) a condition that qualifies a person as a person with a related condition, as defined  
75 in 42 C.F.R. 435.1009;

76 [~~(C)~~] ~~a brain injury; or~~

77 [~~(D)~~] (C) a physical disability; or

78 (D) a brain injury;

79 (ii) is likely to continue indefinitely;

80 (iii) (A) for a condition described in Subsection (9)(a)(i)(A), (B), or (C), results in a  
81 substantial functional limitation in three or more of the following areas of major life activity:

82 [~~(A)~~] (I) self-care;

83 [~~(B)~~] (II) receptive and expressive language;

84 [~~(C)~~] (III) learning;

85 [~~(D)~~] (IV) mobility;

86 [~~(E)~~] (V) self-direction;

87 [~~(F)~~] (VI) capacity for independent living; or

88 [~~(G)~~] (VII) economic self-sufficiency; [~~and~~] or

89 (B) for a condition described in Subsection (9)(a)(i)(D), results in a substantial

90 limitation in three or more of the following areas:

91 (I) memory or cognition;

92 (II) activities of daily life;

93 (III) judgment and self-protection;

94 (IV) control of emotions;

95 (V) communication;

96 (VI) physical health; or

97 (VII) employment; and

98 (iv) requires a combination or sequence of special interdisciplinary or generic care,  
99 treatment, or other services that:

100 (A) may continue throughout life; and

101 (B) must be individually planned and coordinated.

102 (b) "Disability" does not include a condition due solely to:

103 (i) mental illness;

104 (ii) personality disorder;

105 (iii) hearing impairment;

106 (iv) visual impairment;

107 (v) learning disability;

108 (vi) behavior disorder;

109 (vii) substance abuse; or

110 (viii) the aging process.

111 (10) "Division" means the Division of Services for People with Disabilities.

112 (11) "Eligible to receive division services" or "eligibility" means qualification, based  
113 on criteria established by the division in accordance with Subsection 62A-5-102[~~(3)~~] (4), to  
114 receive services that are administered by the division.

115 (12) "Endorsed program" means a facility or program that:

116 (a) is operated:

117 (i) by the division; or

118 (ii) under contract with the division; or

119 (b) provides services to a person committed to the division under Part 3, Admission to  
120 Mental Retardation Facility.

- 121 (13) "Licensed physician" means:  
122 (a) an individual licensed to practice medicine under:  
123 (i) Title 58, Chapter 67, Utah Medical Practice Act; or  
124 (ii) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or  
125 (b) a medical officer of the United States Government while in this state in the  
126 performance of official duties.
- 127 (14) "Mental retardation" means a significant, subaverage general intellectual  
128 functioning, that:  
129 (a) exists concurrently with deficits in adaptive behavior; and  
130 (b) is manifested during the developmental period as defined in the current edition of  
131 the Diagnostic and Statistical Manual of Mental Disorders, published by the American  
132 Psychiatric Association.
- 133 (15) "Mental retardation facility" means a residential facility for a person with mental  
134 retardation, that receives state or federal funds under Title XIX of the federal Social Security  
135 Act, for the purpose of serving a mentally retarded person in this state.
- 136 (16) "Physical disability" means a medically determinable physical impairment that has  
137 resulted in the functional loss of two or more of a person's limbs.
- 138 (17) "Public funds" means state or federal funds that are disbursed by the division.
- 139 (18) "Resident" means an individual under observation, care, or treatment in a mental  
140 retardation facility.

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**Legislative Review Note**  
**as of 11-15-05 9:24 AM**

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**

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**Fiscal Note**  
**Bill Number HB0213**

Services for People with Brain Injuries

16-Jan-06

7:51 AM

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**State Impact**

No Fiscal Impact

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**Individual and Business Impact**

No Fiscal Impact

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**Office of the Legislative Fiscal Analyst**