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Child Care Revisions
 2025 GENERAL SESSION
 STATE OF UTAH
Chief Sponsor: Luz Escamilla
 House Sponsor:

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3 **LONG TITLE**4 **General Description:**

5 This bill modifies provisions related to caring for children.

6 **Highlighted Provisions:**

7 This bill:

- 8 ▸ requires licensure for a residential child care provider when providing child care for a
- 9 certain number of qualifying children;
- 10 ▸ requires certification for a residential child care provider when providing child care for a
- 11 certain number of qualifying children;
- 12 ▸ amends provisions authorizing the Department of Health and Human Services to inspect
- 13 the home of a certified child care provider under certain circumstances;
- 14 ▸ prohibits a certified residential child care provider from providing child care to more than
- 15 two qualifying children under certain ages;
- 16 ▸ provides that a residential child care provider may be inspected in accordance with federal
- 17 law;
- 18 ▸ amends provisions of criminal background check requirements for a child care provider;
- 19 and
- 20 ▸ makes technical and conforming changes.

21 **Money Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 None

25 **Utah Code Sections Affected:**

26 AMENDS:

27 **26B-2-402**, as last amended by Laws of Utah 2024, Chapter 23528 **26B-2-403**, as renumbered and amended by Laws of Utah 2023, Chapter 30529 **26B-2-404**, as last amended by Laws of Utah 2024, Chapter 23530 **26B-2-405**, as last amended by Laws of Utah 2024, Chapter 235

31 **26B-2-406**, as last amended by Laws of Utah 2024, Chapter 235

32 **78A-6-209**, as last amended by Laws of Utah 2024, Chapter 235

33

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

35 Section 1. Section **26B-2-402** is amended to read:

36 **26B-2-402 . Duties of the department -- Enforcement of part -- Licensing**
 37 **committee requirements.**

38 (1) With regard to residential child care licensed, certified, or subject to criminal

39 background checks under this part, the department may:

40 (a) make and enforce rules to implement this part and, as necessary to protect qualifying
 41 children's common needs for a safe and healthy environment, to provide for:

42 (i) adequate facilities and equipment; and

43 (ii) competent caregivers, considering [~~the age of the children~~] the child's age and the
 44 type of program offered by the licensee; and

45 (b) make and enforce rules necessary to carry out the purposes of this part, in the
 46 following areas:

47 (i) requirements for applications, the application process, and compliance with other
 48 applicable statutes and rules;

49 (ii) documentation and policies and procedures that providers shall have in place in
 50 order to be licensed, in accordance with Subsection (1)(a);

51 (iii) categories, classifications, and duration of initial and ongoing licenses;

52 (iv) changes of ownership or name, changes in licensure status, and changes in
 53 operational status;

54 (v) license expiration and renewal, contents, and posting requirements;

55 (vi) procedures for inspections, complaint resolution, disciplinary actions, and other
 56 procedural measures to encourage and assure compliance with statute and rule; and

57 (vii) guidelines necessary to assure consistency and appropriateness in the regulation
 58 and discipline of licensees.

59 (2) The department shall enforce the rules established by the licensing committee, with the
 60 concurrence of the department, for center based child care.

61 (3) The department shall make rules that allow a regulated provider to provide after school
 62 child care for a reasonable number of qualifying children in excess of the regulated
 63 provider's capacity limit, without requiring the regulated provider to obtain a waiver or
 64 new license from the department.

- 65 (4) Rules made under this part by the department, or the licensing committee [-]with the
66 concurrence of the department, shall be made in accordance with Title 63G, Chapter 3,
67 Utah Administrative Rulemaking Act.
- 68 (5)(a) The licensing committee and the department may not regulate educational
69 curricula, academic methods, or the educational philosophy or approach of the
70 provider.
- 71 (b) The licensing committee and the department shall allow for a broad range of
72 educational training and academic background in certification or qualification of
73 child day care directors.
- 74 (6) In licensing and regulating child care programs, the licensing committee and the
75 department shall reasonably balance the benefits and burdens of each regulation and, by
76 rule, provide for a range of licensure, depending upon the needs and different levels and
77 types of child care provided.
- 78 (7) Notwithstanding the definition of "qualifying child" in Section 26B-2-401, the licensing
79 committee and the department shall count children [~~through age 12~~] no older than 12
80 years old and children with disabilities [~~through age 18~~] no older than 18 years old
81 toward the minimum square footage requirement for indoor and outdoor areas, including
82 the child of:
- 83 (a) a licensed residential child care provider; or
84 (b) an owner or employee of a licensed child care center.
- 85 (8) Notwithstanding Subsection (1)(a)(i), the licensing committee and the department may
86 not exclude floor space used for furniture, fixtures, or equipment from the minimum
87 square footage requirement for indoor and outdoor areas if the furniture, fixture, or
88 equipment is used:
- 89 (a) by qualifying children;
90 (b) for the care of qualifying children; or
91 (c) to store classroom materials.
- 92 (9)(a) A child care center constructed prior to January 1, 2004, and licensed and
93 operated as a child care center continuously since January 1, 2004, is exempt from
94 the licensing committee's and the department's group size restrictions, if the child to
95 caregiver ratios are maintained, and adequate square footage is maintained for
96 specific classrooms.
- 97 (b) An exemption granted under Subsection (9)(a) is transferrable to subsequent licensed
98 operators at the center if a licensed child care center is continuously maintained at the

99 center.

100 (10) The licensing committee , with the concurrence of the department, shall develop, by
101 rule, a five-year phased-in compliance schedule for playground equipment safety
102 standards.

103 (11) The department shall set and collect licensing and other fees in accordance with
104 Section 26B-1-209.

105 Section 2. Section **26B-2-403** is amended to read:

106 **26B-2-403 . Licensure requirements -- Expiration -- Renewal.**

107 (1) Except as provided in Section 26B-2-405, and subject to Subsection (2), a person shall
108 obtain a license from the department if:

109 (a) the person provides center based child care for five or more qualifying children;

110 (b) the person provides residential child care for ~~nine~~ five or more qualifying children;

111 or

112 (c) the person:

113 (i) provides child care for four or fewer qualifying children;

114 (ii) is not required to obtain a license under Subsection (1)(a) or (b); and

115 (iii) requests to be licensed.

116 (2) Notwithstanding Subsection (1), a certified provider may, in accordance with rules
117 made by the department under Subsection 26B-2-402(3), exceed the certified provider's
118 capacity limit to provide after school child care without obtaining a license from the
119 department.

120 (3) The department may issue licenses for a period not exceeding 24 months to child care
121 providers who meet the requirements of:

122 (a) this part; and

123 (b) the department's rules governing child care programs.

124 (4) A license issued under this part is not assignable or transferable.

125 Section 3. Section **26B-2-404** is amended to read:

126 **26B-2-404 . Residential Child Care Certificate.**

127 (1) Except as provided in Section 26B-2-405, ~~[a person may request]~~ a person shall obtain a
128 Residential Child Care Certificate from the department if the person provides residential
129 child care for at least five and no more than eight ~~[or fewer]~~ qualifying children.

130 (2) The minimum qualifications for a Residential Child Care Certificate are:

131 (a) the submission of:

132 (i) an application in the form prescribed by the department;

- 133 (ii) a certification and criminal background fee established in accordance with
 134 Section 26B-1-209; and
- 135 (iii) in accordance with Section 26B-2-406, identifying information for each adult
 136 person and each juvenile [~~age 12 through 17 years old~~] who is at least 12 years old
 137 and no older than 17 years old and who resides in the provider's home:
- 138 (A) for processing by the Department of Public Safety to determine whether any
 139 such person has been convicted of a crime;
- 140 (B) to screen for a substantiated finding of child abuse or neglect by a juvenile
 141 court; and
- 142 (C) to discover whether the person is listed in the Licensing Information System
 143 described in Section 80-2-1002;
- 144 (b) an initial and annual inspection of the provider's home within 90 days of sending an
 145 intent to inspect notice to:
- 146 (i) check the immunization record, as defined in Section 53G-9-301, of each
 147 qualifying child who receives child care in the provider's home;
- 148 (ii) identify serious sanitation, fire, and health hazards to qualifying children; and
- 149 (iii) make appropriate recommendations; and
- 150 (c) annual training consisting of 10 hours of department-approved training as specified
 151 by the department by administrative rule, including a current department-approved
 152 CPR and first aid course.
- 153 (3) If a serious sanitation, fire, or health hazard has been found during an inspection
 154 conducted pursuant to Subsection (2)(b), the department shall require corrective action
 155 for the serious hazards found and make an unannounced follow up inspection to
 156 determine compliance.
- 157 (4) In addition to an inspection conducted pursuant to Subsection (2)(b), the department
 158 may inspect the home of a certified provider in response to a complaint of:
- 159 (a) child abuse or neglect;
- 160 (b) serious health hazards in or around the provider's home; ~~[-or]~~
- 161 (c) providing residential child care without the appropriate certificate or license ~~[-]~~ ; or
- 162 (d) as required by federal law.
- 163 (5) With respect to residential child care, the department may only make and enforce rules
 164 necessary to implement this section.

165 Section 4. Section **26B-2-405** is amended to read:

166 **26B-2-405 . Exclusions from part -- Criminal background checks by an excluded**

167 **person.**

168 (1)(a) Except as provided in Subsections (1)(b) and (1)(c), the provisions and
169 requirements of this part do not apply to:

- 170 (i) a facility or program owned or operated by an agency of the United States
171 government;
- 172 (ii) group counseling provided by a mental health therapist, as defined in Section
173 58-60-102, who is licensed to practice in this state;
- 174 (iii) a health care facility licensed under Part 2, Health Care Facility Licensing and
175 Inspection;
- 176 (iv) care provided to a qualifying child by or in the home of a parent, legal guardian,
177 grandparent, brother, sister, uncle, or aunt;
- 178 (v) care provided to a qualifying child, in the home of the provider, for less than four
179 hours a day or on a sporadic basis, unless that child care directly affects or is
180 related to a business licensed in this state;
- 181 (vi) care provided at a residential support program that is licensed by the department;
182 or
- 183 (vii) center based child care for four or fewer qualifying children, unless the provider
184 requests to be licensed under Section 26B-2-403[; ~~or~~] .
- 185 [~~(viii) residential child care for eight or fewer qualifying children, unless the provider~~
186 ~~requests to be licensed under Section 26B-2-403 or certified under Section~~
187 ~~26B-2-404.~~]

188 (b)[~~(i)~~] A person that does not hold a license or certificate from the department under
189 this part may not, at any given time, provide child care in the person's home for
190 more than 10 children in total under [~~the age of 13~~] 13 years old, or under [~~the age~~
191 ~~of 18-~~] 18 years old if a child has a disability, regardless of whether a child is
192 related to the person providing child care.

193 [~~(ii) A person providing care described in Subsection (1)(a)(viii) may not provide, at~~
194 ~~any given time, child care in the person's home for more than two children who~~
195 ~~are under three years old.~~]

196 [(c) A person providing care described in Subsection (1)(a)(viii) that is not a certified
197 provider or a licensed provider under this part is subject to the requirements of
198 Section 26B-2-406.]

199 (2) The licensing and certification requirements of this part do not apply to:

- 200 (a) care provided to a qualifying child as part of a course of study at or a program

- 201 administered by an educational institution that is regulated by the boards of education
202 of this state, a private education institution that provides education in lieu of that
203 provided by the public education system, or by a parochial education institution;
- 204 (b) care provided to a qualifying child by a public or private institution of higher
205 education, if the care is provided in connection with a course of study or program,
206 relating to the education or study of children, that is provided to students of the
207 institution of higher education;
- 208 (c) care provided to a qualifying child at a public school by an organization other than
209 the public school, if:
- 210 (i) the care is provided under contract with the public school or on school property; or
211 (ii) the public school accepts responsibility and oversight for the care provided by the
212 organization;
- 213 (d) care provided to a qualifying child as part of a summer camp that operates on federal
214 land pursuant to a federal permit;
- 215 (e) care provided by an organization that:
- 216 (i) qualifies for tax exempt status under Section 501(c)(3) of the Internal Revenue
217 Code;
- 218 (ii) provides care pursuant to a written agreement with:
- 219 (A) a municipality, as defined in Section 10-1-104, that provides oversight for the
220 program; or
221 (B) a county that provides oversight for the program; and
- 222 (iii) provides care to a child who is [~~over the age of four and under the age of 13~~] at
223 least five years old and no older than 13 years old; or
- 224 (f) care provided to a qualifying child at a facility where:
- 225 (i) the parent or guardian of the qualifying child is at all times physically present in
226 the building where the care is provided and the parent or guardian is near enough
227 to reach the child within five minutes if needed;
- 228 (ii) the duration of the care is less than four hours for an individual qualifying child in
229 any one day;
- 230 (iii) the care is provided on a sporadic basis;
- 231 (iv) the care does not include diapering a qualifying child; and
- 232 (v) the care does not include preparing or serving meals to a qualifying child.
- 233 (3) An exempt provider shall submit to the department:
- 234 (a) the information required under Subsections 26B-2-406(1) and (2); and

- 235 (b) of the children receiving care from the exempt provider:
236 (i) the number of children who are less than two years old;
237 (ii) the number of children who are at least two years old and less than five years old;
238 and
239 (iii) the number of children who are five years old or older.

240 (4) An exempt provider shall post, in a conspicuous location near the entrance of the
241 exempt provider's facility, a notice prepared by the department that:

- 242 (a) states that the facility is exempt from licensure and certification; and
243 (b) provides the department's contact information for submitting a complaint.

244 (5)(a) Except as provided in Subsection (5)(b), the department may not release the
245 information the department collects from exempt providers under Subsection (3).

246 (b) The department may release an aggregate count of children receiving care from
247 exempt providers, without identifying a specific provider.

248 Section 5. Section **26B-2-406** is amended to read:

249 **26B-2-406 . Disqualified individuals -- Criminal history checks -- Payment of**
250 **costs.**

251 (1)(a) Each exempt provider, except as provided in Subsection (1)(c), each person
252 described in Subsection 26B-2-405(1)(a)(viii) that is not a certified provider or a
253 licensed provider, and each person [~~requesting a residential certificate or~~] applying to
254 be licensed or to renew a license under this part shall submit to the department the
255 name and other identifying information, which shall include fingerprints, of existing,
256 new, and proposed:

- 257 (i) owners;
258 (ii) directors;
259 (iii) members of the governing body;
260 (iv) employees;
261 (v) providers of care;
262 (vi) volunteers, except parents of children enrolled in the programs; and
263 (vii) all adults residing in a residence where child care is provided.

264 (b)(i) The Utah Division of Criminal Investigation and Technical Services within the
265 Department of Public Safety shall process the information required under
266 Subsection (1)(a) to determine whether the individual has been convicted of any
267 crime.

268 (ii) The Utah Division of Criminal Investigation and Technical Services shall submit

- 269 fingerprints required under Subsection (1)(a) to the FBI for a national criminal
270 history record check.
- 271 (iii) A person required to submit information to the department under Subsection (1)
272 shall pay the cost of conducting the record check described in this Subsection
273 (1)(b).
- 274 (c) An exempt provider who provides care to a qualifying child as part of a program
275 administered by an educational institution that is regulated by the State Board of
276 Education is not subject to this Subsection (1), unless required by the Child Care and
277 Development Block Grant, 42 U.S.C. Secs. 9857-9858r.
- 278 (2)(a)(i) Each person [~~requesting a residential certificate or~~] applying to be licensed or
279 to renew a license under this part and each person described in Subsection
280 26B-2-405(1)(a)(viii) that is not a certified provider or a licensed provider shall
281 submit to the department the name and other identifying information of any
282 person [~~age 12 through 17~~] who is at least 12 years old and no older than 17 years
283 old and who resides in the residence where the child care is provided.
- 284 (ii) The identifying information required for a person [~~age 12 through 17~~] who is at
285 least 12 years old and no older than 17 years old does not include fingerprints.
- 286 (b) The department shall access the juvenile court records to determine whether a person
287 described in Subsection (1) or (2)(a) has been adjudicated in juvenile court of
288 committing an act which if committed by an adult would be a felony or misdemeanor
289 if:
- 290 (i) the person described in Subsection (1) is [~~under the age of 28~~] less than 28 years
291 old; or
- 292 (ii) the person described in Subsection (1) is:
- 293 (A) [~~over the age of 28~~] older than 28 years old; and
- 294 (B) has been convicted, has pleaded no contest, or is currently subject to a plea in
295 abeyance or diversion agreement for a felony or misdemeanor.
- 296 (3) Except as provided in Subsections (4) and (5), a licensee under this part, a person
297 described in Subsection 26B-2-405(1)(a)(viii) that is not a certified provider or a
298 licensed provider, or an exempt provider may not permit a person who has been
299 convicted, has pleaded no contest, or is currently subject to a plea in abeyance or
300 diversion agreement for any felony or misdemeanor, or if the provisions of Subsection
301 (2)(b) apply, who has been adjudicated in juvenile court of committing an act which if
302 committed by an adult would be a felony or a misdemeanor, to:

- 303 (a) provide child care;
- 304 (b) provide volunteer services for a child care program or an exempt provider;
- 305 (c) reside at the premises where child care is provided; or
- 306 (d) function as an owner, director, or member of the governing body of a child care
- 307 program or an exempt provider.
- 308 (4)(a) The department may, by rule, exempt the following from the restrictions of
- 309 Subsection (3):
- 310 (i) specific misdemeanors; and
- 311 (ii) specific acts adjudicated in juvenile court, which if committed by an adult would
- 312 be misdemeanors.
- 313 (b) In accordance with criteria established by rule, the executive director may consider
- 314 and exempt individual cases not otherwise exempt under Subsection (4)(a) from the
- 315 restrictions of Subsection (3).
- 316 (5) The restrictions of Subsection (3) do not apply to the following:
- 317 (a) a conviction or plea of no contest to any nonviolent drug offense that occurred on a
- 318 date 10 years or more before the date of the criminal history check described in this
- 319 section; or
- 320 (b) if the provisions of Subsection (2)(b) apply, any nonviolent drug offense adjudicated
- 321 in juvenile court on a date 10 years or more before the date of the criminal history
- 322 check described in this section.
- 323 (6) The department may retain background check information submitted to the department
- 324 for up to one year after the day on which the covered individual is no longer associated
- 325 with a Utah child care provider.
- 326 Section 6. Section **78A-6-209** is amended to read:
- 327 **78A-6-209 . Court records -- Inspection.**
- 328 (1) The juvenile court and the juvenile court's probation department shall keep records as
- 329 required by the board and the presiding judge.
- 330 (2) A court record shall be open to inspection by:
- 331 (a) the parents or guardian of a child, a minor who is at least 18 years old, other parties
- 332 in the case, the attorneys, and agencies to which custody of a minor has been
- 333 transferred;
- 334 (b) for information relating to adult offenders alleged to have committed a sexual
- 335 offense, a felony or class A misdemeanor drug offense, or an offense against the
- 336 person under Title 76, Chapter 5, Offenses Against the Individual, the State Board of

- 337 Education, for the purpose of evaluating whether an individual [~~should be permitted~~
338 ~~to obtain or retain~~] obtains or retains a license as an educator or serve as an employee
339 or volunteer in a school, with the understanding that the State Board of Education [
340 ~~must~~] shall provide the individual with an opportunity to respond to any information
341 gathered from the State Board of Education's inspection of the records before the
342 State Board of Education makes a decision concerning licensure or employment;
- 343 (c) the Criminal Investigations and Technical Services Division, established in Section
344 53-10-103, for the purpose of a criminal history background check for the purchase
345 of a firearm and establishing good character for issuance of a concealed firearm
346 permit as provided in Section 53-5-704;
- 347 (d) the Division of Child and Family Services for the purpose of Child Protective
348 Services Investigations in accordance with Sections 80-2-602 and 80-2-701 and
349 administrative hearings in accordance with Section 80-2-707;
- 350 (e) the Division of Licensing and Background Checks for the purpose of conducting a
351 background check in accordance with Section 26B-2-120;
- 352 (f) for information related to a minor who has committed a sexual offense, a felony, or
353 an offense that if committed by an adult would be a misdemeanor, the Department of
354 Health and Human Services, for the purpose of evaluating under the provisions of
355 Subsection 26B-2-406(3), whether a person [~~should be permitted to operate a~~
356 ~~residential child care without a license or a certificate or to obtain or retain~~] obtains
357 or retains a license to provide child care, with the understanding that the department [
358 ~~must~~] shall provide the individual who committed the offense with an opportunity to
359 respond to any information gathered from the Department of Health and Human
360 Services' inspection of records before the Department of Health and Human Services
361 makes a decision concerning licensure;
- 362 (g) for information related to a minor who has committed a sexual offense, a felony, or
363 an offense that if committed by an adult would be a misdemeanor, the Department of
364 Health and Human Services, to determine whether an individual meets the
365 background screening requirements of Sections 26B-2-238 through 26B-2-241, with
366 the understanding that the department [~~must~~] shall provide the individual who
367 committed the offense an opportunity to respond to any information gathered from
368 the Department of Health and Human Services' inspection of records before the
369 Department of Health and Human Services makes a decision under that part; and
- 370 (h) for information related to a minor who has committed a sexual offense, a felony, or

371 an offense that if committed by an adult would be a misdemeanor, the Bureau of
372 Emergency Medical Services, to determine whether to grant, deny, or revoke
373 background clearance under Section 53-2d-410 for an individual who is seeking or
374 who has obtained an emergency medical service personnel license under Section
375 53-2d-402, with the understanding that the Bureau of Emergency Medical Services [
376 ~~must~~] shall provide the individual who committed the offense an opportunity to
377 respond to any information gathered from the inspection of records before the Bureau
378 of Emergency Medical Services makes a determination.

379 (3) With the consent of the juvenile court, a court record may be inspected by the child, by
380 persons having a legitimate interest in the proceedings, and by persons conducting
381 pertinent research studies.

382 (4)(a) Except as provided in Subsection (4)(b), if a petition is filed charging a minor who
383 is 14 years old or older with an offense that would be a felony if committed by an
384 adult, the juvenile court shall make available to any person upon request the petition,
385 any adjudication or disposition orders, and the delinquency history summary for the
386 minor.

387 (b) A juvenile court may close the records described in Subsection (4)(a) to the public if
388 the juvenile court finds, on the record, that the records are closed for good cause.

389 (5) A juvenile probation officer's records and reports of social and clinical studies are not
390 open to inspection, except by consent of the juvenile court, given under rules adopted by
391 the board.

392 (6) The juvenile court may charge a reasonable fee to cover the costs associated with
393 retrieving a requested record that has been archived.

394 **Section 7. Effective Date.**

395 This bill takes effect on May 7, 2025.