

H.B. 165

BACKGROUND CHECKS FOR CHILD CARE WORKERS

HOUSE FLOOR AMENDMENTS

AMENDMENT 3

MARCH 11, 2013 5:24 PM

Representative **Johnny Anderson** proposes the following amendments:

1. *Page 1, Line 12*

House Committee Amendments

3-7-2013:

12 This bill:

► requires a child care provider to submit an employee of the provider to the division for a criminal background check, if the employee has access to a qualifying child, even if the provider is exempt from licensure;

► states that failure to conduct a criminal background check as described above is a class A misdemeanor;

2. *Page 1, Lines 14 through 14a*

House Committee Amendments

3-7-2013:

14 individual who has resided in Utah for five years {~~ft~~ for individuals who apply for licensure
14a after July 1, 2013 ~~ft~~} ; and

3. *Page 1, Line 21*

House Committee Amendments

3-7-2013:

21 AMENDS:

26-39-403, as renumbered and amended by Laws of Utah 2008, Chapter 111

4. *Page 1, Lines 24 through 25*

House Committee Amendments

3-7-2013:

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

Section 1. Section 26-39-403 is amended to read:

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) 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 , as described in Section 26-39-403, unless the person is exempt under Subsection (1)(d).

(b) Failure to conduct a criminal background check as described in Subsection (2)(a) is a class A misdemeanor .

25 Section 1. Section **26-39-404** is amended to read:

5. *Page 2, Line 38*

House Committee Amendments

3-7-2013:

38 (b) A person seeking an initial residential certificate or license or renewal of a residential certificate or license under this section is

6. Page 2, Lines 41 through 42

House Committee Amendments

3-7-2013:

41 {~~[(i) the individual has resided in Utah for the last five years;]~~ ~~H~~→ [(i) the individual has

41a resided in Utah for the last five years and applied for a certificate or license before

41b July 1, 2013; ~~←H~~}

42 [(iii)] ~~H~~→ [(ii)] {~~[(ii)]~~} (i) ~~←H~~ the individual has:

7. Page 2, Line 46

House Committee Amendments

3-7-2013:

46 [(iii)] ~~H~~→ [(ii)] {~~[(iii)]~~} (ii) ~~←H~~ as of May 3, 1999, the individual had one of the relationships