

1 **UTAH STATE DEVELOPMENTAL CENTER**

2 **AMENDMENTS**

3 2010 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Margaret Dayton**

6 House Sponsor: John Dougall

7

8 **LONG TITLE**

9 **General Description:**

10 This bill amends the Utah Human Services Code to provide that a person who qualifies
11 to receive services under the home and community-based services waiver shall instead
12 be placed in the Utah State Developmental Center or another Intermediate Care Facility
13 for the Mentally Retarded (ICF/MR) if the person, or the person's legal representative
14 or legal guardian, chooses that placement.

15 **Highlighted Provisions:**

16 This bill:

17 ▶ requires that, when a person qualifies to receive services under the home and
18 community-based services waiver, the Division of Services for People with
19 Disabilities shall:

20 • inform the person, or that person's legal representative or legal guardian, of any
21 reasonable alternatives under the waiver; and

22 • place the person in the Utah State Developmental Center, or another ICF/MR if
23 the person, or the person's legal representative or legal guardian, chooses that
24 placement; and

25 ▶ makes technical changes.

26 **Monies Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **62A-5-201**, as last amended by Laws of Utah 1996, Chapter 179



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

35 Section 1. Section **62A-5-201** is amended to read:

36 **62A-5-201. Utah State Developmental Center.**

37 (1) The facility for persons with mental retardation located in American Fork City,
38 Utah County, shall be known as the "Utah State Developmental Center."

39 (2) Within appropriations authorized by the Legislature, the role and function of the
40 developmental center is to:

- 41 (a) provide care, services, and treatment to persons described in Subsection (3); and
- 42 (b) provide the following services and ~~supports~~ support to persons with disabilities

43 who do not reside at the developmental center:

- 44 (i) psychiatric testing;
- 45 (ii) specialized medical and dental treatment and evaluation;
- 46 (iii) family and client special intervention;
- 47 (iv) crisis management;
- 48 (v) occupational, physical, speech, and audiology services; and
- 49 (vi) professional services, such as education, evaluation, and consultation, for families,
50 public organizations, providers of community and family support services, and courts.

51 (3) ~~Within~~ Except as provided in Subsection (6), within appropriations authorized by
52 the Legislature, and notwithstanding the provisions of Part 3 ~~[of this chapter, after October 1,~~
53 ~~1997], Admission to Mental Retardation Facility, only the following persons may be residents~~
54 of, be admitted to, or receive care, services, or treatment at the developmental center:

- 55 (a) persons with mental retardation;
- 56 (b) persons who receive services and supports under Subsection (2)(b); and
- 57 (c) persons who require at least one of the following services from the developmental

58 center:

- 59 (i) continuous medical care;
- 60 (ii) intervention for conduct that is dangerous to self or others; or
- 61 (iii) temporary residential assessment and evaluation.

62 (4) (a) [The] Except as provided in Subsection (6), the division shall, in [its] the
63 division's discretion[;]:

64 (i) place residents from the developmental center into appropriate less restrictive
65 placements; and [shall]

66 (ii) determine each year the number to be placed based upon the individual assessed
67 needs of the residents.

68 (b) The division shall confer with parents and guardians to ensure the most
69 appropriate placement for each resident.

70 (5) [Within] Except as provided in Subsection (7), within appropriations authorized by
71 the Legislature, and notwithstanding the provisions of Subsection (3) and Part 3 [of this
72 chapter, after June 30, 1996], Admission to Mental Retardation Facility, a person who is under
73 18 years of age may be a resident of, admitted to, or receive care, services, or treatment at the
74 developmental center only if the director certifies in writing that the developmental center is
75 the most appropriate placement for that person. [This restriction does not apply to persons
76 who receive services and supports under Subsection (2)(b).]

77 (6) (a) If the division determines, pursuant to Utah's Home and Community-Based
78 Services Waiver for Individuals with Mental Retardation and Other Related Conditions, that a
79 person who otherwise qualifies for placement in an ICF/MR should receive services in a home
80 or community-based setting, the division shall:

81 (i) if the person does not have a legal representative or legal guardian:

82 (A) inform the person of any feasible alternatives under the waiver; and

83 (B) give the person the choice of being placed in an ICF/MR or receiving services in a
84 home or community-based setting; or

85 (ii) if the person has a legal representative or legal guardian:

86 (A) inform the legal representative or legal guardian of any feasible alternatives under
87 the waiver; and

88 (B) give the legal representative or legal guardian the choice of having the person
89 placed in an ICF/MR or receiving services in a home or community-based setting.

90 (b) If a person chooses, under Subsection (6)(a)(i), to be placed in an ICF/MR instead
91 of receiving services in a home or community-based setting, the division shall:

92 (i) ask the person whether the person prefers to be placed in the developmental center
93 rather than a private ICF/MR; and

94 (ii) if the person expresses a preference to be placed in the developmental center:

95 (A) place the person in the developmental center if the cost of placing the person in
96 the developmental center is equal to, or less than, the cost of placing the person in a private
97 ICF/MR; or

98 (B) (I) strongly consider the person's preference to be placed in the developmental
99 center if the cost of placing the person in the developmental center exceeds the cost of placing
100 the person in a private ICF/MR; and

101 (II) place the person in the developmental center or a private ICF/MR.

102 (c) If a legal representative or legal guardian chooses, under Subsection (6)(a)(ii), to
103 have the person placed in an ICF/MR instead of receiving services in a home or
104 community-based setting, the division shall:

105 (i) ask the legal representative or legal guardian whether the legal representative or
106 legal guardian prefers to have the person placed in the developmental center rather than a
107 private ICF/MR; and

108 (ii) if the legal representative or legal guardian expresses a preference to have the
109 person placed in the developmental center:

110 (A) place the person in the developmental center if the cost of placing the person in
111 the developmental center is equal to, or less than, the cost of placing the person in a private
112 ICF/MR; or

113 (B) (I) strongly consider the legal representative's or legal guardian's preference for the

114 person's placement if the cost of placing the person in the developmental center exceeds the
115 cost of placing the person in a private ICF/MR; and
116 (II) place the person in the developmental center or a private ICF/MR.
117 (7) The certification described in Subsection (5) is not required for a person who
118 receives services and support under Subsection (2)(b).