

AMENDMENTS TO CHILD WELFARE

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: Stewart E. Barlow

LONG TITLE

General Description:

This bill amends the numerical limits of foster children residing in a foster home.

Highlighted Provisions:

This bill:

- ▶ amends the definition of "foster home"; and
- ▶ allows the division to exceed the numerical limit of foster children placed in a foster home to permit a sibling group who re-enters foster care to return to a previous 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 2016, Chapters 122, 211, and 342

ENACTS:

62A-2-116.5, Utah Code Annotated 1953

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:

- 30 (1) "Adult day care" means nonresidential care and supervision:
31 (a) for three or more adults for at least four but less than 24 hours a day; and
32 (b) that meets the needs of functionally impaired adults through a comprehensive
33 program that provides a variety of health, social, recreational, and related support services in a
34 protective setting.
- 35 (2) "Applicant" means a person who applies for an initial license or a license renewal
36 under this chapter.
- 37 (3) (a) "Associated with the licensee" means that an individual is:
38 (i) affiliated with a licensee as an owner, director, member of the governing body,
39 employee, agent, provider of care, department contractor, or volunteer; or
40 (ii) applying to become affiliated with a licensee in a capacity described in Subsection
41 (3)(a)(i).
- 42 (b) "Associated with the licensee" does not include:
43 (i) service on the following bodies, unless that service includes direct access to a child
44 or a vulnerable adult:
45 (A) a local mental health authority described in Section [17-43-301](#);
46 (B) a local substance abuse authority described in Section [17-43-201](#); or
47 (C) a board of an organization operating under a contract to provide mental health or
48 substance abuse programs, or services for the local mental health authority or substance abuse
49 authority; or
50 (ii) a guest or visitor whose access to a child or a vulnerable adult is directly supervised
51 at all times.
- 52 (4) (a) "Boarding school" means a private school that:
53 (i) uses a regionally accredited education program;
54 (ii) provides a residence to the school's students:
55 (A) for the purpose of enabling the school's students to attend classes at the school; and
56 (B) as an ancillary service to educating the students at the school;
57 (iii) has the primary purpose of providing the school's students with an education, as

58 defined in Subsection (4)(b)(i); and

59 (iv) (A) does not provide the treatment or services described in Subsection (28)(a); or

60 (B) provides the treatment or services described in Subsection (28)(a) on a limited
61 basis, as described in Subsection (4)(b)(ii).

62 (b) (i) For purposes of Subsection (4)(a)(iii), "education" means a course of study for
63 one or more of grades kindergarten through 12th grade.

64 (ii) For purposes of Subsection (4)(a)(iv)(B), a private school provides the treatment or
65 services described in Subsection (28)(a) on a limited basis if:

66 (A) the treatment or services described in Subsection (28)(a) are provided only as an
67 incidental service to a student; and

68 (B) the school does not:

69 (I) specifically solicit a student for the purpose of providing the treatment or services
70 described in Subsection (28)(a); or

71 (II) have a primary purpose of providing the treatment or services described in
72 Subsection (28)(a).

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

74 (5) "Child" means a person under 18 years of age.

75 (6) "Child placing" means receiving, accepting, or providing custody or care for any
76 child, temporarily or permanently, for the purpose of:

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

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

79 (c) foster home placement.

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

81 (8) "Day treatment" means specialized treatment that is provided to:

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

83 (b) four or more persons who:

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

85 (ii) have emotional, psychological, developmental, physical, or behavioral dysfunctions,

86 impairments, or chemical dependencies.

87 (9) "Department" means the Department of Human Services.

88 (10) "Department contractor" means an individual who:

89 (a) provides services under a contract with the department; and

90 (b) due to the contract with the department, has or will likely have direct access to a
91 child or vulnerable adult.

92 (11) "Direct access" means that an individual has, or likely will have:

93 (a) contact with or access to a child or vulnerable adult that provides the individual with
94 an opportunity for personal communication or touch; or

95 (b) an opportunity to view medical, financial, or other confidential personal identifying
96 information of the child, the child's parents or legal guardians, or the vulnerable adult.

97 (12) "Directly supervised" means that an individual is being supervised under the
98 uninterrupted visual and auditory surveillance of another individual who has a current
99 background screening approval issued by the office.

100 (13) "Director" means the director of the Office of Licensing.

101 (14) "Domestic violence" means the same as that term is defined in Section 77-36-1.

102 (15) "Domestic violence treatment program" means a nonresidential program designed
103 to provide psychological treatment and educational services to perpetrators and victims of
104 domestic violence.

105 (16) "Elder adult" means a person 65 years of age or older.

106 (17) "Executive director" means the executive director of the department.

107 (18) "Foster home" means a [~~temporary residential living environment for the care of:~~]
108 residence that is licensed or certified by the Office of Licensing for the full-time substitute care
109 of a child.

110 [~~(a) (i) fewer than five foster children in the home of a licensed foster parent; or]~~

111 [~~(ii) five or more foster children in the home of a licensed foster parent if there are no~~

112 ~~foster children or if there is one foster child in the home at the time of the placement of a sibling~~
113 ~~group; or]~~

114 ~~[(b) (i) fewer than four foster children in the home of a certified foster parent; or]~~
115 ~~[(ii) four or more foster children in the home of a certified foster parent if there are no~~
116 ~~foster children or if there is one foster child in the home at the time of the placement of a sibling~~
117 ~~group.]~~

118 (19) (a) "Human services program" means a:

119 (i) foster home;

120 (ii) therapeutic school;

121 (iii) youth program;

122 (iv) resource family home;

123 (v) recovery residence; or

124 (vi) facility or program that provides:

125 (A) secure treatment;

126 (B) inpatient treatment;

127 (C) residential treatment;

128 (D) residential support;

129 (E) adult day care;

130 (F) day treatment;

131 (G) outpatient treatment;

132 (H) domestic violence treatment;

133 (I) child placing services;

134 (J) social detoxification; or

135 (K) any other human services that are required by contract with the department to be
136 licensed with the department.

137 (b) "Human services program" does not include a boarding school.

138 (20) "Licensee" means an individual or a human services program licensed by the office.

139 (21) "Local government" means a city, town, metro township, or county.

140 (22) "Minor" has the same meaning as "child."

141 (23) "Office" means the Office of Licensing within the Department of Human Services.

142 (24) "Outpatient treatment" means individual, family, or group therapy or counseling
143 designed to improve and enhance social or psychological functioning for those whose physical
144 and emotional status allows them to continue functioning in their usual living environment.

145 (25) (a) "Recovery residence" means a home, residence, or facility that meets at least
146 two of the following requirements:

147 (i) provides a supervised living environment for individuals recovering from a substance
148 abuse disorder;

149 (ii) provides a living environment in which more than half of the individuals in the
150 residence are recovering from a substance abuse disorder;

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

153 (iv) is held out as a living environment in which individuals recovering from substance
154 abuse disorders live together to encourage continued sobriety; or

155 (v) (A) receives public funding; or

156 (B) is run as a business venture, either for-profit or not-for-profit.

157 (b) "Recovery residence" does not mean:

158 (i) a residential treatment program;

159 (ii) residential support; or

160 (iii) a home, residence, or facility, in which:

161 (A) residents, by their majority vote, establish, implement, and enforce policies

162 governing the living environment, including the manner in which applications for residence are
163 approved and the manner in which residents are expelled;

164 (B) residents equitably share rent and housing-related expenses; and

165 (C) a landlord, owner, or operator does not receive compensation, other than fair

166 market rental income, for establishing, implementing, or enforcing policies governing the living
167 environment.

168 (26) "Regular business hours" means:

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

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

171 (27) (a) "Residential support" means arranging for or providing the necessities of life as
172 a protective service to individuals or families who have a disability or who are experiencing a
173 dislocation or emergency that prevents them from providing these services for themselves or
174 their families.

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

- 177 (i) emotional;
- 178 (ii) psychological;
- 179 (iii) developmental; or
- 180 (iv) behavioral.

181 (c) Treatment is not a necessary component of residential support.

182 (d) "Residential support" does not include:

- 183 (i) a recovery residence; or
- 184 (ii) residential services that are performed:
 - 185 (A) exclusively under contract with the Division of Services for People with Disabilities;
 - 186 or
 - 187 (B) in a facility that serves fewer than four individuals.

188 (28) (a) "Residential treatment" means a 24-hour group living environment for four or
189 more individuals unrelated to the owner or provider that offers room or board and specialized
190 treatment, behavior modification, rehabilitation, discipline, emotional growth, or habilitation
191 services for persons with emotional, psychological, developmental, or behavioral dysfunctions,
192 impairments, or chemical dependencies.

193 (b) "Residential treatment" does not include a:

- 194 (i) boarding school;
- 195 (ii) foster home; or
- 196 (iii) recovery residence.

197 (29) "Residential treatment program" means a human services program that provides:

198 (a) residential treatment; or

199 (b) secure treatment.

200 (30) (a) "Secure treatment" means 24-hour specialized residential treatment or care for
201 persons whose current functioning is such that they cannot live independently or in a less
202 restrictive environment.

203 (b) "Secure treatment" differs from residential treatment to the extent that it requires
204 intensive supervision, locked doors, and other security measures that are imposed on residents
205 with neither their consent nor control.

206 (31) "Social detoxification" means short-term residential services for persons who are
207 experiencing or have recently experienced drug or alcohol intoxication, that are provided
208 outside of a health care facility licensed under Title 26, Chapter 21, Health Care Facility
209 Licensing and Inspection Act, and that include:

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

212 (b) specialized rehabilitation to acquire sobriety; and

213 (c) aftercare services.

214 (32) "Substance abuse treatment program" means a program:

215 (a) designed to provide:

216 (i) specialized drug or alcohol treatment;

217 (ii) rehabilitation; or

218 (iii) habilitation services; and

219 (b) that provides the treatment or services described in Subsection (32)(a) to persons

220 with:

221 (i) a diagnosed substance abuse disorder; or

222 (ii) chemical dependency disorder.

223 (33) "Therapeutic school" means a residential group living facility:

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

225 (i) the owner of the facility; or

- 226 (ii) the primary service provider of the facility;
- 227 (b) that serves students who have a history of failing to function:
 - 228 (i) at home;
 - 229 (ii) in a public school; or
 - 230 (iii) in a nonresidential private school; and
- 231 (c) that offers:
 - 232 (i) room and board; and
 - 233 (ii) an academic education integrated with:
 - 234 (A) specialized structure and supervision; or
 - 235 (B) services or treatment related to:
 - 236 (I) a disability;
 - 237 (II) emotional development;
 - 238 (III) behavioral development;
 - 239 (IV) familial development; or
 - 240 (V) social development.
- 241 (34) "Unrelated persons" means persons other than parents, legal guardians,
242 grandparents, brothers, sisters, uncles, or aunts.
- 243 (35) "Vulnerable adult" means an elder adult or an adult who has a temporary or
244 permanent mental or physical impairment that substantially affects the person's ability to:
 - 245 (a) provide personal protection;
 - 246 (b) provide necessities such as food, shelter, clothing, or mental or other health care;
 - 247 (c) obtain services necessary for health, safety, or welfare;
 - 248 (d) carry out the activities of daily living;
 - 249 (e) manage the adult's own resources; or
 - 250 (f) comprehend the nature and consequences of remaining in a situation of abuse,
251 neglect, or exploitation.
- 252 (36) (a) "Youth program" means a nonresidential program designed to provide
253 behavioral, substance abuse, or mental health services to minors that:

- 254 (i) serves adjudicated or nonadjudicated youth;
- 255 (ii) charges a fee for its services;
- 256 (iii) may or may not provide host homes or other arrangements for overnight
257 accommodation of the youth;
- 258 (iv) may or may not provide all or part of its services in the outdoors;
- 259 (v) may or may not limit or censor access to parents or guardians; and
- 260 (vi) prohibits or restricts a minor's ability to leave the program at any time of the minor's
261 own free will.

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

264 Section 2. Section **62A-2-116.5** is enacted to read:

265 **62A-2-116.5. Numerical limit of foster children in a foster home.**

266 (1) Except as provided in Subsection (2) or (3), no more than:

267 (a) four foster children may reside in the foster home of a licensed foster parent; or

268 (b) three foster children may reside in the foster home of a certified foster parent.

269 (2) When placing a sibling group into a foster home, the limits in Subsection (1) may be
270 exceeded if:

271 (a) no other foster children reside in the foster home;

272 (b) only one other foster child resides in the foster home at the time of a sibling group's
273 placement into the foster home; or

274 (c) a sibling group re-enters foster care and is placed into the foster home where the
275 sibling group previously resided.

276 (3) When placing a child into a foster home, the limits in Subsection (1) may be
277 exceeded:

278 (a) to place a child into a foster home where a sibling of the child currently resides; or

279 (b) to place a child in a foster home where the child previously resided.