

1 **AGING AND ADULT SERVICES PROGRAM**

2 **AMENDMENTS**

3 2006 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: James A. Dunnigan**

6 Senate Sponsor: Carlene M. Walker

7

8 **LONG TITLE**

9 **General Description:**

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

12 **Highlighted Provisions:**

13 This bill:

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

16 **Monies Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **62A-3-104**, as last amended by Chapter 107, Laws of Utah 2005

23 **62A-3-104.1**, as last amended by Chapters 71 and 107, Laws of Utah 2005

24

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

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

27 **62A-3-104. Authority of division.**



28 (1) The division is the sole state agency, as defined by the Older Americans Act of
29 1965, 42 U.S.C. 3001 et seq., to:

30 (a) serve as an effective and visible advocate for the aging and adult population of this
31 state;

32 (b) develop and administer a state plan under the policy direction of the board; ~~and~~

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

35 ~~[(c)]~~ (d) take primary responsibility for state activities relating to provisions of the
36 Older Americans Act of 1965, as amended.

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

38 (i) planning and service areas for the state; and

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

43 (b) Designation as an area agency on aging may be withdrawn:

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

45 (ii) upon noncompliance with the provisions of the:

46 (A) Older Americans Act of 1965, 42 U.S.C. 3001 et seq.;

47 (B) federal regulations enacted under the Older Americans Act of 1965, 42 U.S.C.
48 3001 et seq.;

49 (C) provisions of this chapter; or

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

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

52 (i) planning and service areas for the state; and

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

57 (b) For purposes of Subsection (3)(a)(ii), ~~[before October 1, 1998,]~~ the division shall
58 designate as the area agency on high risk adults in a planning and service area:

- 59 (i) the area agency on aging that operates within the same geographic area if that
60 agency requests, [~~before July 1, 1998;~~] to expand that agency's current contract with the
61 division to include the responsibility of:
- 62 (A) being the area agency on high risk adults; or
63 (B) operating the area agency on high risk adults:
- 64 (I) through joint cooperation with one or more existing area agencies on aging; and
65 (II) without reducing geographical coverage in any service area; or
- 66 (ii) a public or private nonprofit agency or office if the area agency on aging that
67 operates within the same geographic area has not made a request in accordance with Subsection
68 (3)(b)(i).
- 69 (c) (i) Area agencies on high risk adults shall be in operation before July 1, 1999.
70 (ii) The division's efforts to establish area agencies on high risk adults shall start with
71 counties with a population of more than 150,000 people.
- 72 (d) Designation as an area agency on high risk adults may be withdrawn:
- 73 (i) upon request by the area agency; or
74 (ii) upon noncompliance with:
- 75 (A) state law;
76 (B) federal law; or
77 (C) rules, policies, or procedures established by the division.
- 78 (4) (a) The division may, by following the procedures and requirements of Title 63,
79 Chapter 38e, Federal Funds Procedures:
- 80 (i) seek federal grants, loans, or participation in federal programs; and
81 (ii) receive and distribute state and federal funds for the division's programs and
82 services to the aging and adult populations of the state.
- 83 (b) The division may not disburse public funds to a personal care attendant as payment
84 for personal services rendered to an aged person or high risk adult, except as provided in
85 Section 62A-3-104.3.
- 86 (5) The division has authority to establish, either directly or by contract, programs of
87 advocacy, home and community based in-home care, monitoring, evaluation, technical
88 assistance, and public education to enhance the quality of life for aging and adult citizens of the
89 state.

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

92 (a) the governing body of an area agency to provide a comprehensive program of
93 services; or

94 (b) public and private entities for special services.

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

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

100 (9) The division shall:

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

103 (b) in order to ensure compliance with all applicable state and federal statutes, policies,
104 and procedures, monitor and evaluate programs provided by or under contract with:

105 (i) the division;

106 (ii) area agencies; and

107 (iii) an entity that receives funds from an area agency;

108 (c) examine expenditures of public funds;

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

110 (e) review and approve plans of area agencies in order to ensure:

111 (i) compliance with division policies; and

112 (ii) a statewide comprehensive program;

113 (f) in order to further programs for aging and adult persons and prevent duplication of
114 services, promote and establish cooperative relationships with:

115 (i) state and federal agencies;

116 (ii) social and health agencies;

117 (iii) education and research organizations; and

118 (iv) other related groups;

119 (g) advocate for the aging and adult populations;

120 (h) promote and conduct research on the problems and needs of aging and adult

121 persons;

122 (i) submit recommendations for changes in policies, programs, and funding to the:

123 (i) governor; and

124 (ii) Legislature; and

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

127 (ii) make rules in accordance with Title 63, Chapter 46a, Utah Administrative

128 Rulemaking Act, to facilitate the administration of the "Out and About" Homebound

129 Transportation Assistance Fund in accordance with Section 62A-3-110.

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

131 **62A-3-104.1. Powers and duties of area agencies.**

132 (1) An area agency that provides services to an aged person, or a high risk adult shall
133 within the area agency's respective jurisdiction:

134 (a) advocate by monitoring, evaluating, and providing input on all policies, programs,
135 hearings, and levies that affect a person described in this Subsection (1);

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

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

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

142 (e) establish, either directly or by contract, programs licensed under Chapter 2,
143 Licensure of Programs and Facilities;

144 (f) (i) appoint an area director;

145 (ii) prescribe the area director's duties; and

146 (iii) provide adequate and qualified staff to carry out the area plan described in
147 Subsection (1)(d);

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

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

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

155 (j) establish fee schedules; and

156 (k) comply with the requirements and procedures of:

157 (i) Title 11, Chapter 13, Interlocal Cooperation Act; and

158 (ii) Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal
159 Organizations, and Other Local Entities Act.

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

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

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

165 (3) An area agency on aging may not disburse public funds to a personal care attendant
166 as payment for personal services rendered to an aged person or high risk adult, except as
167 provided in Section 62A-3-104.3.

168 (4) (a) For the purpose of providing services pursuant to this part, a local area agency
169 may receive:

170 (i) property;

171 (ii) grants;

172 (iii) gifts;

173 (iv) supplies;

174 (v) materials;

175 (vi) any benefit derived from the items described in Subsections (4)(a)(i) through (v);

176 and

177 (vii) contributions.

178 (b) If a gift is conditioned upon the gift's use for a specified service or program, the gift
179 shall be used for the specific service or program.

180 (5) (a) Area agencies shall award all public funds in compliance with:

181 (i) the requirements of Title 63, Chapter 56, Utah Procurement Code; or

182 (ii) a county procurement ordinance that requires procurement procedures similar to

183 those described in Subsection (5)(a)(i).

184 (b) (i) If all initial bids on a project are rejected, the area agency shall publish a new
185 invitation to bid.

186 (ii) If no satisfactory bid is received by the area agency described in Subsection
187 (5)(b)(i), when the bids received from the second invitation are opened the area agency may
188 execute a contract without requiring competitive bidding.

189 (c) (i) An area agency need not comply with the procurement provisions of this section
190 when it disburses public funds to another governmental entity.

191 (ii) For purposes of this Subsection (5)(c), "governmental entity" means any political
192 subdivision or institution of higher education of the state.

193 (d) (i) Contracts awarded by an area agency shall be for a:

194 (A) fixed amount; and

195 (B) limited period.

196 (ii) The contracts described in Subsection (5)(d)(i) may be modified due to changes in
197 available funding for the same contract purpose without competition.

198 (6) Local area agencies shall comply with:

199 (a) applicable state and federal:

200 (i) statutes;

201 (ii) policies; and

202 (iii) audit requirements; and

203 (b) directives resulting from an audit described in Subsection (6)(a)(iii).

Legislative Review Note
as of 1-4-06 2:09 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 HB0303

Aging and Adult Services Program Amendments

23-Jan-06

5:00 PM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst