

UTAH STATE DEVELOPMENTAL CENTER

AMENDMENTS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Margaret Dayton

House Sponsor: John Dougall

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

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

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

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

► makes technical changes.

Monies Appropriated in this Bill:

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 appropriate
- 69 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 who~~
- 76 ~~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 the
96 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 the
111 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).

Legislative Review Note
as of 2-8-10 3:36 PM

Office of Legislative Research and General Counsel

S.B. 160 - Utah State Developmental Center Amendments

Fiscal Note

2010 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 or local governments. Enactment of this bill may impact businesses that operate community residential mental health service settings or intermediate care facilities for the mentally retarded (ICFs/MR).
