

HARBORING A RUNAWAY

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lorie D. Fowlke

Senate Sponsor: Curtis S. Bramble

LONG TITLE

Committee Note:

The Judiciary Interim Committee recommended this bill.

General Description:

This bill amends the section of the Utah Criminal Code that relates to harboring a runaway.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides that a person who harbors a minor who is a runaway must provide notice

to the parent or legal guardian of the minor, ~~§~~ a youth services center, ~~§~~ the Division of Child and Family

Services, or, under certain circumstances, a peace officer or a detention center, within eight hours from the later of the time that the person begins providing the shelter or the time that the person becomes aware that the minor is a runaway;

- ▶ provides an affirmative defense to the crime of harboring a runaway if the person fails to provide the required notice due to circumstances beyond the control of the person;

- ▶ provides that an individual or a temporary homeless youth shelter may continue to provide shelter to a runaway after providing the notice required by this bill if the parent or legal guardian of the minor consents to the continued provision of shelter or if the person notified fails to retrieve the runaway;



28 ▶ clarifies that this bill does not prohibit an individual, a temporary homeless shelter,
29 or a government agency from providing shelter to an abandoned minor;

30 ▶ clarifies that this bill does not release a person from the obligation to report abuse or
31 neglect of a child; and

32 ▶ makes technical changes.

33 **Monies Appropriated in this Bill:**

34 None

35 **Other Special Clauses:**

36 None

37 **Utah Code Sections Affected:**

38 AMENDS:

39 **62A-4a-501**, as enacted by Laws of Utah 1996, Chapter 245

40 **78A-6-1001**, as renumbered and amended by Laws of Utah 2008, Chapter 3



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

43 Section 1. Section **62A-4a-501** is amended to read:

44 **62A-4a-501. Harboring a runaway -- Reporting requirements -- Division to**
45 **provide assistance -- Affirmative defense -- Providing shelter after notice.**

46 (1) As used in this section:

47 (a) "Harbor" means to provide shelter in:

48 (i) the home of the person who is providing the shelter; or

49 (ii) any structure over which the person providing the shelter has any control.

50 (b) "Promptly" means within eight hours after the later of:

51 (i) the time that the person becomes aware that the minor is a runaway; or

52 (ii) the time that the person begins harboring the minor.

53 (c) "Receiving center" is as defined in Section 62A-7-101.

54 (d) "Runaway" means a minor, other than an emancipated minor, who is absent from
55 the home or lawfully prescribed residence of the parent or legal guardian of the minor without
56 the permission of the parent or legal guardian.

57 (e) "Temporary homeless youth shelter" means a facility that:

58 (i) provides temporary shelter to a runaway; and

59 (ii) is licensed by the Office of Licensing, created in Section 62A-1-105, as a
 60 residential support program.

61 (f) "Youth services center" means a center established by, or under contract with, the
 62 Division of Juvenile Justice Services, created in Section 62A-1-105, to provide youth services,
 63 as defined in Section 62A-7-101.

64 ~~[(1) Any person who]~~

65 (2) A person is guilty of a class B misdemeanor if the person:

66 (a) knowingly and intentionally harbors a minor ~~[and who]~~;

67 (b) knows at the time of harboring the minor that the minor is ~~[away from the parent's~~
 68 or legal guardian's home, or other lawfully prescribed residence, without the permission of the
 69 parent or legal guardian, shall promptly notify the parent or legal guardian of the minor's
 70 location or report the location of the minor to the division. ~~The report may be made by~~
 71 telephone or any other reasonable means.] a runaway; and

72 ~~[(2) Unless the context clearly requires otherwise:]~~

73 ~~[(a) "Promptly" means within eight hours after the person has knowledge that the~~
 74 ~~minor is away from home without parental permission:]~~

75 ~~[(b) "Shelter" means the person's home or any structure over which the person has any~~
 76 ~~control:]~~

77 (c) except as provided in Subsection (3), fails to promptly notify one of the following,
 78 by telephone or other reasonable means, of the location of the minor:

79 (i) the parent or legal guardian of the minor; ~~§→ [or] ←§~~

80 (ii) the division ~~§→ ; or~~

80a (iii) a youth services center ~~←§~~ .

81 (3) A person described in Subsection (2) is not required to comply with Subsection
 82 (2)(c), if:

83 (a) a court order is issued authorizing a peace officer to take the minor into custody;
 84 and

85 (b) the person promptly notifies a peace officer or the nearest detention center, as
 86 defined in Section 62A-7-101, by telephone or other reasonable means, of the location of the
 87 minor.

88 (4) It is an affirmative defense to the crime described in Subsection (2) that:

89 (a) the person failed to promptly provide notice as described in Subsection (2)(c) or (3)

90 due to circumstances beyond the control of the person providing the shelter; and

91 (b) the person provided the notice described in Subsection (2)(c) or (3) as soon as it
 92 was reasonably practicable to do so.

93 ~~[(3)]~~ (5) Upon receipt of a report that a ~~[minor]~~ runaway is being harbored by a person

94 ~~§→ [the division] :~~ (a) a youth services center ~~←§~~ shall:

95 ~~§→ [(a)] (i) ←§~~ notify the parent or legal guardian that a report has been made; and

96 ~~§→ [(b)] (ii) ←§~~ inform the parent or legal guardian of assistance available from the

96a ~~§→ [division] youth services center; or~~

96b (b) the division shall:

96c (i) determine whether the runaway is abused, neglected, or dependent; and

96d (ii) if appropriate, make a referral for services for the runaway. ~~←§~~ .

97 ~~[(4)]~~ (6) A parent or legal guardian of a runaway who is aware that ~~[his minor]~~ the
 98 runaway is being harbored may notify ~~§→ [the division or]~~ ~~←§~~ a law enforcement agency and request
 99 assistance in retrieving the ~~[minor from the place of shelter]~~ runaway. The ~~§→ [division or]~~ ~~←§~~ local
 100 law enforcement agency may assist the parent or legal guardian in retrieving the ~~[minor]~~
 101 runaway.

102 ~~[(5) Any person who knowingly and intentionally harbors a minor and who knows at~~
 103 ~~the time of harboring the minor that the minor is away from the parent's or legal guardian's~~
 104 ~~home, or other lawfully prescribed residence, without the permission of the parent or guardian~~
 105 ~~and without making the notification required by this section is guilty of a class B~~
 106 ~~misdemeanor.]~~

107 (7) Nothing in this section prohibits an individual or a temporary homeless youth
 108 shelter from continuing to provide shelter to a runaway, after giving the notice described in
 109 Subsection (2)(c) or (3), if:

110 (a) a parent or legal guardian of the minor consents to the continued provision of
 111 shelter; or

112 (b) a peace officer or a parent or legal guardian of the minor fails to retrieve the
 113 runaway.

114 (8) Nothing in this section prohibits an individual or a temporary homeless youth
 115 shelter from providing shelter to a non-emancipated minor whose parents or legal guardians
 116 have intentionally:

117 (a) ceased to maintain physical custody of the minor;

118 (b) failed to make reasonable arrangements for the safety, care, and physical custody of
 119 the minor; and

120 (c) failed to provide the minor with food, shelter, or clothing.

- 121 (9) Nothing in this section prohibits:
- 122 (a) a receiving center or a youth services center from providing shelter to a runaway in
- 123 accordance with the requirements of Title 62A, Chapter 7, Juvenile Justice Services, and the
- 124 rules relating to a receiving center or a youth services center; or
- 125 (b) a government agency from taking custody of a minor as otherwise provided by law.
- 126 (10) Nothing in this section releases a person from the obligation, under Section
- 127 62A-4a-403, to report abuse or neglect of a child.

128 Section 2. Section **78A-6-1001** is amended to read:

129 **78A-6-1001. Jurisdiction over adults for offenses against minors -- Proof of**
130 **delinquency not required for conviction.**

131 (1) The court shall have jurisdiction, concurrent with the district court or justice court
132 otherwise having subject matter jurisdiction, to try adults for the following offenses committed
133 against minors:

- 134 (a) unlawful sale or supply of alcohol beverage or product to minors in violation of
- 135 Section 32A-12-203;
- 136 (b) failure to report abuse or neglect, as required by Title 62A, Chapter 4a, Part 4,
- 137 Child Abuse or Neglect Reporting Requirements;
- 138 (c) harboring a [~~minor~~] runaway in violation of Section 62A-4a-501;
- 139 (d) misdemeanor custodial interference in violation of Section 76-5-303;
- 140 (e) contributing to the delinquency of a minor in violation of Section 76-10-2301; and
- 141 (f) failure to comply with compulsory education requirements in violation of Section
- 142 53A-11-101.5.

143 (2) It is not necessary for the minor to be found to be delinquent or to have committed
144 a delinquent act for the court to exercise jurisdiction under Subsection (1).

Legislative Review Note
as of 9-17-08 1:17 PM

Office of Legislative Research and General Counsel

H.B. 22 - Harboring a Runaway

Fiscal Note

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals and businesses. The bill creates a Class B misdemeanor which would be filed in local justice courts. Courts expect few filings and related costs would be covered by fines.
