

1 **RESIDENTIAL VOCATIONAL AND LIFE SKILLS**

2 **PROGRAMS AMENDMENTS**

3 2017 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Evan J. Vickers**

6 House Sponsor: _____

7

LONG TITLE

8 **General Description:**

9 This bill creates a registry for residential vocational and life skills programs.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ defines terms;
- 13 ▶ requires the Department of Workforce Services to create and maintain a registry of
- 14 residential vocational and life skills programs; and
- 15 ▶ makes technical and conforming changes.

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **35A-3-102**, as last amended by Laws of Utah 2016, Chapters 105, 296, and 297

23 **62A-2-101**, as last amended by Laws of Utah 2016, Chapters 122, 211, and 342

24 ENACTS:

25 **35A-3-511**, Utah Code Annotated 1953



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

29 Section 1. Section **35A-3-102** is amended to read:

30 **35A-3-102. Definitions.**

31 As used in this chapter:

32 (1) "Adjudicative proceeding" [~~has the same meaning as~~] means the same as that term
33 is defined in Section 63G-4-103.

34 (2) "Administrative order" means an order issued by the department that addresses an
35 overpayment of public assistance.

36 (3) "Applicant" means a person who requests assistance under this chapter.

37 (4) "Approved self-reliance training" means an educational class, training session, or
38 counseling session:

39 (a) approved by the department;

40 (b) described in Section 35A-3-118; and

41 (c) provided at no cost to a client.

42 (5) "Assignment of support" means the transfer to the state of a recipient's right to
43 receive support from another person that accrues during the period the recipient receives public
44 assistance, including a right to receive support on behalf of any family member for whom the
45 recipient is applying for or receiving assistance.

46 (6) "Average monthly number of families" means the average number of families who
47 received cash assistance on a monthly basis during the previous federal fiscal year.

48 (7) "Cash assistance" means the monthly dollar amount a recipient is eligible to receive
49 under the Family Employment Program under Section 35A-3-302.

50 (8) "Child care services" means care of a child by a responsible person who is not the
51 child's parent or legal guardian, for a portion of the day that is less than 24 hours in a qualified
52 setting, as defined by rules made by the department in accordance with Title 63G, Chapter 3,
53 Utah Administrative Rulemaking Act.

54 (9) (a) "Civic organization" means an organization that provides services to its
55 community.

56 (b) "Civic organization" includes a community service club or organization, a
57 charitable health care or service organization, a fraternal organization, a labor union, a minority
58 or ethnic organization, a commercial or industrial organization, a commerce or business club, a

59 private nonprofit organization, a private nonprofit corporation that provides funding to a
60 community service organization, an organization that advocates or provides for the needs of
61 persons with low incomes, a religious organization, and an organization that fosters strong
62 neighborhoods and communities.

63 (10) "Core programs" means the following activities as described in 29 U.S.C. Sec.
64 3102:

- 65 (a) youth services;
- 66 (b) adult employment and training services;
- 67 (c) dislocated worker employment and training services;
- 68 (d) adult education and literacy activities;
- 69 (e) employment services; and
- 70 (f) vocational rehabilitation services.

71 (11) "Court order" means a judgment or order of a court of this state, another state, or
72 the federal government that addresses an overpayment of public assistance.

73 (12) "Date of enrollment" means the date on which the applicant was approved as
74 eligible for cash assistance.

75 (13) "Director" means the director of the division assigned by the department to
76 administer a program.

77 (14) "Diversion" or "diversion payment" means a one-time cash assistance payment
78 under Section [35A-3-303](#) to a recipient who is eligible for cash assistance, but does not require
79 extended cash assistance under Part 3, Family Employment Program.

80 (15) "Education or training" means education or training in accordance with 29 U.S.C.
81 Sec. 3174 and includes:

- 82 (a) basic remedial education;
- 83 (b) adult education;
- 84 (c) high school education;
- 85 (d) education to obtain the equivalent of a high school diploma;
- 86 (e) education to learn English as a second language;
- 87 (f) applied technology training;
- 88 (g) employment or occupational skills training;
- 89 (h) on-the-job training;

- 90 (i) incumbent worker training;
- 91 (j) programs that combine workplace training with related instruction, which may
- 92 include cooperative education programs;
- 93 (k) training programs operated by the private sector;
- 94 (l) skills upgrading and retraining;
- 95 (m) entrepreneurial training; or
- 96 (n) customized training conducted with a commitment by an employer to employ an
- 97 individual upon successful completion of the training.

98 (16) "Full-time education or training" means training on a full-time basis as defined by

99 the educational institution attended by the parent recipient.

100 (17) "General assistance" means financial assistance provided to a person under Part 4,

101 General Assistance.

102 (18) "Licensed clinical therapist" means an individual licensed by the state under:

- 103 (a) Title 58, Chapter 60, Part 2, Social Worker Licensing Act;
- 104 (b) Title 58, Chapter 60, Part 3, Marriage and Family Therapist Licensing Act;
- 105 (c) Title 58, Chapter 60, Part 4, Clinical Mental Health Counselor Licensing Act; or
- 106 (d) Title 58, Chapter 61, Psychologist Licensing Act.

107 (19) "Notice of agency action" means the notice required to commence an adjudicative

108 proceeding as described in Section [63G-4-201](#).

109 (20) "Obligor" means an individual:

- 110 (a) who is liable to the state under Section [35A-3-603](#) and applicable federal statutes
- 111 and regulations; or
- 112 (b) against whom an administrative or judicial order determining overpayment has
- 113 been obtained.

114 (21) (a) "Overpayment" means money, public assistance, or another item of value

115 provided under a state or federally funded benefit program to a person that is not entitled to

116 receive it or is not entitled to receive it at the level provided.

117 (b) "Overpayment" includes money paid to a provider under this title in connection

118 with public assistance or another publicly funded assistance program to the extent that the

119 provider receives payment:

- 120 (i) for goods or services not provided; or

121 (ii) in excess of the amount to which the provider is entitled.

122 (22) "Parent recipient" means a person who enters into an employment plan with the
123 department to qualify for cash assistance under Part 3, Family Employment Program.

124 (23) "Performance goals" means a target level of performance that will be compared to
125 actual performance.

126 (24) "Performance indicators" means actual performance information regarding a
127 program or activity.

128 (25) "Performance monitoring system" means a process to regularly collect and analyze
129 performance information, including performance indicators and performance goals.

130 (26) "Plan" or "state plan" means the state plan submitted to the Secretary of the United
131 States Department of Health and Human Services to receive funding from the United States
132 through the Temporary Assistance for Needy Families Block Grant in accordance with 42
133 U.S.C. Sec. 602.

134 (27) "Recipient" means a person who is qualified to receive, is receiving, or has
135 received assistance under this chapter.

136 (28) "Residential vocational and life skills program" means a group living program
137 that:

138 (a) provides vocational training to residents;

139 (b) provides life skills training to residents;

140 (c) houses residents who are unrelated to the owner or manager of the facility without
141 charging monetary fees for lodging, food, clothing, or training;

142 (d) houses and trains residents on a mutually voluntary basis;

143 (e) may require residents to maintain sobriety;

144 (f) does not provide specialized rehabilitation to acquire or maintain sobriety;

145 (g) does not provide mental health services; and

146 (h) does not award any form of academic diploma, degree, or professional certification.

147 [~~28~~] (29) "Single minor parent" means a person under 18 years of age who is not
148 married and has a minor child in the person's care and custody.

149 [~~29~~] (30) "Transitional cash assistance" means assistance provided to a recipient to
150 stabilize employment and reduce the future use of cash assistance provided under Part 3,
151 Family Employment Program.

152 Section 2. Section **35A-3-511** is enacted to read:

153 **35A-3-511. Residential vocational and life skills program registry.**

154 (1) The department shall establish and maintain an online registry of all residential
155 vocational and life skills programs.

156 (2) The residential vocational and life skills program registry shall identify for each
157 program:

158 (a) the name;

159 (b) each individual responsible for administering the program;

160 (c) the location of the program; and

161 (d) a description of the program.

162 (3) A residential vocational and life skills program shall register with the department
163 and provide:

164 (a) the identifying information described in Subsection (2);

165 (b) a registration fee established by the department in accordance with Section
166 63J-1-504; and

167 (c) evidence that the program meets each aspect of the definition of a residential
168 vocational and life skills program.

169 (4) The department shall collect a registration fee in accordance with Subsection (3)
170 and deposit the fee into the General Fund as a dedicated credit to be used by the department to:

171 (a) establish and maintain the residential vocational and life skills program registry
172 under this section;

173 (b) receive and maintain information from the public regarding residential and life
174 skills programs; and

175 (c) as necessary, make policy recommendations to the Economic Development and
176 Workforce Services Interim Committee based on information received from the public, after
177 consulting with the residential and life skills program regarding the perceived need for the
178 policy recommendations.

179 (5) The department shall, in accordance with Title 63G, Chapter 3, Utah
180 Administrative Rulemaking Act, make rules that establish procedures to:

181 (a) register a vocational and life skills program; and

182 (b) maintain the registry.

183 (6) The department shall inform the relevant government agency when the department
184 has information that a registrant may require a license due to the registrant exceeding the scope
185 of a residential vocational and life skills program.

186 Section 3. Section **62A-2-101** is amended to read:

187 **62A-2-101. Definitions.**

188 As used in this chapter:

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

190 (a) for three or more adults for at least four but less than 24 hours a day; and

191 (b) that meets the needs of functionally impaired adults through a comprehensive
192 program that provides a variety of health, social, recreational, and related support services in a
193 protective setting.

194 (2) "Applicant" means a person who applies for an initial license or a license renewal
195 under this chapter.

196 (3) (a) "Associated with the licensee" means that an individual is:

197 (i) affiliated with a licensee as an owner, director, member of the governing body,
198 employee, agent, provider of care, department contractor, or volunteer; or

199 (ii) applying to become affiliated with a licensee in a capacity described in Subsection
200 (3)(a)(i).

201 (b) "Associated with the licensee" does not include:

202 (i) service on the following bodies, unless that service includes direct access to a child
203 or a vulnerable adult:

204 (A) a local mental health authority described in Section [17-43-301](#);

205 (B) a local substance abuse authority described in Section [17-43-201](#); or

206 (C) a board of an organization operating under a contract to provide mental health or
207 substance abuse programs, or services for the local mental health authority or substance abuse
208 authority; or

209 (ii) a guest or visitor whose access to a child or a vulnerable adult is directly supervised
210 at all times.

211 (4) (a) "Boarding school" means a private school that:

212 (i) uses a regionally accredited education program;

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

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

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

216 (iii) has the primary purpose of providing the school's students with an education, as

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

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

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

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

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

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

227 (B) the school does not:

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

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

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

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

234 (6) "Child placing" means receiving, accepting, or providing custody or care for ~~[any]~~ a
235 child, temporarily or permanently, for the purpose of:

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

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

238 (c) foster home placement.

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

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

241 (a) a client for less than 24 hours a day; and

242 (b) four or more persons who:

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

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

245 dysfunctions, impairments, or chemical dependencies.

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

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

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

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

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

252 [~~(a) contact with or access to a child or vulnerable adult that provides the individual~~
253 ~~with an opportunity for personal communication or touch; or]~~

254 (a) an opportunity for personal touch or communication with a child or vulnerable
255 adult; or

256 (b) an opportunity to view medical, financial, or other confidential personal identifying
257 information of [~~the child, the child's parents or legal guardians, or the~~] a child, a child's parent
258 or legal guardian, or a vulnerable adult.

259 (12) "Directly supervised" means that an individual is [~~being supervised~~] under the
260 uninterrupted visual and auditory surveillance of another individual who has a current
261 background screening approval issued by the office.

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

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

264 (15) "Domestic violence treatment program" means a nonresidential program designed
265 to provide psychological treatment and educational services to perpetrators and victims of
266 domestic violence.

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

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

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

270 (a) (i) fewer than five foster children in the home of a licensed foster parent; or

271 (ii) five or more foster children in the home of a licensed foster parent if there are no
272 foster children or if there is one foster child in the home at the time of the placement of a
273 sibling group; or

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

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

276 foster children or if there is one foster child in the home at the time of the placement of a
277 sibling group.

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

279 (i) foster home;

280 (ii) therapeutic school;

281 (iii) youth program;

282 (iv) resource family home;

283 (v) recovery residence; or

284 (vi) facility or program that provides:

285 (A) secure treatment;

286 (B) inpatient treatment;

287 (C) residential treatment;

288 (D) residential support;

289 (E) adult day care;

290 (F) day treatment;

291 (G) outpatient treatment;

292 (H) domestic violence treatment;

293 (I) child placing services;

294 (J) social detoxification; or

295 (K) any other human services that are required by contract with the department to be

296 licensed with the department.

297 (b) "Human services program" does not include:

298 (i) a boarding school[-]; or

299 (ii) a residential vocational and life skills program.

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

301 office.

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

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

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

305 (24) "Outpatient treatment" means individual, family, or group therapy or counseling

306 designed to improve and enhance social or psychological functioning for those whose physical

307 and emotional status allows them to continue functioning in their usual living environment.

308 (25) (a) "Recovery residence" means, except as provided in Subsection (25)(b), a
309 home, residence, or facility that meets at least two of the following requirements:

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

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

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

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

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

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

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

321 (i) a residential treatment program;

322 (ii) residential support; [~~or~~]

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

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

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

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

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

329 market rental income, for establishing, implementing, or enforcing policies governing the
330 living environment[~~;~~];or

331 (iv) a residential vocational and life skills program.

332 (26) "Regular business hours" means:

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

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

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

338 their families.

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

341 (i) emotional;

342 (ii) psychological;

343 (iii) developmental; or

344 (iv) behavioral.

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

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

347 (i) a recovery residence; ~~or~~

348 (ii) a residential vocational and life skills program; or

349 ~~[(ii)] (iii)~~ residential services that are performed:

350 (A) exclusively under contract with the Division of Services for People with
351 Disabilities; or

352 (B) in a facility that serves fewer than four individuals.

353 (28) (a) "Residential treatment" means a 24-hour group living environment ~~[for four or~~
354 ~~more individuals unrelated to the owner or provider]~~ that offers room or board and specialized
355 treatment, behavior modification, rehabilitation, discipline, emotional growth, or habilitation
356 services ~~[for persons with]~~ for four or more individuals who are unrelated to the owner or
357 provider and who have emotional, psychological, developmental, or behavioral dysfunctions,
358 impairments, or chemical dependencies.

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

360 (i) boarding school;

361 (ii) foster home; ~~or~~

362 (iii) recovery residence~~[-];~~ or

363 (iv) residential vocational and life skills program.

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

365 (a) residential treatment; or

366 (b) secure treatment.

367 (30) "Residential vocational and life skills program" means the same as that term is
368 defined in Section 35A-3-102.

369 ~~[(30)]~~ (31) (a) "Secure treatment" means 24-hour specialized residential treatment or
370 care for persons whose current functioning is such that they cannot live independently or in a
371 less restrictive environment.

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

375 ~~[(31)]~~ (32) "Social detoxification" means short-term residential services ~~[for persons~~
376 ~~who are experiencing or have recently experienced drug or alcohol intoxication,]~~ that are
377 provided outside of a health care facility licensed under Title 26, Chapter 21, Health Care
378 Facility Licensing and Inspection Act, for individuals who are experiencing or have recently
379 experienced drug or alcohol intoxication, and that include:

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

382 (b) specialized rehabilitation to acquire sobriety; and

383 (c) aftercare services.

384 ~~[(32)]~~ (33) "Substance abuse treatment program" means a program:

385 (a) designed to provide:

386 (i) specialized drug or alcohol treatment;

387 (ii) rehabilitation; or

388 (iii) habilitation services; and

389 (b) that provides the treatment or services described in Subsection ~~[(32)]~~ (33)(a) to
390 persons with:

391 (i) a diagnosed substance abuse disorder; or

392 (ii) chemical dependency disorder.

393 ~~[(33)]~~ (34) "Therapeutic school" means a residential group living facility:

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

395 (i) the owner of the facility; or

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

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

398 (i) at home;

399 (ii) in a public school; or

400 (iii) in a nonresidential private school; and

401 (c) that offers:

402 (i) room and board; and

403 (ii) an academic education integrated with:

404 (A) specialized structure and supervision; or

405 (B) services or treatment related to:

406 (I) a disability;

407 (II) emotional development;

408 (III) behavioral development;

409 (IV) familial development; or

410 (V) social development.

411 [~~(34)~~] (35) "Unrelated persons" means persons other than parents, legal guardians,

412 grandparents, brothers, sisters, uncles, or aunts.

413 [~~(35)~~] (36) "Vulnerable adult" means an elder adult or an adult who has a temporary or

414 permanent mental or physical impairment that substantially affects the person's ability to:

415 (a) provide personal protection;

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

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

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

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

420 (f) comprehend the nature and consequences of remaining in a situation of abuse,

421 neglect, or exploitation.

422 [~~(36)~~] (37) (a) "Youth program" means a nonresidential program designed to provide to

423 minors behavioral, substance abuse, or mental health services [~~to minors~~] that:

424 (i) serves adjudicated or nonadjudicated youth;

425 (ii) charges a fee for its services;

426 (iii) may or may not provide host homes or other arrangements for overnight

427 accommodation of the youth;

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

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

430 (vi) prohibits or restricts a minor's ability to leave the program at any time of the

431 minor's own free will.

432 (b) "Youth program" does not include recreational programs such as Boy Scouts, Girl

433 Scouts, 4-H, and other such organizations.

Legislative Review Note
Office of Legislative Research and General Counsel