

**Effective 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; or
  - (f) care provided at a residential support program that is licensed by the Department of Human Services.
- (2) The licensing and certification requirements of this chapter do not apply to:
  - (a) 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;
  - (b) 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;
  - (c) 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;
  - (d) care provided to qualifying children as part of a summer camp that operates on federal land pursuant to a federal permit; or
  - (e) 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.
- (3) An exempt provider shall submit to the department:
  - (a) the information required under Subsections 26-39-404(1) and (2); and
  - (b) of the children receiving care from the exempt provider:
    - (i) the number of children who are less than two years old;
    - (ii) the number of children who are at least two years old and less than five years old; and
    - (iii) the number of children who are five years old or older.
- (4) An exempt provider shall post, in a conspicuous location near the entrance of the exempt provider's facility, a notice prepared by the department that:
  - (a) states that the facility is exempt from licensure and certification; and
  - (b) provides the department's contact information for submitting a complaint.

- (5) The department may not release the information it collects under Subsection (3) except in an aggregate count of children receiving care from exempt providers, without identifying a specific provider.

Amended by Chapter 220, 2015 General Session