

Senator Leonard M. Blackham proposes to substitute the following bill:

**UTAH CHILD CARE LICENSING ACT REVISIONS**

1998 GENERAL SESSION

STATE OF UTAH

**Sponsor: Leonard M. Blackham**

AN ACT RELATING TO HEALTH; REQUIRING RESIDENTIAL CHILD CARE PROVIDERS  
OBTAIN A CERTIFICATE OR LICENSE IF CARE IS PROVIDED FOR FIVE OR MORE  
CHILDREN.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**26-39-102**, as enacted by Chapter 127, Laws of Utah 1997

**h 26-39-104**, as enacted by Chapters 127 and 196, Laws of Utah 1997 **h**

**26-39-105**, as enacted by Chapter 196, Laws of Utah 1997

**26-39-106**, as enacted by Chapters 127 and 196, Laws of Utah 1997

ENACTS:

**26-39-105.5**, Utah Code Annotated 1953

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

Section 1. Section **26-39-102** is amended to read:

**26-39-102. Definitions.**

As used in this chapter:

(1) "Child" means the child of a person other than the provider of child care.

~~[(1)]~~ (2) "Child care" means continuous care and supervision of ~~[four]~~ five or more children under 14 years of age, in lieu of care ordinarily provided by parents in their own home, for less than 24 hours a day, for direct or indirect compensation.

~~[(2)]~~ (3) "Child care program" means a child care facility or program operated by a person pursuant to a license issued in accordance with this chapter.

(4) "Residential child care" means child care provided in the home of a provider.

25a            **h** Section 2. Section 26-39-104 is amended to read:

25b                       **26-39-104. Duties of the department.**

25c            **(1) With regard to child care programs licensed pursuant to this chapter, the department may:**

25d            **(a) make and enforce rules to implement the provisions of this chapter and, as necessary to**

25e **protect children's common needs for a safe and healthy environment, to provide for:**

25f            **(i) adequate facilities and equipment; and**

25g            **(ii) competent caregivers considering the age of the children and the type of program offered**

**by**

25h **the licensee;**

25i            **(b) make and enforce rules necessary to carry out the purposes of this chapter, in the following**

25j **areas:**

25k            **(i) requirements for applications, the application process, and compliance with other**

**applicable**

25l **statutes and rules;**

25m            **(ii) documentation and policies and procedures that providers shall have in place in order to be**

25n **licensed, in accordance with Subsection (1)(a);**

25o            **(iii) categories, classifications, and duration of initial and ongoing licenses;**

25p            **(iv) changes of ownership or name, changes in licensure status, and changes in operational**

25q **status;**

25r            **(v) license expiration and renewal, contents, and posting requirements;**

25s            **(vi) procedures for inspections, complaint resolution, disciplinary actions, and other**

**procedural**

25t **measures to encourage and assure compliance with statute and rule; and**

25u            **(vii) guidelines necessary to assure consistency and appropriateness in the regulation and**

25v **discipline of licensees; and**

25w            **(c) set and collect licensing and other fees in accordance with Section 26-1-6.**

25x            **(2) The department may not regulate educational curricula, academic methods, or the**

25y **educational philosophy or approach of the provider. The department shall allow for a broad range of**

25z **educational training and academic background in certification or qualification of child day care**

25aa **directors.**

25ab            **(3) In licensing and regulating child care programs, the department shall REASONABLY**

25ac **BALANCE THE BENEFITS AND BURDENS OF EACH REGULATION AND, by rule, provide for a range of**

25ad **licensure, depending upon the needs and different levels and types of child care provided. The**

25ae **department shall prepare language for the 1998 General Session of the Legislature to codify as much**

25af **licensing regulation implemented pursuant to this subsection as the department determines to be**

25ag **practicable. h**

**01-28-98 6:10 PM**

**1st Sub. (Green) S.B. 26**

- 1a -

lilac-February 18, 1998

Section ~~h [2] 3 h~~ . Section 26-39-105 is amended to read:

**26-39-105. Licensure requirements -- Expiration -- Renewal.**

(1) ~~[Unless otherwise exempted under this chapter]~~ Except as provided in Sections 26-39-105.5 and 26-39-106, a person shall be licensed in accordance with this chapter if he:

(a) provides or offers child care; or

(b) provides care to children and requests to be licensed.

(2) The department may issue licenses for a period not exceeding 24 months to child care providers who meet the requirements of this chapter and the department's rules governing child care programs.

(3) A license issued under this chapter is not assignable or transferable.

Section ~~h [3] 4 h~~ . Section 26-39-105.5 is enacted to read:

**26-39-105.5. Residential child care certificates.**

(1) (a) A residential child care provider of five to eight children shall obtain a Residential Child Care Certificate ~~h [H] h~~ from the department unless Section 26-39-106 applies.

(b) The qualifications for a ~~h [Basic] h~~ Residential ~~h~~ **CHILD** ~~h~~ Care Certificate are limited to:

(i) the submission of:

(A) an application on a form prepared by the department;

(B) a certification and criminal background fee established in accordance with Section 26-1-6;

(C) identifying information described in Subsection 26-39-107(1) for each adult person who resides in the provider's home for processing by the Department of Public Safety to determine whether any such person has been convicted of a crime; ~~h [and] h~~

(ii) an initial and annual inspection ~~h [, by appointment,] h~~ of the provider's home

~~h~~ **WITHIN 90 DAYS OF SENDING AN INTENT TO INSPECT NOTICE** ~~h~~ to:

(A) check the immunization record of each child who receives child care in the provider's home;

(B) identify serious sanitation, fire, and health hazards to children; and

(C) make appropriate recommendations ~~h h~~ **[-AND**

**(iii) FOR NEW PROVIDERS, COMPLETION OF:**

**(A) FIVE HOURS OF DEPARTMENT-APPROVED TRAINING; AND**

**(B) A DEPARTMENT-APPROVED CPR AND FIRST AID COURSE]** ~~h h~~ .

28            (c) If a serious sanitation, fire, or health hazard has been found during an inspection  
29 conducted pursuant to Subsection (1)(b)(ii), the department may, at the option of the residential  
30 care provider:

31            (i) require corrective action for the serious hazards found and ~~h~~ [schedule a] MAKE AN  
31a UNANNOUNCED ~~h~~ follow up

1 inspection to determine compliance; or

2 (ii) inform the parents of each child in the care of the provider of the results of the  
3 department's inspection and the failure of the provider to take corrective action.

4 (d) In addition to an inspection conducted pursuant to Subsection (1)(b)(ii), the department  
5 may inspect the home of a residential care provider of five to eight children in response to a  
6 complaint of:

7 (i) child abuse or neglect;

8 (ii) serious health hazards in or around the provider's home; or

9 (iii) providing residential child care without the appropriate certificate or license.

10 (2) Notwithstanding this section:

11 (a) a license under Section 26-39-105 is required of a residential child care provider who  
12 cares for ~~h~~ [:] **NINE OR MORE CHILDREN;** ~~h~~

13 ~~h~~ ~~h~~[f] (i) four or more children under two years of age; or [f]

13a ~~[(i) FOUR OR MORE CHILDREN, BASED ON THE SUM OF:~~

13b ~~— (a) CHILDREN UNDER TWO YEARS~~

13c ~~OF AGE; AND~~

13d ~~— (b) THE PROVIDER'S OWN CHILDREN UNDER FIVE YEARS OF AGE; OR~~ ~~h~~ ~~h~~

14 (ii) nine or more children; and

15 (b) an inspection may be required of a residential child care provider in connection with  
16 a federal child care program..

17 (3) With respect to residential child care, the department may only make and enforce rules  
18 necessary to implement this section.

19 Section ~~h~~ [4] ~~5~~ ~~h~~ . Section **26-39-106** is amended to read:

20 **26-39-106. Exclusions from chapter.**

21 The provisions and requirements of this chapter do not apply to:

22 (1) a facility or program owned or operated by an agency of the United States government;

23 (2) group counseling provided by a mental health therapist, as defined in Section  
24 58-60-102, who is licensed to practice in this state;

25 (3) a health care facility licensed pursuant to Title 26, Chapter 21, Health Care Facility  
26 Licensure and Inspection Act;

27 (4) care provided to children by or in the homes of parents, legal guardians, grandparents,  
28 brothers, sisters, uncles, or aunts;

29 (5) care provided to children, in the home of the provider, for less than four hours a day  
30 or on a sporadic basis, unless that child care directly affects or is related to a business licensed [in]  
31 this state; or

1           (6) care provided as part of a course of study at or a program administered by an  
2 educational institution that is regulated by the boards of education of this state, a private education  
3 institution that provides education in lieu of that provided by the public education system, or by  
4 a parochial education institution.