

***Superseded 5/12/2015***

**26-39-403 Exclusions from chapter -- Criminal background checks by an excluded person.**

- (1) The provisions and requirements of this chapter do not apply to:
  - (a) a facility or program owned or operated by an agency of the United States government;
  - (b) group counseling provided by a mental health therapist, as defined in Section 58-60-102, who is licensed to practice in this state;
  - (c) a health care facility licensed pursuant to Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act;
  - (d) care provided to qualifying children by or in the homes of parents, legal guardians, grandparents, brothers, sisters, uncles, or aunts;
  - (e) care provided to qualifying children, in the home of the provider, for less than four hours a day or on a sporadic basis, unless that child care directly affects or is related to a business licensed in this state;
  - (f) care provided to qualifying children as part of a course of study at or a program administered by an educational institution that is regulated by the boards of education of this state, a private education institution that provides education in lieu of that provided by the public education system, or by a parochial education institution;
  - (g) care provided to qualifying children by a public or private institution of higher education, if the care is provided in connection with a course of study or program, relating to the education or study of children, that is provided to students of the institution of higher education;
  - (h) care provided to qualifying children at a public school by an organization other than the public school, if:
    - (i) the care is provided under contract with the public school or on school property; or
    - (ii) the public school accepts responsibility and oversight for the care provided by the organization;
  - (i) care provided to qualifying children as part of a summer camp that operates on federal land pursuant to a federal permit;
  - (j) care provided by an organization that:
    - (i) qualifies for tax exempt status under Section 501(c)(3) of the Internal Revenue Code;
    - (ii) is provided pursuant to a written agreement with:
      - (A) a municipality, as defined in Section 10-1-104, that provides oversight for the program; or
      - (B) a county that provides oversight for the program; and
    - (iii) is provided to children who are over the age of four and under the age of 13; or
  - (k) care provided at a residential support program that is licensed by the Department of Human Services.
- (2) A person who is excluded, under Subsection (1), from the provisions and requirements of this chapter, shall conduct a criminal background check on all of the person's employees who have access to a qualifying child to whom care is provided by the person.