

Representative Brad M. Daw proposes the following substitute bill:

FOSTER HOME AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brad M. Daw

Senate Sponsor: Deidre M. Henderson

LONG TITLE

General Description:

This bill amends the definitions in the Utah Human Services Code.

Highlighted Provisions:

This bill:

- ▶ amends the definition of "foster home."

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

62A-2-101, as last amended by Laws of Utah 2014, Chapter 240

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

Section 1. Section **62A-2-101** is amended to read:

62A-2-101. Definitions.

As used in this chapter:

- (1) "Adult day care" means nonresidential care and supervision:



26 (a) for three or more adults for at least four but less than 24 hours a day; and
27 (b) that meets the needs of functionally impaired adults through a comprehensive
28 program that provides a variety of health, social, recreational, and related support services in a
29 protective setting.

30 (2) (a) "Boarding school" means a private school that:

31 (i) uses a regionally accredited education program;

32 (ii) provides a residence to the school's students:

33 (A) for the purpose of enabling the school's students to attend classes at the school; and

34 (B) as an ancillary service to educating the students at the school;

35 (iii) has the primary purpose of providing the school's students with an education, as
36 defined in Subsection (2)(b)(i); and

37 (iv) (A) does not provide the treatment or services described in Subsection (26)(a); or

38 (B) provides the treatment or services described in Subsection (26)(a) on a limited
39 basis, as described in Subsection (2)(b)(ii).

40 (b) (i) For purposes of Subsection (2)(a)(iii), "education" means a course of study for
41 one or more of grades kindergarten through 12th grade.

42 (ii) For purposes of Subsection (2)(a)(iv)(B), a private school provides the treatment or
43 services described in Subsection (26)(a) on a limited basis if:

44 (A) the treatment or services described in Subsection (26)(a) are provided only as an
45 incidental service to a student; and

46 (B) the school does not:

47 (I) specifically solicit a student for the purpose of providing the treatment or services
48 described in Subsection (26)(a); or

49 (II) have a primary purpose of providing the services described in Subsection (26)(a).

50 (c) "Boarding school" does not include a therapeutic school.

51 (3) "Child" means a person under 18 years of age.

52 (4) "Child placing" means receiving, accepting, or providing custody or care for any
53 child, temporarily or permanently, for the purpose of:

54 (a) finding a person to adopt the child;

55 (b) placing the child in a home for adoption; or

56 (c) foster home placement.

57 (5) "Client" means an individual who receives or has received services from a licensee.

58 (6) "Day treatment" means specialized treatment that is provided to:

59 (a) a client less than 24 hours a day; and

60 (b) four or more persons who:

61 (i) are unrelated to the owner or provider; and

62 (ii) have emotional, psychological, developmental, physical, or behavioral

63 dysfunctions, impairments, or chemical dependencies.

64 (7) "Department" means the Department of Human Services.

65 (8) "Direct access" means that an individual has, or likely will have, contact with or

66 access to a child or vulnerable adult that provides the individual with an opportunity for

67 personal communication or touch.

68 (9) "Director" means the director of the Office of Licensing.

69 (10) "Domestic violence" ~~[is as]~~ means the same as that term is defined in Section

70 77-36-1.

71 (11) "Domestic violence treatment program" means a nonresidential program designed

72 to provide psychological treatment and educational services to perpetrators and victims of

73 domestic violence.

74 (12) "Elder adult" means a person 65 years of age or older.

75 (13) "Executive director" means the executive director of the department.

76 (14) "Foster home" means a temporary residential living environment for the care of:

77 (a) (i) fewer than ~~[four]~~ five foster children in the home of a licensed ~~[or certified]~~

78 foster parent; or

79 ~~[(b) four]~~ (ii) five or more foster children in the home of a licensed ~~[or certified]~~ foster

80 parent if ~~[the children are siblings.]~~ there are no foster children or if there is one foster child in

81 the home at the time of the placement of a sibling group; or

82 (b) (i) fewer than four foster children in the home of a certified foster parent; or

83 (ii) four or more foster children in the home of a certified foster parent if there are no

84 foster children or if there is one foster child in the home at the time of the placement of a

85 sibling group.

86 (15) (a) "Human services program" means a:

87 (i) foster home;

- 88 (ii) therapeutic school;
- 89 (iii) youth program;
- 90 (iv) resource family home;
- 91 (v) recovery residence; or
- 92 (vi) facility or program that provides:
 - 93 (A) secure treatment;
 - 94 (B) inpatient treatment;
 - 95 (C) residential treatment;
 - 96 (D) residential support;
 - 97 (E) adult day care;
 - 98 (F) day treatment;
 - 99 (G) outpatient treatment;
 - 100 (H) domestic violence treatment;
 - 101 (I) child placing services;
 - 102 (J) social detoxification; or
 - 103 (K) any other human services that are required by contract with the department to be
 - 104 licensed with the department.
- 105 (b) "Human services program" does not include a boarding school.
- 106 (16) "Licensee" means a person or human services program licensed by the office.
- 107 (17) "Local government" means a:
 - 108 (a) city; or
 - 109 (b) county.
- 110 (18) "Minor" has the same meaning as "child."
- 111 (19) "Office" means the Office of Licensing within the Department of Human Services.
- 112 (20) "Outpatient treatment" means individual, family, or group therapy or counseling
- 113 designed to improve and enhance social or psychological functioning for those whose physical
- 114 and emotional status allows them to continue functioning in their usual living environment.
- 115 (21) (a) "Person associated with the licensee" means a person:
 - 116 (i) affiliated with a licensee as an owner, director, member of the governing body,
 - 117 employee, agent, provider of care, or volunteer; or
 - 118 (ii) applying to become affiliated with a licensee in any capacity listed under

119 Subsection (21)(a)(i).

120 (b) Notwithstanding Subsection (21)(a), "person associated with the licensee" does not
121 include an individual serving on the following bodies unless that individual has direct access to
122 children or vulnerable adults:

123 (i) a local mental health authority under Section 17-43-301;

124 (ii) a local substance abuse authority under Section 17-43-201; or

125 (iii) a board of an organization operating under a contract to provide:

126 (A) mental health or substance abuse programs; or

127 (B) services for the local mental health authority or substance abuse authority.

128 (c) "Person associated with the licensee" does not include a guest or visitor whose
129 access to children or vulnerable adults is directly supervised by the licensee at all times.

130 (22) "Recovery residence" means a home or facility, other than a residential treatment
131 or residential support program, that meets at least two of the following requirements:

132 (a) provides a supervised living environment for individuals recovering from a
133 substance abuse disorder;

134 (b) requires more than half of the individuals in the residence to be recovering from a
135 substance abuse disorder;

136 (c) provides or arranges for residents to receive services related to their recovery from a
137 substance abuse disorder, either on or off site;

138 (d) holds the home or facility out as being a recovery residence; or

139 (e) (i) receives public funding; or

140 (ii) runs the home or facility as a commercial venture for financial gain.

141 (23) "Regular business hours" means:

142 (a) the hours during which services of any kind are provided to a client; or

143 (b) the hours during which a client is present at the facility of a licensee.

144 (24) (a) "Residential support" means arranging for or providing the necessities of life
145 as a protective service to individuals or families who have a disability or who are experiencing
146 a dislocation or emergency that prevents them from providing these services for themselves or
147 their families.

148 (b) "Residential support" includes providing a supervised living environment for
149 persons with dysfunctions or impairments that are:

- 150 (i) emotional;
- 151 (ii) psychological;
- 152 (iii) developmental; or
- 153 (iv) behavioral.
- 154 (c) Treatment is not a necessary component of residential support.
- 155 (d) "Residential support" does not include:
- 156 (i) a recovery residence; or
- 157 (ii) residential services that are performed:
- 158 (A) exclusively under contract with the Division of Services for People with
- 159 Disabilities; or
- 160 (B) in a facility that serves fewer than four individuals.
- 161 (25) (a) "Residential treatment" means a 24-hour group living environment for four or
- 162 more individuals unrelated to the owner or provider that offers room or board and specialized
- 163 treatment, behavior modification, rehabilitation, discipline, emotional growth, or habilitation
- 164 services for persons with emotional, psychological, developmental, or behavioral dysfunctions,
- 165 impairments, or chemical dependencies.
- 166 (b) "Residential treatment" does not include a:
- 167 (i) boarding school;
- 168 (ii) foster home; or
- 169 (iii) recovery residence.
- 170 (26) "Residential treatment program" means a human services program that provides:
- 171 (a) residential treatment; or
- 172 (b) secure treatment.
- 173 (27) (a) "Secure treatment" means 24-hour specialized residential treatment or care for
- 174 persons whose current functioning is such that they cannot live independently or in a less
- 175 restrictive environment.
- 176 (b) "Secure treatment" differs from residential treatment to the extent that it requires
- 177 intensive supervision, locked doors, and other security measures that are imposed on residents
- 178 with neither their consent nor control.
- 179 (28) "Social detoxification" means short-term residential services for persons who are
- 180 experiencing or have recently experienced drug or alcohol intoxication, that are provided

181 outside of a health care facility licensed under Title 26, Chapter 21, Health Care Facility
182 Licensing and Inspection Act, and that include:

183 (a) room and board for persons who are unrelated to the owner or manager of the
184 facility;

185 (b) specialized rehabilitation to acquire sobriety; and

186 (c) aftercare services.

187 (29) "Substance abuse treatment program" means a program:

188 (a) designed to provide:

189 (i) specialized drug or alcohol treatment;

190 (ii) rehabilitation; or

191 (iii) habilitation services; and

192 (b) that provides the treatment or services described in Subsection (29)(a) to persons

193 with:

194 (i) a diagnosed substance abuse disorder; or

195 (ii) chemical dependency disorder.

196 (30) "Therapeutic school" means a residential group living facility:

197 (a) for four or more individuals that are not related to:

198 (i) the owner of the facility; or

199 (ii) the primary service provider of the facility;

200 (b) that serves students who have a history of failing to function:

201 (i) at home;

202 (ii) in a public school; or

203 (iii) in a nonresidential private school; and

204 (c) that offers:

205 (i) room and board; and

206 (ii) an academic education integrated with:

207 (A) specialized structure and supervision; or

208 (B) services or treatment related to:

209 (I) a disability;

210 (II) emotional development;

211 (III) behavioral development;

212 (IV) familial development; or

213 (V) social development.

214 (31) "Unrelated persons" means persons other than parents, legal guardians,
215 grandparents, brothers, sisters, uncles, or aunts.

216 (32) "Vulnerable adult" means an elder adult or an adult who has a temporary or
217 permanent mental or physical impairment that substantially affects the person's ability to:

218 (a) provide personal protection;

219 (b) provide necessities such as food, shelter, clothing, or mental or other health care;

220 (c) obtain services necessary for health, safety, or welfare;

221 (d) carry out the activities of daily living;

222 (e) manage the adult's own resources; or

223 (f) comprehend the nature and consequences of remaining in a situation of abuse,
224 neglect, or exploitation.

225 (33) (a) "Youth program" means a nonresidential program designed to provide
226 behavioral, substance abuse, or mental health services to minors that:

227 (i) serves adjudicated or nonadjudicated youth;

228 (ii) charges a fee for its services;

229 (iii) may or may not provide host homes or other arrangements for overnight
230 accommodation of the youth;

231 (iv) may or may not provide all or part of its services in the outdoors;

232 (v) may or may not limit or censor access to parents or guardians; and

233 (vi) prohibits or restricts a minor's ability to leave the program at any time of the
234 minor's own free will.

235 (b) "Youth program" does not include recreational programs such as Boy Scouts, Girl
236 Scouts, 4-H, and other such organizations.