

1                   **CONGREGATE CARE PROGRAM AMENDMENTS**

2                                   2022 GENERAL SESSION

3                                   STATE OF UTAH

4                   **Chief Sponsor: Michael K. McKell**

5                   House Sponsor: Brady Brammer

---

---

7 **LONG TITLE**

8 **General Description:**

9           This bill amends provisions related to congregate care programs.

10 **Highlighted Provisions:**

11           This bill:

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

25 **Money Appropriated in this Bill:**

26           None

27 **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 congregate care program's employee who transports the child from the  
317 congregate care program that employs the employee and returns the child to the same  
318 congregate care program.

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

320 **62A-2-116. Violation -- Criminal penalties.**

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

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

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

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

328 (iii) seeking injunctive or equitable relief.

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

332 (a) a judicial civil proceeding; or

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

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

337 (a) seeking criminal penalties;

- 338 (b) denying, placing conditions on, suspending, or revoking a license; or
- 339 (c) seeking injunctive or equitable relief.
- 340 (4) The office may assess the human services program the cost incurred by the office in
- 341 placing a monitor.
- 342 (5) Notwithstanding Subsection (1)(a) and subject to Subsections (1)(b) and (2), an
- 343 individual is guilty of a class A misdemeanor if the individual knowingly and willfully offers,
- 344 pays, promises to pay, solicits, or receives any remuneration, including any commission, bonus,
- 345 kickback, bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in kind, or
- 346 engages in any split-fee arrangement in return for:
  - 347 (a) referring an individual to a person for the furnishing or arranging for the furnishing
  - 348 of any item or service for the treatment of a substance use disorder;
  - 349 (b) receiving a referred individual for the furnishing or arranging for the furnishing of
  - 350 any item or service for the treatment of a substance use disorder; or
  - 351 (c) referring a clinical sample to a person, including a laboratory, for testing that is
  - 352 used toward the furnishing of any item or service for the treatment of a substance use disorder.
- 353 (6) Subsection (5) does not prohibit:
  - 354 (a) any discount, payment, waiver of payment, or payment practice not prohibited by
  - 355 42 U.S.C. Sec. 1320a-7(b) or regulations made under 42 U.S.C. Sec. 1320a-7(b);
  - 356 (b) patient referrals within a practice group;
  - 357 (c) payments by a health insurer who reimburses, provides, offers to provide, or
  - 358 administers health, mental health, or substance use disorder goods or services under a health
  - 359 benefit plan;
  - 360 (d) payments to or by a health care provider, practice group, or substance use disorder
  - 361 treatment program that has contracted with a local mental health authority, a local substance
  - 362 abuse authority, a health insurer, a health care purchasing group, or the Medicare or Medicaid
  - 363 program to provide health, mental health, or substance use disorder services;
  - 364 (e) payments by a health care provider, practice group, or substance use disorder
  - 365 treatment program to a health, mental health, or substance use disorder information service that

366 provides information upon request and without charge to consumers about providers of health  
367 care goods or services to enable consumers to select appropriate providers or facilities, if the  
368 information service:

369 (i) does not attempt, through standard questions for solicitation of consumer criteria or  
370 through any other means, to steer or lead a consumer to select or consider selection of a  
371 particular health care provider, practice group, or substance use disorder treatment program;

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

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

377 (A) are set in advance;

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

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

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

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

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

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

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

393 (v) the person does not identify as or hold itself out to be a laboratory or part of a

394 network with an insurance payor, if the person provides marketing or sales services under a  
395 contract with a laboratory, as described in Subsection (6)(f)(vii)(B);

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

400 (vii) (A) is a sales person employed by the laboratory to market or sell the laboratory's  
401 services to a person who provides substance use disorder treatment; or

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

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

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

410 (A) a commission;

411 (B) a bonus;

412 (C) a kickback;

413 (D) a bribe; or

414 (E) a rebate; or

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

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

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

419 **62A-2-120. Background check -- Direct access to children or vulnerable adults.**

420 (1) As used in this section:

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

- 422 (A) the same as that term is defined in Section [62A-2-101](#);
- 423 (B) an individual who is associated with a licensee and has or will likely have direct  
424 access to a child or a vulnerable adult;
- 425 (C) an individual who provides respite care to a foster parent or an adoptive parent on  
426 more than one occasion;
- 427 (D) a department contractor;
- 428 (E) an individual who transports a child for a youth transportation company;
- 429 ~~[(F)]~~ (F) a guardian submitting an application on behalf of an individual, other than the  
430 child or vulnerable adult who is receiving the service, if the individual is 12 years old or older  
431 and resides in a home, that is licensed or certified by the office, with the child or vulnerable  
432 adult who is receiving services; or
- 433 ~~[(F)]~~ (G) a guardian submitting an application on behalf of an individual, other than the  
434 child or vulnerable adult who is receiving the service, if the individual is 12 years old or older  
435 and is a person described in Subsection (1)(a)(i)(A), (B), (C), or (D).
- 436 (ii) "Applicant" does not mean an individual, including an adult, who is in the custody  
437 of the Division of Child and Family Services or the Division of Juvenile Justice Services.
- 438 (b) "Application" means a background screening application to the office.
- 439 (c) "Bureau" means the Bureau of Criminal Identification within the Department of  
440 Public Safety, created in Section [53-10-201](#).
- 441 (d) "Incidental care" means occasional care, not in excess of five hours per week and  
442 never overnight, for a foster child.
- 443 (e) "Personal identifying information" means:
- 444 (i) current name, former names, nicknames, and aliases;
- 445 (ii) date of birth;
- 446 (iii) physical address and email address;
- 447 (iv) telephone number;
- 448 (v) driver license or other government-issued identification;
- 449 (vi) social security number;



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

452 (viii) other information specified by the office by rule made in accordance with Title  
453 63G, Chapter 3, Utah Administrative Rulemaking Act.

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

456 (i) personal identifying information;

457 (ii) a fee established by the office under Section 63J-1-504; and

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

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

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

463 (C) a background check when the office determines that reasonable cause exists; and

464 (D) retention of personal identifying information, including fingerprints, for  
465 monitoring and notification as described in Subsections (3)(d) and (4).

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

472 (3) The office:

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

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

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

477 (B) using the applicant's personal identifying information to search state and regional

478 criminal background databases as authorized under Section 53-10-108;

479       (ii) submit the applicant's personal identifying information and fingerprints to the

480 bureau for a criminal history search of applicable national criminal background databases;

481       (iii) search the Department of Human Services, Division of Child and Family Services'

482 Licensing Information System described in Section 62A-4a-1006;

483       (iv) search the Department of Human Services, Division of Aging and Adult Services'

484 vulnerable adult abuse, neglect, or exploitation database described in Section 62A-3-311.1;

485       (v) search the juvenile court records for substantiated findings of severe child abuse or

486 neglect described in Section 80-3-404; and

487       (vi) search the juvenile court arrest, adjudication, and disposition records, as provided

488 under Section 78A-6-209;

489       (b) shall conduct a background check of an applicant for an initial background check

490 upon submission of the information described under Subsection (2)(a);

491       (c) may conduct all or portions of a background check of an applicant, as provided by

492 rule, made by the office in accordance with Title 63G, Chapter 3, Utah Administrative

493 Rulemaking Act:

494       (i) for an annual renewal; or

495       (ii) when the office determines that reasonable cause exists;

496       (d) may submit an applicant's personal identifying information, including fingerprints,

497 to the bureau for checking, retaining, and monitoring of state and national criminal background

498 databases and for notifying the office of new criminal activity associated with the applicant;

499       (e) shall track the status of an approved applicant under this section to ensure that an

500 approved applicant is not required to duplicate the submission of the applicant's fingerprints if

501 the applicant applies for:

502       (i) more than one license;

503       (ii) direct access to a child or a vulnerable adult in more than one human services

504 program; or

505       (iii) direct access to a child or a vulnerable adult under a contract with the department;

506 (f) shall track the status of each license and each individual with direct access to a child  
507 or a vulnerable adult and notify the bureau within 90 days after the day on which the license  
508 expires or the individual's direct access to a child or a vulnerable adult ceases;

509 (g) shall adopt measures to strictly limit access to personal identifying information  
510 solely to the individuals responsible for processing and entering the applications for  
511 background checks and to protect the security of the personal identifying information the office  
512 reviews under this Subsection (3);

513 (h) as necessary to comply with the federal requirement to check a state's child abuse  
514 and neglect registry regarding any individual working in a congregate care program, shall:

515 (i) search the Department of Human Services, Division of Child and Family Services'  
516 Licensing Information System described in Section [62A-4a-1006](#); and

517 (ii) require the child abuse and neglect registry be checked in each state where an  
518 applicant resided at any time during the five years immediately preceding the day on which the  
519 applicant submits the information described in Subsection (2)(a) to the office; and

520 (i) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative  
521 Rulemaking Act, to implement the provisions of this Subsection (3) relating to background  
522 checks.

523 (4) (a) With the personal identifying information the office submits to the bureau under  
524 Subsection (3), the bureau shall check against state and regional criminal background databases  
525 for the applicant's criminal history.

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

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

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

533 (ii) monitor state and regional criminal background databases and identify criminal

534 activity associated with the applicant.

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

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

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

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

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

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

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

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

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

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

560 (iii) prostitution;

561 (iv) an offense included in:

562 (A) Title 76, Chapter 5, Offenses Against the Person;  
563 (B) Section 76-5b-201, Sexual Exploitation of a Minor; or  
564 (C) Title 76, Chapter 7, Offenses Against the Family;  
565 (v) aggravated arson, as described in Section 76-6-103;  
566 (vi) aggravated burglary, as described in Section 76-6-203;  
567 (vii) aggravated robbery, as described in Section 76-6-302;  
568 (viii) identity fraud crime, as described in Section 76-6-1102; or  
569 (ix) a felony or misdemeanor offense committed outside of the state that, if committed  
570 in the state, would constitute a violation of an offense described in Subsections (5)(a)(i)  
571 through (viii).

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

575 (c) If the applicant will be working in a program serving only adults whose only  
576 impairment is a mental health diagnosis, including that of a serious mental health disorder,  
577 with or without co-occurring substance use disorder, the denial provisions of Subsection (5)(a)  
578 do not apply, and the office shall conduct a comprehensive review as described in Subsection  
579 (6).

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

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

585 (ii) has an open court case or a conviction for a misdemeanor offense, not described in  
586 Subsection (5)(a), and designated by the office, by rule, in accordance with Title 63G, Chapter  
587 3, Utah Administrative Rulemaking Act, if the conviction is within three years before the day  
588 on which the applicant submits information to the office under Subsection (2) for a background  
589 check;

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

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

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

597 (vi) has a listing in the Department of Human Services, Division of Aging and Adult  
598 Services' vulnerable adult abuse, neglect, or exploitation database described in Section  
599 62A-3-311.1;

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

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

604 (A) under 28 years old; or

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

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

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

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

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

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

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

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

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

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

618 adult, including:

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

620 (B) sexual abuse;

621 (C) sexual exploitation; or

622 (D) negligent treatment;

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

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

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

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

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

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

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

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

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

645 (8) (a) The office may conditionally approve an application of an applicant, for a

646 maximum of 60 days after the day on which the office sends written notice to the applicant  
647 under Subsection (12), without requiring that the applicant be directly supervised, if the office:

648 (i) is awaiting the results of the criminal history search of national criminal background  
649 databases; and

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

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

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

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

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

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

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

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

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

665 Subsection (8); or

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

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

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

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

673 (ii) the individual has a current background screening approval issued by the office



674 under this section;

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

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

678 (B) the individual is listed in the Licensing Information System, described in Section  
679 62A-4a-1006;

680 (C) the individual is listed in the vulnerable adult abuse, neglect, or exploitation  
681 database, described in Section 62A-3-311.1;

682 (D) the individual has a record in the juvenile court of a substantiated finding of severe  
683 child abuse or neglect, described in Section 80-3-404; or

684 (E) the individual has a record of an adjudication in juvenile court for an act that, if  
685 committed by an adult, would be a felony or a misdemeanor as described in Subsection (5)(a)  
686 or (6); and

687 (iv) the individual is directly supervised by an individual who:

688 (A) has a current background screening approval issued by the office under this  
689 section; and

690 (B) is associated with the licensee or department contractor;

691 (c) the individual:

692 (i) is not associated with the licensee or department contractor; and

693 (ii) is directly supervised by an individual who:

694 (A) has a current background screening approval issued by the office under this  
695 section; and

696 (B) is associated with the licensee or department contractor;

697 (d) the individual is the parent or guardian of the child, or the guardian of the  
698 vulnerable adult;

699 (e) the individual is approved by the parent or guardian of the child, or the guardian of  
700 the vulnerable adult, to have direct access to the child or the vulnerable adult;

701 (f) the individual is only permitted to have direct access to a vulnerable adult who

702 voluntarily invites the individual to visit; or

703 (g) the individual only provides incidental care for a foster child on behalf of a foster  
704 parent who has used reasonable and prudent judgment to select the individual to provide the  
705 incidental care for the foster child.

706 (10) An individual may not have direct access to a child or a vulnerable adult if the  
707 individual is prohibited by court order from having that access.

708 (11) Notwithstanding any other provision of this section, an individual for whom the  
709 office denies an application may not have direct access to a child or vulnerable adult unless the  
710 office approves a subsequent application by the individual.

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

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

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

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

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

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

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

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

729 (13) An individual or a department contractor who provides services in an adults only

730 substance use disorder program, as defined by rule, is exempt from this section. This  
731 exemption does not extend to a program director or a member, as defined by Section  
732 [62A-2-108](#), of the program.

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

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

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

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

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

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

752 (A) a noncustodial parent under Section [62A-4a-209](#), [80-3-302](#), or [80-3-303](#); or

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

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

758 adoptive parent if the applicant has been convicted of:

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

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

761 (B) commission of domestic violence in the presence of a child, as described in Section  
762 76-5-109.1;

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

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

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

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

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

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

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

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

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

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

773 (M) human trafficking of a child, as described in Section 76-5-308.5;

774 (N) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;

775 (O) sexual exploitation of a minor, as described in Section 76-5b-201;

776 (P) aggravated arson, as described in Section 76-6-103;

777 (Q) aggravated burglary, as described in Section 76-6-203;

778 (R) aggravated robbery, as described in Section 76-6-302; or

779 (S) domestic violence, as described in Section 77-36-1; or

780 (ii) an offense committed outside the state that, if committed in the state, would  
781 constitute a violation of an offense described in Subsection (14)(c)(i).

782 (d) Notwithstanding Subsections (5) through (9), the office shall deny a license or  
783 license renewal to a prospective foster parent or a prospective adoptive parent if, within the  
784 five years immediately preceding the day on which the individual's application or license would  
785 otherwise be approved, the applicant was convicted of a felony involving conduct that

786 constitutes a violation of any of the following:

- 787 (i) aggravated assault, as described in Section [76-5-103](#);
- 788 (ii) aggravated assault by a prisoner, as described in Section [76-5-103.5](#);
- 789 (iii) mayhem, as described in Section [76-5-105](#);
- 790 (iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;
- 791 (v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;
- 792 (vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances

793 Act;

- 794 (vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance

795 Precursor Act; or

- 796 (viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.

797 (e) In addition to the circumstances described in Subsection (6)(a), the office shall  
 798 conduct the comprehensive review of an applicant's background check pursuant to this section  
 799 if the registry check described in Subsection (14)(a) indicates that the individual is listed in a  
 800 child abuse and neglect registry of another state as having a substantiated or supported finding  
 801 of a severe type of child abuse or neglect as defined in Section [62A-4a-1002](#).

802 Section 4. Section **62A-2-123** is amended to read:

803 **62A-2-123. Congregate care program regulation.**

804 (1) A congregate care program may not use a cruel, severe, unusual, or unnecessary  
 805 practice on a child, including:

- 806 (a) a strip search unless the congregate care program determines and documents that a  
 807 strip search is necessary to protect an individual's health or safety;
- 808 (b) a body cavity search unless the congregate care program determines and documents  
 809 that a body cavity search is necessary to protect an individual's health or safety;
- 810 (c) inducing pain to obtain compliance;
- 811 (d) hyperextending joints;
- 812 (e) peer restraints;
- 813 (f) discipline or punishment that is intended to frighten or humiliate;

814 (g) requiring or forcing the child to take an uncomfortable position, including squatting  
815 or bending;

816 (h) for the purpose of punishing or humiliating, requiring or forcing the child to repeat  
817 physical movements or physical exercises such as running laps or performing push-ups;

818 (i) spanking, hitting, shaking, or otherwise engaging in aggressive physical contact;

819 (j) denying an essential program service;

820 (k) depriving the child of a meal, water, rest, or opportunity for toileting;

821 (l) denying shelter, clothing, or bedding;

822 (m) withholding personal interaction, emotional response, or stimulation;

823 (n) prohibiting the child from entering the residence;

824 (o) abuse as defined in Section 80-1-102; and

825 (p) neglect as defined in Section 80-1-102.

826 (2) Before a congregate care program may use a restraint or seclusion, the congregate  
827 care program shall:

828 (a) develop and implement written policies and procedures that:

829 (i) describe the circumstances under which a staff member may use a restraint or  
830 seclusion;

831 (ii) describe which staff members are authorized to use a restraint or seclusion;

832 (iii) describe procedures for monitoring a child that is restrained or in seclusion;

833 (iv) describe time limitations on the use of a restraint or seclusion;

834 (v) require immediate and continuous review of the decision to use a restraint or  
835 seclusion;

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

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

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

- 842 (A) each witness to the event;
- 843 (B) each staff member involved; and
- 844 (C) the child who was restrained or in seclusion[-];
- 845 (ix) include a procedure for complying with Subsection (5); and
- 846 (x) provide an administrative review process and required follow up actions after a
- 847 child is restrained or put in seclusion; and
- 848 (b) consult with the office to ensure that the congregate care program's written policies
- 849 and procedures align with [~~industry standards and~~] applicable law.
- 850 (3) A congregate care program:
- 851 (a) may use a passive physical restraint only if the passive physical restraint is
- 852 supported by a nationally or regionally recognized curriculum focused on non-violent
- 853 interventions and de-escalation techniques;
- 854 (b) may not use a chemical or mechanical restraint unless the office has authorized the
- 855 congregate care program to use a chemical or mechanical restraint;
- 856 (c) shall ensure that a staff member that uses a restraint on a child is:
- 857 (i) properly trained to use the restraint; and
- 858 (ii) familiar with the child and if the child has a treatment plan, the child's treatment
- 859 plan; and
- 860 (d) shall train each staff member on how to intervene if another staff member fails to
- 861 follow correct procedures when using a restraint.
- 862 (4) (a) A congregate care program:
- 863 (i) may use seclusion if:
- 864 (A) the purpose for the seclusion is to ensure the immediate safety of the child or
- 865 others; and
- 866 (B) no less restrictive intervention is likely to ensure the safety of the child or others;
- 867 and
- 868 (ii) may not use seclusion:
- 869 (A) for coercion, retaliation, or humiliation; or

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

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

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

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

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

878 (ii) warning signs of suicide;

879 (iii) emergency protocol and contacts;

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

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

883 (vi) suicide risk assessment procedures;

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

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

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

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

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

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

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

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

896 ~~[(b)]~~ (ii) shall ensure that the communication described in Subsection (6)(a)(i)  
897 complies with the child's treatment plan, if any; and



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

900            (b) For the communication described in Subsection (6)(a)(i), a congregate care  
901 program may not:

902            (i) deny the communication unless state law or a court order prohibits the  
903 communication; or

904            (ii) modify the frequency or form of the communication unless:

905            (A) the office approves the modification; or

906            (B) state law or a court order prohibits the frequency or the form of the  
907 communication.

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

909            **62A-2-126. Youth transportation company registration.**

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

911            (2) The office shall establish a fee:

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

913            (b) that when paid by all registrants generates sufficient revenue to cover or  
914 substantially cover the costs for the creation and maintenance of the registration system.

915            (3) A youth transportation company shall:

916            (a) register with the office; and

917            (b) provide the office:

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

919 and

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

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