

CONGREGATE CARE PROGRAM AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael K. McKell

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to congregate care programs.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies the definition of "congregate care program";
- ▶ removes the requirement that restraint and seclusion procedures align with industry standards;
- ▶ requires a congregate care program to allow confidential voice-to-voice communication unless certain circumstances are met;
- ▶ requires a youth transportation company to register with the office;
- ▶ requires individuals who transport a child for a youth transportation company to submit to a background check;
- ▶ imposes a criminal penalty for referring individuals to youth transportation companies in exchange for renumeration, or fee sharing;
- ▶ creates a fee for registration of a youth transportation company; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:



28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **62A-2-101**, as last amended by Laws of Utah 2021, Chapters 117 and 400

32 **62A-2-116**, as last amended by Laws of Utah 2018, Chapters 316 and 439

33 **62A-2-120**, as last amended by Laws of Utah 2021, Chapters 117, 262, and 400

34 **62A-2-123**, as enacted by Laws of Utah 2021, Chapter 400

35 ENACTS:

36 **62A-2-126**, Utah Code Annotated 1953



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

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

40 **62A-2-101. Definitions.**

41 As used in this chapter:

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

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

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

47 (2) "Applicant" means a person [~~who~~] that applies for an initial license or a license
48 renewal under this chapter.

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

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

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

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

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

57 (A) a local mental health authority described in Section **17-43-301**;

58 (B) a local substance abuse authority described in Section **17-43-201**; or

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

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

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

65 (i) uses a regionally accredited education program;

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

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

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

69 (iii) has the primary purpose of providing the school's students with an education, as
70 defined in Subsection (4)(b)(i); and

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

72 (B) provides the treatment or services described in Subsection (37)(a) on a limited
73 basis, as described in Subsection (4)(b)(ii).

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

76 (ii) For purposes of Subsection (4)(a)(iv)(B), a private school provides the treatment or
77 services described in Subsection (37)(a) on a limited basis if:

78 (A) the treatment or services described in Subsection (37)(a) are provided only as an
79 incidental service to a student; and

80 (B) the school does not:

81 (I) specifically solicit a student for the purpose of providing the treatment or services
82 described in Subsection (37)(a); or

83 (II) have a primary purpose of providing the treatment or services described in
84 Subsection (37)(a).

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

86 (5) "Child" means an individual under 18 years old.

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

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

- 90 (b) placing the child in a home for adoption; or
- 91 (c) foster home placement.
- 92 (7) "Child-placing agency" means a person that engages in child placing.
- 93 (8) "Client" means an individual who receives or has received services from a licensee.
- 94 (9) (a) "Congregate care program" means any of the following that provide services to
- 95 a child:
 - 96 [~~(a)~~] (i) an outdoor youth program;
 - 97 [~~(b)~~] (ii) a residential support program;
 - 98 [~~(c)~~] (iii) a residential treatment program; or
 - 99 [~~(d)~~] (iv) a therapeutic school.
- 100 (b) "Congregate care program" does not include a human services program that:
 - 101 (i) is licensed to serve adults; and
 - 102 (ii) is approved by the office to serve a child for a limited time.
- 103 (10) "Day treatment" means specialized treatment that is provided to:
 - 104 (a) a client less than 24 hours a day; and
 - 105 (b) four or more persons who:
 - 106 (i) are unrelated to the owner or provider; and
 - 107 (ii) have emotional, psychological, developmental, physical, or behavioral
 - 108 dysfunctions, impairments, or chemical dependencies.
- 109 (11) "Department" means the Department of Human Services.
- 110 (12) "Department contractor" means an individual who:
 - 111 (a) provides services under a contract with the department; and
 - 112 (b) due to the contract with the department, has or will likely have direct access to a
 - 113 child or vulnerable adult.
- 114 (13) "Direct access" means that an individual has, or likely will have:
 - 115 (a) contact with or access to a child or vulnerable adult that provides the individual
 - 116 with an opportunity for personal communication or touch; or
 - 117 (b) an opportunity to view medical, financial, or other confidential personal identifying
 - 118 information of the child, the child's parents or legal guardians, or the vulnerable adult.
- 119 (14) "Directly supervised" means that an individual is being supervised under the
- 120 uninterrupted visual and auditory surveillance of another individual who has a current

121 background screening approval issued by the office.

122 (15) "Director" means the director of the Office of Licensing.

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

124 (17) "Domestic violence treatment program" means a nonresidential program designed
125 to provide psychological treatment and educational services to perpetrators and victims of
126 domestic violence.

127 (18) "Elder adult" means a person 65 years old or older.

128 (19) "Executive director" means the executive director of the department.

129 (20) "Foster home" means a residence that is licensed or certified by the Office of
130 Licensing for the full-time substitute care of a child.

131 (21) "Health benefit plan" means the same as that term is defined in Section
132 31A-1-301.

133 (22) "Health care provider" means the same as that term is defined in Section
134 78B-3-403.

135 (23) "Health insurer" means the same as that term is defined in Section 31A-22-615.5.

136 (24) (a) "Human services program" means:

137 (i) a foster home;

138 (ii) a therapeutic school;

139 (iii) a youth program;

140 (iv) an outdoor youth program;

141 (v) a residential treatment program;

142 (vi) a residential support program;

143 (vii) a resource family home;

144 (viii) a recovery residence; or

145 (ix) a facility or program that provides:

146 (A) adult day care;

147 (B) day treatment;

148 (C) outpatient treatment;

149 (D) domestic violence treatment;

150 (E) child-placing services;

151 (F) social detoxification; or

152 (G) any other human services that are required by contract with the department to be
153 licensed with the department.

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

155 (i) a boarding school; or

156 (ii) a residential, vocational and life skills program, as defined in Section 13-53-102.

157 (25) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

158 (26) "Indian country" means the same as that term is defined in 18 U.S.C. Sec. 1151.

159 (27) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

160 (28) "Intermediate secure treatment" means 24-hour specialized residential treatment or
161 care for an individual who:

162 (a) cannot live independently or in a less restrictive environment; and

163 (b) requires, without the individual's consent or control, the use of locked doors to care
164 for the individual.

165 (29) "Licensee" means an individual or a human services program licensed by the
166 office.

167 (30) "Local government" means a city, town, metro township, or county.

168 (31) "Minor" has the same meaning as "child."

169 (32) "Office" means the Office of Licensing within the Department of Human Services.

170 (33) "Outdoor youth program" means a program that provides:

171 (a) services to a child that has:

172 (i) a chemical dependency; or

173 (ii) a dysfunction or impairment that is emotional, psychological, developmental,
174 physical, or behavioral;

175 (b) a 24-hour outdoor group living environment; and

176 (c) (i) regular therapy, including group, individual, or supportive family therapy; or

177 (ii) informal therapy or similar services, including wilderness therapy, adventure
178 therapy, or outdoor behavioral healthcare.

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

182 (35) "Practice group" or "group practice" means two or more health care providers

183 legally organized as a partnership, professional corporation, or similar association, for which:

184 (a) substantially all of the services of the health care providers who are members of the
185 group are provided through the group and are billed in the name of the group and amounts
186 received are treated as receipts of the group; and

187 (b) the overhead expenses of and the income from the practice are distributed in
188 accordance with methods previously determined by members of the group.

189 (36) "Private-placement child" means a child whose parent or guardian enters into a
190 contract with a congregate care program for the child to receive services.

191 (37) (a) "Recovery residence" means a home, residence, or facility that meets at least
192 two of the following requirements:

193 (i) provides a supervised living environment for individuals recovering from a
194 substance use disorder;

195 (ii) provides a living environment in which more than half of the individuals in the
196 residence are recovering from a substance use disorder;

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

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

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

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

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

204 (i) a residential treatment program;

205 (ii) residential support program; or

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

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

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

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

211 (C) a landlord, owner, or operator does not receive compensation, other than fair
212 market rental income, for establishing, implementing, or enforcing policies governing the
213 living environment.

214 (38) "Regular business hours" means:

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

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

217 (39) (a) "Residential support program" means a program that arranges for or provides
218 the necessities of life as a protective service to individuals or families who have a disability or
219 who are experiencing a dislocation or emergency that prevents them from providing these
220 services for themselves or their families.

221 (b) "Residential support program" includes a program that provides a supervised living
222 environment for individuals with dysfunctions or impairments that are:

223 (i) emotional;

224 (ii) psychological;

225 (iii) developmental; or

226 (iv) behavioral.

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

228 (d) "Residential support program" does not include:

229 (i) a recovery residence; or

230 (ii) a program that provides residential services that are performed:

231 (A) exclusively under contract with the department and provided to individuals through
232 the Division of Services for People with Disabilities; or

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

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

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

240 (i) boarding school;

241 (ii) foster home; or

242 (iii) recovery residence.

243 (41) "Residential treatment program" means a program or facility that provides:

244 (a) residential treatment; or

- 245 (b) intermediate secure treatment.
- 246 (42) "Seclusion" means the involuntary confinement of an individual in a room or an
- 247 area:
- 248 (a) away from the individual's peers; and
- 249 (b) in a manner that physically prevents the individual from leaving the room or area.
- 250 (43) "Social detoxification" means short-term residential services for persons who are
- 251 experiencing or have recently experienced drug or alcohol intoxication, that are provided
- 252 outside of a health care facility licensed under Title 26, Chapter 21, Health Care Facility
- 253 Licensing and Inspection Act, and that include:
- 254 (a) room and board for persons who are unrelated to the owner or manager of the
- 255 facility;
- 256 (b) specialized rehabilitation to acquire sobriety; and
- 257 (c) aftercare services.
- 258 (44) "Substance abuse disorder" or "substance use disorder" mean the same as
- 259 "substance use disorder" is defined in Section [62A-15-1202](#).
- 260 (45) "Substance abuse treatment program" or "substance use disorder treatment
- 261 program" means a program:
- 262 (a) designed to provide:
- 263 (i) specialized drug or alcohol treatment;
- 264 (ii) rehabilitation; or
- 265 (iii) habilitation services; and
- 266 (b) that provides the treatment or services described in Subsection (45)(a) to persons
- 267 with:
- 268 (i) a diagnosed substance use disorder; or
- 269 (ii) chemical dependency disorder.
- 270 (46) "Therapeutic school" means a residential group living facility:
- 271 (a) for four or more individuals that are not related to:
- 272 (i) the owner of the facility; or
- 273 (ii) the primary service provider of the facility;
- 274 (b) that serves students who have a history of failing to function:
- 275 (i) at home;

- 276 (ii) in a public school; or
- 277 (iii) in a nonresidential private school; and
- 278 (c) that offers:
 - 279 (i) room and board; and
 - 280 (ii) an academic education integrated with:
 - 281 (A) specialized structure and supervision; or
 - 282 (B) services or treatment related to:
 - 283 (I) a disability;
 - 284 (II) emotional development;
 - 285 (III) behavioral development;
 - 286 (IV) familial development; or
 - 287 (V) social development.
- 288 (47) "Unrelated persons" means persons other than parents, legal guardians,
- 289 grandparents, brothers, sisters, uncles, or aunts.
- 290 (48) "Vulnerable adult" means an elder adult or an adult who has a temporary or
- 291 permanent mental or physical impairment that substantially affects the person's ability to:
 - 292 (a) provide personal protection;
 - 293 (b) provide necessities such as food, shelter, clothing, or mental or other health care;
 - 294 (c) obtain services necessary for health, safety, or welfare;
 - 295 (d) carry out the activities of daily living;
 - 296 (e) manage the adult's own resources; or
 - 297 (f) comprehend the nature and consequences of remaining in a situation of abuse,
 - 298 neglect, or exploitation.
- 299 (49) (a) "Youth program" means a program designed to provide behavioral, substance
- 300 abuse, or mental health services to minors that:
 - 301 (i) serves adjudicated or nonadjudicated youth;
 - 302 (ii) charges a fee for its services;
 - 303 (iii) may provide host homes or other arrangements for overnight accommodation of
 - 304 the youth;
 - 305 (iv) may provide all or part of its services in the outdoors;
 - 306 (v) may limit or censor access to parents or guardians; and

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

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

311 (50) (a) "Youth transportation company" means any person that transports a child for
312 payment to or from a congregate care program in Utah.

313 (b) "Youth transportation company" does not include:

314 (i) a relative of the child;

315 (ii) a state agency; or

316 (iii) a person that transports the child from a congregate care program and returns the
317 child to the same congregate care program within 48 hours.

318 Section 2. Section **62A-2-116** is amended to read:

319 **62A-2-116. Violation -- Criminal penalties.**

320 (1) (a) A person who owns, establishes, conducts, maintains, manages, or operates a
321 human services program in violation of this chapter is guilty of a class A misdemeanor if the
322 violation endangers or harms the health, welfare, or safety of persons participating in that
323 program.

324 (b) Conviction in a criminal proceeding does not preclude the office from:

325 (i) assessing a civil penalty or an administrative penalty;

326 (ii) denying, placing conditions on, suspending, or revoking a license; or

327 (iii) seeking injunctive or equitable relief.

328 (2) Any person that violates a provision of this chapter, lawful orders of the office, or
329 rules adopted under this chapter may be assessed a penalty not to exceed the sum of \$10,000
330 per violation, in:

331 (a) a judicial civil proceeding; or

332 (b) an administrative action in accordance with Title 63G, Chapter 4, Administrative
333 Procedures Act.

334 (3) Assessment of a judicial penalty or an administrative penalty does not preclude the
335 office from:

336 (a) seeking criminal penalties;

337 (b) denying, placing conditions on, suspending, or revoking a license; or

338 (c) seeking injunctive or equitable relief.

339 (4) The office may assess the human services program the cost incurred by the office in
340 placing a monitor.

341 (5) Notwithstanding Subsection (1)(a) and subject to Subsections (1)(b) and (2), an
342 individual is guilty of a class A misdemeanor if the individual knowingly and willfully offers,
343 pays, promises to pay, solicits, or receives any remuneration, including any commission, bonus,
344 kickback, bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in kind, or
345 engages in any split-fee arrangement in return for:

346 (a) referring an individual to a person for the furnishing or arranging for the furnishing
347 of any item or service for the treatment of a substance use disorder;

348 (b) receiving a referred individual for the furnishing or arranging for the furnishing of
349 any item or service for the treatment of a substance use disorder; or

350 (c) referring a clinical sample to a person, including a laboratory, for testing that is
351 used toward the furnishing of any item or service for the treatment of a substance use disorder.

352 (6) Subsection (5) does not prohibit:

353 (a) any discount, payment, waiver of payment, or payment practice not prohibited by
354 42 U.S.C. Sec. 1320a-7(b) or regulations made under 42 U.S.C. Sec. 1320a-7(b);

355 (b) patient referrals within a practice group;

356 (c) payments by a health insurer who reimburses, provides, offers to provide, or
357 administers health, mental health, or substance use disorder goods or services under a health
358 benefit plan;

359 (d) payments to or by a health care provider, practice group, or substance use disorder
360 treatment program that has contracted with a local mental health authority, a local substance
361 abuse authority, a health insurer, a health care purchasing group, or the Medicare or Medicaid
362 program to provide health, mental health, or substance use disorder services;

363 (e) payments by a health care provider, practice group, or substance use disorder
364 treatment program to a health, mental health, or substance use disorder information service that
365 provides information upon request and without charge to consumers about providers of health
366 care goods or services to enable consumers to select appropriate providers or facilities, if the
367 information service:

368 (i) does not attempt, through standard questions for solicitation of consumer criteria or

369 through any other means, to steer or lead a consumer to select or consider selection of a
370 particular health care provider, practice group, or substance use disorder treatment program;

371 (ii) does not provide or represent that the information service provides diagnostic or
372 counseling services or assessments of illness or injury and does not make any promises of cure
373 or guarantees of treatment; and

374 (iii) charges and collects fees from a health care provider, practice group, or substance
375 use disorder treatment program participating in information services that:

376 (A) are set in advance;

377 (B) are consistent with the fair market value for those information services; and

378 (C) are not based on the potential value of the goods or services that a health care
379 provider, practice group, or substance use disorder treatment program may provide to a patient;
380 or

381 (f) payments by a laboratory to a person that:

382 (i) does not have a financial interest in or with a facility or person who refers a clinical
383 sample to the laboratory;

384 (ii) is not related to an owner of a facility or a person who refers a clinical sample to
385 the laboratory;

386 (iii) is not related to and does not have a financial relationship with a health care
387 provider who orders the laboratory to conduct a test that is used toward the furnishing of an
388 item or service for the treatment of a substance use disorder;

389 (iv) identifies, in advance of providing marketing or sales services, the types of clinical
390 samples that each laboratory will receive, if the person provides marketing or sales services to
391 more than one laboratory;

392 (v) the person does not identify as or hold itself out to be a laboratory or part of a
393 network with an insurance payor, if the person provides marketing or sales services under a
394 contract with a laboratory, as described in Subsection (6)(f)(vii)(B);

395 (vi) the person identifies itself in all marketing materials as a salesperson for a licensed
396 laboratory and identifies each laboratory that the person represents, if the person provides
397 marketing or sales services under a contract with a laboratory, as described in Subsection
398 (6)(f)(vii)(B); and

399 (vii) (A) is a sales person employed by the laboratory to market or sell the laboratory's

400 services to a person who provides substance use disorder treatment; or

401 (B) is a person under contract with the laboratory to market or sell the laboratory's
402 services to a person who provides substance use disorder treatment, if the total compensation
403 paid by the laboratory does not exceed the total compensation that the laboratory pays to
404 employees of the laboratory for similar marketing or sales services.

405 (7) (a) A person may not knowingly or willfully, in exchange for referring an
406 individual to a youth transportation company:

407 (i) offer, pay, promise to pay, solicit, or receive any remuneration directly or indirectly,
408 overtly or covertly, in cash or in kind, including:

409 (A) a commission;

410 (B) a bonus;

411 (C) a kickback;

412 (D) a bribe; or

413 (E) a rebate; or

414 (ii) engage in any split-fee arrangement.

415 (b) A person who violates Subsection (7)(a) is guilty of a class A misdemeanor and
416 shall be assessed a penalty in accordance with Subsection (2).

417 Section 3. Section **62A-2-120** is amended to read:

418 **62A-2-120. Background check -- Direct access to children or vulnerable adults.**

419 (1) As used in this section:

420 (a) (i) "Applicant" means:

421 (A) the same as that term is defined in Section [62A-2-101](#);

422 (B) an individual who is associated with a licensee and has or will likely have direct
423 access to a child or a vulnerable adult;

424 (C) an individual who provides respite care to a foster parent or an adoptive parent on
425 more than one occasion;

426 (D) a department contractor;

427 (E) an individual who transports a child for a youth transportation company;

428 ~~[(E)]~~ (F) a guardian submitting an application on behalf of an individual, other than the
429 child or vulnerable adult who is receiving the service, if the individual is 12 years old or older
430 and resides in a home, that is licensed or certified by the office, with the child or vulnerable

431 adult who is receiving services; or

432 ~~[(F)]~~ (G) a guardian submitting an application on behalf of an individual, other than the
433 child or vulnerable adult who is receiving the service, if the individual is 12 years old or older
434 and is a person described in Subsection (1)(a)(i)(A), (B), (C), or (D).

435 (ii) "Applicant" does not mean an individual, including an adult, who is in the custody
436 of the Division of Child and Family Services or the Division of Juvenile Justice Services.

437 (b) "Application" means a background screening application to the office.

438 (c) "Bureau" means the Bureau of Criminal Identification within the Department of
439 Public Safety, created in Section [53-10-201](#).

440 (d) "Incidental care" means occasional care, not in excess of five hours per week and
441 never overnight, for a foster child.

442 (e) "Personal identifying information" means:

443 (i) current name, former names, nicknames, and aliases;

444 (ii) date of birth;

445 (iii) physical address and email address;

446 (iv) telephone number;

447 (v) driver license or other government-issued identification;

448 (vi) social security number;

449 (vii) only for applicants who are 18 years old or older, fingerprints, in a form specified
450 by the office; and

451 (viii) other information specified by the office by rule made in accordance with Title
452 63G, Chapter 3, Utah Administrative Rulemaking Act.

453 (2) (a) Except as provided in Subsection (13), an applicant or a representative shall
454 submit the following to the office:

455 (i) personal identifying information;

456 (ii) a fee established by the office under Section [63J-1-504](#); and

457 (iii) a disclosure form, specified by the office, for consent for:

458 (A) an initial background check upon submission of the information described under
459 this Subsection (2)(a);

460 (B) ongoing monitoring of fingerprints and registries until no longer associated with a
461 licensee for 90 days;

462 (C) a background check when the office determines that reasonable cause exists; and
463 (D) retention of personal identifying information, including fingerprints, for
464 monitoring and notification as described in Subsections (3)(d) and (4).

465 (b) In addition to the requirements described in Subsection (2)(a), if an applicant
466 resided outside of the United States and its territories during the five years immediately
467 preceding the day on which the information described in Subsection (2)(a) is submitted to the
468 office, the office may require the applicant to submit documentation establishing whether the
469 applicant was convicted of a crime during the time that the applicant resided outside of the
470 United States or its territories.

471 (3) The office:

472 (a) shall perform the following duties as part of a background check of an applicant:

473 (i) check state and regional criminal background databases for the applicant's criminal
474 history by:

475 (A) submitting personal identifying information to the bureau for a search; or

476 (B) using the applicant's personal identifying information to search state and regional
477 criminal background databases as authorized under Section 53-10-108;

478 (ii) submit the applicant's personal identifying information and fingerprints to the
479 bureau for a criminal history search of applicable national criminal background databases;

480 (iii) search the Department of Human Services, Division of Child and Family Services'
481 Licensing Information System described in Section 62A-4a-1006;

482 (iv) search the Department of Human Services, Division of Aging and Adult Services'
483 vulnerable adult abuse, neglect, or exploitation database described in Section 62A-3-311.1;

484 (v) search the juvenile court records for substantiated findings of severe child abuse or
485 neglect described in Section 80-3-404; and

486 (vi) search the juvenile court arrest, adjudication, and disposition records, as provided
487 under Section 78A-6-209;

488 (b) shall conduct a background check of an applicant for an initial background check
489 upon submission of the information described under Subsection (2)(a);

490 (c) may conduct all or portions of a background check of an applicant, as provided by
491 rule, made by the office in accordance with Title 63G, Chapter 3, Utah Administrative
492 Rulemaking Act:

493 (i) for an annual renewal; or
494 (ii) when the office determines that reasonable cause exists;
495 (d) may submit an applicant's personal identifying information, including fingerprints,
496 to the bureau for checking, retaining, and monitoring of state and national criminal background
497 databases and for notifying the office of new criminal activity associated with the applicant;
498 (e) shall track the status of an approved applicant under this section to ensure that an
499 approved applicant is not required to duplicate the submission of the applicant's fingerprints if
500 the applicant applies for:
501 (i) more than one license;
502 (ii) direct access to a child or a vulnerable adult in more than one human services
503 program; or
504 (iii) direct access to a child or a vulnerable adult under a contract with the department;
505 (f) shall track the status of each license and each individual with direct access to a child
506 or a vulnerable adult and notify the bureau within 90 days after the day on which the license
507 expires or the individual's direct access to a child or a vulnerable adult ceases;
508 (g) shall adopt measures to strictly limit access to personal identifying information
509 solely to the individuals responsible for processing and entering the applications for
510 background checks and to protect the security of the personal identifying information the office
511 reviews under this Subsection (3);
512 (h) as necessary to comply with the federal requirement to check a state's child abuse
513 and neglect registry regarding any individual working in a congregate care program, shall:
514 (i) search the Department of Human Services, Division of Child and Family Services'
515 Licensing Information System described in Section [62A-4a-1006](#); and
516 (ii) require the child abuse and neglect registry be checked in each state where an
517 applicant resided at any time during the five years immediately preceding the day on which the
518 applicant submits the information described in Subsection (2)(a) to the office; and
519 (i) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative
520 Rulemaking Act, to implement the provisions of this Subsection (3) relating to background
521 checks.
522 (4) (a) With the personal identifying information the office submits to the bureau under
523 Subsection (3), the bureau shall check against state and regional criminal background databases

524 for the applicant's criminal history.

525 (b) With the personal identifying information and fingerprints the office submits to the
526 bureau under Subsection (3), the bureau shall check against national criminal background
527 databases for the applicant's criminal history.

528 (c) Upon direction from the office, and with the personal identifying information and
529 fingerprints the office submits to the bureau under Subsection (3)(d), the bureau shall:

530 (i) maintain a separate file of the fingerprints for search by future submissions to the
531 local and regional criminal records databases, including latent prints; and

532 (ii) monitor state and regional criminal background databases and identify criminal
533 activity associated with the applicant.

534 (d) The bureau is authorized to submit the fingerprints to the Federal Bureau of
535 Investigation Next Generation Identification System, to be retained in the Federal Bureau of
536 Investigation Next Generation Identification System for the purpose of:

537 (i) being searched by future submissions to the national criminal records databases,
538 including the Federal Bureau of Investigation Next Generation Identification System and latent
539 prints; and

540 (ii) monitoring national criminal background databases and identifying criminal
541 activity associated with the applicant.

542 (e) The Bureau shall notify and release to the office all information of criminal activity
543 associated with the applicant.

544 (f) Upon notice from the office that a license has expired or an individual's direct
545 access to a child or a vulnerable adult has ceased for 90 days, the bureau shall:

546 (i) discard and destroy any retained fingerprints; and

547 (ii) notify the Federal Bureau of Investigation when the license has expired or an
548 individual's direct access to a child or a vulnerable adult has ceased, so that the Federal Bureau
549 of Investigation will discard and destroy the retained fingerprints from the Federal Bureau of
550 Investigation Next Generation Identification System.

551 (5) (a) After conducting the background check described in Subsections (3) and (4), the
552 office shall deny an application to an applicant who, within three years before the day on which
553 the applicant submits information to the office under Subsection (2) for a background check,
554 has been convicted of any of the following, regardless of whether the offense is a felony, a

555 misdemeanor, or an infraction:

556 (i) an offense identified as domestic violence, lewdness, voyeurism, battery, cruelty to
557 animals, or bestiality;

558 (ii) a violation of any pornography law, including sexual exploitation of a minor;

559 (iii) prostitution;

560 (iv) an offense included in:

561 (A) Title 76, Chapter 5, Offenses Against the Person;

562 (B) Section 76-5b-201, Sexual Exploitation of a Minor; or

563 (C) Title 76, Chapter 7, Offenses Against the Family;

564 (v) aggravated arson, as described in Section 76-6-103;

565 (vi) aggravated burglary, as described in Section 76-6-203;

566 (vii) aggravated robbery, as described in Section 76-6-302;

567 (viii) identity fraud crime, as described in Section 76-6-1102; or

568 (ix) a felony or misdemeanor offense committed outside of the state that, if committed
569 in the state, would constitute a violation of an offense described in Subsections (5)(a)(i)
570 through (viii).

571 (b) If the office denies an application to an applicant based on a conviction described in
572 Subsection (5)(a), the applicant is not entitled to a comprehensive review described in
573 Subsection (6).

574 (c) If the applicant will be working in a program serving only adults whose only
575 impairment is a mental health diagnosis, including that of a serious mental health disorder,
576 with or without co-occurring substance use disorder, the denial provisions of Subsection (5)(a)
577 do not apply, and the office shall conduct a comprehensive review as described in Subsection
578 (6).

579 (6) (a) The office shall conduct a comprehensive review of an applicant's background
580 check if the applicant:

581 (i) has an open court case or a conviction for any felony offense, not described in
582 Subsection (5)(a), with a date of conviction that is no more than 10 years before the date on
583 which the applicant submits the application;

584 (ii) has an open court case or a conviction for a misdemeanor offense, not described in
585 Subsection (5)(a), and designated by the office, by rule, in accordance with Title 63G, Chapter

586 3, Utah Administrative Rulemaking Act, if the conviction is within three years before the day
587 on which the applicant submits information to the office under Subsection (2) for a background
588 check;

589 (iii) has a conviction for any offense described in Subsection (5)(a) that occurred more
590 than three years before the day on which the applicant submitted information under Subsection
591 (2)(a);

592 (iv) is currently subject to a plea in abeyance or diversion agreement for any offense
593 described in Subsection (5)(a);

594 (v) has a listing in the Department of Human Services, Division of Child and Family
595 Services' Licensing Information System described in Section [62A-4a-1006](#);

596 (vi) has a listing in the Department of Human Services, Division of Aging and Adult
597 Services' vulnerable adult abuse, neglect, or exploitation database described in Section
598 [62A-3-311.1](#);

599 (vii) has a record in the juvenile court of a substantiated finding of severe child abuse
600 or neglect described in Section [80-3-404](#);

601 (viii) has a record of an adjudication in juvenile court for an act that, if committed by
602 an adult, would be a felony or misdemeanor, if the applicant is:

603 (A) under 28 years old; or

604 (B) 28 years old or older and has been convicted of, has pleaded no contest to, or is
605 currently subject to a plea in abeyance or diversion agreement for a felony or a misdemeanor
606 offense described in Subsection (5)(a);

607 (ix) has a pending charge for an offense described in Subsection (5)(a); or

608 (x) is an applicant described in Subsection (5)(c).

609 (b) The comprehensive review described in Subsection (6)(a) shall include an
610 examination of:

611 (i) the date of the offense or incident;

612 (ii) the nature and seriousness of the offense or incident;

613 (iii) the circumstances under which the offense or incident occurred;

614 (iv) the age of the perpetrator when the offense or incident occurred;

615 (v) whether the offense or incident was an isolated or repeated incident;

616 (vi) whether the offense or incident directly relates to abuse of a child or vulnerable

617 adult, including:

618 (A) actual or threatened, nonaccidental physical, mental, or financial harm;

619 (B) sexual abuse;

620 (C) sexual exploitation; or

621 (D) negligent treatment;

622 (vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric
623 treatment received, or additional academic or vocational schooling completed;

624 (viii) the applicant's risk of harm to clientele in the program or in the capacity for
625 which the applicant is applying; and

626 (ix) any other pertinent information presented to or publicly available to the committee
627 members.

628 (c) At the conclusion of the comprehensive review described in Subsection (6)(a), the
629 office shall deny an application to an applicant if the office finds that approval would likely
630 create a risk of harm to a child or a vulnerable adult.

631 (d) At the conclusion of the comprehensive review described in Subsection (6)(a), the
632 office may not deny an application to an applicant solely because the applicant was convicted
633 of an offense that occurred 10 or more years before the day on which the applicant submitted
634 the information required under Subsection (2)(a) if:

635 (i) the applicant has not committed another misdemeanor or felony offense after the
636 day on which the conviction occurred; and

637 (ii) the applicant has never been convicted of an offense described in Subsection
638 (14)(c).

639 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
640 office may make rules, consistent with this chapter, to establish procedures for the
641 comprehensive review described in this Subsection (6).

642 (7) Subject to Subsection (10), the office shall approve an application to an applicant
643 who is not denied under Subsection (5), (6), or (14).

644 (8) (a) The office may conditionally approve an application of an applicant, for a
645 maximum of 60 days after the day on which the office sends written notice to the applicant
646 under Subsection (12), without requiring that the applicant be directly supervised, if the office:

647 (i) is awaiting the results of the criminal history search of national criminal background

648 databases; and

649 (ii) would otherwise approve an application of the applicant under Subsection (7).

650 (b) The office may conditionally approve an application of an applicant, for a
651 maximum of one year after the day on which the office sends written notice to the applicant
652 under Subsection (12), without requiring that the applicant be directly supervised if the office:

653 (i) is awaiting the results of an out-of-state registry for providers other than foster and
654 adoptive parents; and

655 (ii) would otherwise approve an application of the applicant under Subsection (7).

656 (c) Upon receiving the results of the criminal history search of a national criminal
657 background database, the office shall approve or deny the application of the applicant in
658 accordance with Subsections (5) through (7).

659 (9) A licensee or department contractor may not permit an individual to have direct
660 access to a child or a vulnerable adult unless, subject to Subsection (10):

661 (a) the individual is associated with the licensee or department contractor and:

662 (i) the individual's application is approved by the office under this section;

663 (ii) the individual's application is conditionally approved by the office under

664 Subsection (8); or

665 (iii) (A) the individual has submitted the background check information described in
666 Subsection (2) to the office;

667 (B) the office has not determined whether to approve the applicant's application; and

668 (C) the individual is directly supervised by an individual who has a current background
669 screening approval issued by the office under this section and is associated with the licensee or
670 department contractor;

671 (b) (i) the individual is associated with the licensee or department contractor;

672 (ii) the individual has a current background screening approval issued by the office
673 under this section;

674 (iii) one of the following circumstances, that the office has not yet reviewed under
675 Subsection (6), applies to the individual:

676 (A) the individual was charged with an offense described in Subsection (5)(a);

677 (B) the individual is listed in the Licensing Information System, described in Section
678 [62A-4a-1006](#);

- 679 (C) the individual is listed in the vulnerable adult abuse, neglect, or exploitation
680 database, described in Section 62A-3-311.1;
- 681 (D) the individual has a record in the juvenile court of a substantiated finding of severe
682 child abuse or neglect, described in Section 80-3-404; or
- 683 (E) the individual has a record of an adjudication in juvenile court for an act that, if
684 committed by an adult, would be a felony or a misdemeanor as described in Subsection (5)(a)
685 or (6); and
- 686 (iv) the individual is directly supervised by an individual who:
- 687 (A) has a current background screening approval issued by the office under this
688 section; and
- 689 (B) is associated with the licensee or department contractor;
- 690 (c) the individual:
- 691 (i) is not associated with the licensee or department contractor; and
692 (ii) is directly supervised by an individual who:
- 693 (A) has a current background screening approval issued by the office under this
694 section; and
- 695 (B) is associated with the licensee or department contractor;
- 696 (d) the individual is the parent or guardian of the child, or the guardian of the
697 vulnerable adult;
- 698 (e) the individual is approved by the parent or guardian of the child, or the guardian of
699 the vulnerable adult, to have direct access to the child or the vulnerable adult;
- 700 (f) the individual is only permitted to have direct access to a vulnerable adult who
701 voluntarily invites the individual to visit; or
- 702 (g) the individual only provides incidental care for a foster child on behalf of a foster
703 parent who has used reasonable and prudent judgment to select the individual to provide the
704 incidental care for the foster child.
- 705 (10) An individual may not have direct access to a child or a vulnerable adult if the
706 individual is prohibited by court order from having that access.
- 707 (11) Notwithstanding any other provision of this section, an individual for whom the
708 office denies an application may not have direct access to a child or vulnerable adult unless the
709 office approves a subsequent application by the individual.

710 (12) (a) Within 30 days after the day on which the office receives the background
711 check information for an applicant, the office shall give notice of the clearance status to:

712 (i) the applicant, and the licensee or department contractor, of the office's decision
713 regarding the background check and findings; and

714 (ii) the applicant of any convictions and potentially disqualifying charges and
715 adjudications found in the search.

716 (b) With the notice described in Subsection (12)(a), the office shall also give the
717 applicant the details of any comprehensive review conducted under Subsection (6).

718 (c) If the notice under Subsection (12)(a) states that the applicant's application is
719 denied, the notice shall further advise the applicant that the applicant may, under Subsection
720 [62A-2-111\(2\)](#), request a hearing in the department's Office of Administrative Hearings, to
721 challenge the office's decision.

722 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
723 office shall make rules, consistent with this chapter:

724 (i) defining procedures for the challenge of the office's background check decision
725 described in Subsection (12)(c); and

726 (ii) expediting the process for renewal of a license under the requirements of this
727 section and other applicable sections.

728 (13) An individual or a department contractor who provides services in an adults only
729 substance use disorder program, as defined by rule, is exempt from this section. This
730 exemption does not extend to a program director or a member, as defined by Section
731 [62A-2-108](#), of the program.

732 (14) (a) Except as provided in Subsection (14)(b), in addition to the other requirements
733 of this section, if the background check of an applicant is being conducted for the purpose of
734 giving clearance status to an applicant seeking a position in a congregate care program, an
735 applicant for a one-time adoption, an applicant seeking to provide a prospective foster home, or
736 an applicant seeking to provide a prospective adoptive home, the office shall:

737 (i) check the child abuse and neglect registry in each state where each applicant resided
738 in the five years immediately preceding the day on which the applicant applied to be a foster
739 parent or adoptive parent, to determine whether the prospective foster parent or prospective
740 adoptive parent is listed in the registry as having a substantiated or supported finding of child

741 abuse or neglect; and

742 (ii) check the child abuse and neglect registry in each state where each adult living in
743 the home of the applicant described in Subsection (14)(a)(i) resided in the five years
744 immediately preceding the day on which the applicant applied to be a foster parent or adoptive
745 parent, to determine whether the adult is listed in the registry as having a substantiated or
746 supported finding of child abuse or neglect.

747 (b) The requirements described in Subsection (14)(a) do not apply to the extent that:

748 (i) federal law or rule permits otherwise; or

749 (ii) the requirements would prohibit the Division of Child and Family Services or a
750 court from placing a child with:

751 (A) a noncustodial parent under Section 62A-4a-209, 80-3-302, or 80-3-303; or

752 (B) a relative, other than a noncustodial parent, under Section 62A-4a-209, 80-3-302,
753 or 80-3-303, pending completion of the background check described in Subsection (5).

754 (c) Notwithstanding Subsections (5) through (9), the office shall deny a clearance to an
755 applicant seeking a position in a congregate care program, an applicant for a one-time adoption,
756 an applicant to become a prospective foster parent, or an applicant to become a prospective
757 adoptive parent if the applicant has been convicted of:

758 (i) a felony involving conduct that constitutes any of the following:

759 (A) child abuse, as described in Section 76-5-109;

760 (B) commission of domestic violence in the presence of a child, as described in Section
761 76-5-109.1;

762 (C) abuse or neglect of a child with a disability, as described in Section 76-5-110;

763 (D) endangerment of a child or vulnerable adult, as described in Section 76-5-112.5;

764 (E) aggravated murder, as described in Section 76-5-202;

765 (F) murder, as described in Section 76-5-203;

766 (G) manslaughter, as described in Section 76-5-205;

767 (H) child abuse homicide, as described in Section 76-5-208;

768 (I) homicide by assault, as described in Section 76-5-209;

769 (J) kidnapping, as described in Section 76-5-301;

770 (K) child kidnapping, as described in Section 76-5-301.1;

771 (L) aggravated kidnapping, as described in Section 76-5-302;

- 772 (M) human trafficking of a child, as described in Section 76-5-308.5;
- 773 (N) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;
- 774 (O) sexual exploitation of a minor, as described in Section 76-5b-201;
- 775 (P) aggravated arson, as described in Section 76-6-103;
- 776 (Q) aggravated burglary, as described in Section 76-6-203;
- 777 (R) aggravated robbery, as described in Section 76-6-302; or
- 778 (S) domestic violence, as described in Section 77-36-1; or
- 779 (ii) an offense committed outside the state that, if committed in the state, would
- 780 constitute a violation of an offense described in Subsection (14)(c)(i).
- 781 (d) Notwithstanding Subsections (5) through (9), the office shall deny a license or
- 782 license renewal to a prospective foster parent or a prospective adoptive parent if, within the
- 783 five years immediately preceding the day on which the individual's application or license would
- 784 otherwise be approved, the applicant was convicted of a felony involving conduct that
- 785 constitutes a violation of any of the following:
- 786 (i) aggravated assault, as described in Section 76-5-103;
- 787 (ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;
- 788 (iii) mayhem, as described in Section 76-5-105;
- 789 (iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;
- 790 (v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- 791 (vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances
- 792 Act;
- 793 (vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance
- 794 Precursor Act; or
- 795 (viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.
- 796 (e) In addition to the circumstances described in Subsection (6)(a), the office shall
- 797 conduct the comprehensive review of an applicant's background check pursuant to this section
- 798 if the registry check described in Subsection (14)(a) indicates that the individual is listed in a
- 799 child abuse and neglect registry of another state as having a substantiated or supported finding
- 800 of a severe type of child abuse or neglect as defined in Section 62A-4a-1002.
- 801 Section 4. Section 62A-2-123 is amended to read:
- 802 **62A-2-123. Congregate care program regulation.**

- 803 (1) A congregate care program may not use a cruel, severe, unusual, or unnecessary
804 practice on a child, including:
- 805 (a) a strip search unless the congregate care program determines and documents that a
806 strip search is necessary to protect an individual's health or safety;
- 807 (b) a body cavity search unless the congregate care program determines and documents
808 that a body cavity search is necessary to protect an individual's health or safety;
- 809 (c) inducing pain to obtain compliance;
- 810 (d) hyperextending joints;
- 811 (e) peer restraints;
- 812 (f) discipline or punishment that is intended to frighten or humiliate;
- 813 (g) requiring or forcing the child to take an uncomfortable position, including squatting
814 or bending;
- 815 (h) for the purpose of punishing or humiliating, requiring or forcing the child to repeat
816 physical movements or physical exercises such as running laps or performing push-ups;
- 817 (i) spanking, hitting, shaking, or otherwise engaging in aggressive physical contact;
- 818 (j) denying an essential program service;
- 819 (k) depriving the child of a meal, water, rest, or opportunity for toileting;
- 820 (l) denying shelter, clothing, or bedding;
- 821 (m) withholding personal interaction, emotional response, or stimulation;
- 822 (n) prohibiting the child from entering the residence;
- 823 (o) abuse as defined in Section 80-1-102; and
- 824 (p) neglect as defined in Section 80-1-102.
- 825 (2) Before a congregate care program may use a restraint or seclusion, the congregate
826 care program shall:
- 827 (a) develop and implement written policies and procedures that:
- 828 (i) describe the circumstances under which a staff member may use a restraint or
829 seclusion;
- 830 (ii) describe which staff members are authorized to use a restraint or seclusion;
- 831 (iii) describe procedures for monitoring a child that is restrained or in seclusion;
- 832 (iv) describe time limitations on the use of a restraint or seclusion;
- 833 (v) require immediate and continuous review of the decision to use a restraint or

834 seclusion;

835 (vi) require documenting the use of a restraint or seclusion;

836 (vii) describe record keeping requirements for records related to the use of a restraint or
837 seclusion;

838 (viii) to the extent practicable, require debriefing the following individuals if
839 debriefing would not interfere with an ongoing investigation, violate any law or regulation, or
840 conflict with a child's treatment plan:

841 (A) each witness to the event;

842 (B) each staff member involved; and

843 (C) the child who was restrained or in seclusion[-];

844 (ix) include a procedure for complying with Subsection (5); and

845 (x) provide an administrative review process and required follow up actions after a
846 child is restrained or put in seclusion; and

847 (b) consult with the office to ensure that the congregate care program's written policies
848 and procedures align with [~~industry standards and~~] applicable law.

849 (3) A congregate care program:

850 (a) may use a passive physical restraint only if the passive physical restraint is
851 supported by a nationally or regionally recognized curriculum focused on non-violent
852 interventions and de-escalation techniques;

853 (b) may not use a chemical or mechanical restraint unless the office has authorized the
854 congregate care program to use a chemical or mechanical restraint;

855 (c) shall ensure that a staff member that uses a restraint on a child is:

856 (i) properly trained to use the restraint; and

857 (ii) familiar with the child and if the child has a treatment plan, the child's treatment
858 plan; and

859 (d) shall train each staff member on how to intervene if another staff member fails to
860 follow correct procedures when using a restraint.

861 (4) (a) A congregate care program:

862 (i) may use seclusion if:

863 (A) the purpose for the seclusion is to ensure the immediate safety of the child or
864 others; and

865 (B) no less restrictive intervention is likely to ensure the safety of the child or others;
866 and

867 (ii) may not use seclusion:

868 (A) for coercion, retaliation, or humiliation; or

869 (B) due to inadequate staffing or for the staff's convenience.

870 (b) While a child is in seclusion, a staff member who is familiar to the child shall
871 actively supervise the child for the duration of the seclusion.

872 (5) Subject to the office's review and approval, a congregate care program shall
873 develop:

874 (a) suicide prevention policies and procedures that describe:

875 (i) how the congregate care program will respond in the event a child exhibits
876 self-injurious, self-harm, or suicidal behavior;

877 (ii) warning signs of suicide;

878 (iii) emergency protocol and contacts;

879 (iv) training requirements for staff, including suicide prevention training;

880 (v) procedures for implementing additional supervision precautions and for removing
881 any additional supervision precautions;

882 (vi) suicide risk assessment procedures;

883 (vii) documentation requirements for a child's suicide ideation and self-harm;

884 (viii) special observation precautions for a child exhibiting warning signs of suicide;

885 (ix) communication procedures to ensure all staff are aware of a child who exhibits
886 warning signs of suicide;

887 (x) a process for tracking suicide behavioral patterns; and

888 (xi) a post-intervention plan with identified resources; and

889 (b) based on state law and industry best practices, policies and procedures for
890 managing a child's behavior during the child's participation in the congregate care program.

891 (6) (a) A congregate care program:

892 ~~[(a)]~~ (i) ~~[when not otherwise prohibited by law]~~ subject to Subsection (6)(b), shall
893 facilitate weekly confidential ~~[communication]~~ voice-to-voice communication between a child
894 and the child's parents, guardian, foster parents, and siblings, as applicable;

895 ~~[(b)]~~ (ii) shall ensure that the communication described in Subsection (6)(a)(i)

896 complies with the child's treatment plan, if any; and

897 ~~(e)~~ (iii) may not use family contact as an incentive for proper behavior or withhold
898 family contact as a punishment.

899 (b) A congregate care program may deny the communication, or modify the frequency
900 or the form of the communication described in Subsection (6)(a)(i) if:

901 (i) the office approves the denial or modification; or

902 (ii) state law or a court order prohibits the communication, the frequency, or the form
903 of the communication.

904 Section 5. Section **62A-2-126** is enacted to read:

905 **62A-2-126. Youth transportation company registration.**

906 (1) The office shall establish a registration system for youth transportation companies.

907 (2) The office shall establish a fee:

908 (a) under Section [63J-1-504](#) that does not exceed \$500; and

909 (b) that when paid by all registrants generates sufficient revenue to cover or

910 substantially cover the costs for the creation and maintenance of the registration system.

911 (3) A youth transportation company shall:

912 (a) register with the office; and

913 (b) provide the office:

914 (i) proof of a business insurance policy that provides at least \$1,000,000 in coverage;

915 and

916 (ii) a valid business license from the state where the youth transportation company is
917 headquartered.

918 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
919 office shall make rules to implement this section.