

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

1 **UTAH CHILD CARE LICENSING ACT REVISIONS**

2 1998 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Leonard M. Blackham**

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

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

9 AMENDS:

10 **26-39-102**, as enacted by Chapter 127, Laws of Utah 1997

11 **26-39-105**, as enacted by Chapter 196, Laws of Utah 1997

12 **26-39-106**, as enacted by Chapters 127 and 196, Laws of Utah 1997

13 ENACTS:

14 **26-39-105.5**, Utah Code Annotated 1953

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

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

17 **26-39-102. Definitions.**

18 As used in this chapter:

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

20 [(1)] (2) "Child care" means continuous care and supervision of [~~four~~] five or more
21 children under 14 years of age, in lieu of care ordinarily provided by parents in their own home,
22 for less than 24 hours a day, for direct or indirect compensation.

23 [(2)] (3) "Child care program" means a child care facility or program operated by a person
24 pursuant to a license issued in accordance with this chapter.

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

1 Section 2. Section **26-39-105** is amended to read:

2 **26-39-105. Licensure requirements -- Expiration -- Renewal.**

3 (1) [~~Unless otherwise exempted under this chapter~~] Except as provided in Sections
4 26-39-105.5 and 26-39-106, a person shall be licensed in accordance with this chapter if he:

5 (a) provides or offers child care; or

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

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

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

11 Section 3. Section **26-39-105.5** is enacted to read:

12 **26-39-105.5. Residential child care certificates.**

13 (1) (a) A residential child care provider of five to eight children shall obtain a Residential
14 Child Care Certificate II from the department unless Section 26-39-106 applies.

15 (b) The qualifications for a Basic Residential Care Certificate are limited to:

16 (i) the submission of:

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

18 (B) a certification and criminal background fee established in accordance with Section
19 26-1-6;

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

23 (ii) an initial and annual inspection, by appointment, of the provider's home to:

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

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

27 (C) make appropriate recommendations.

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 schedule a 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:

13 (i) four or more children under two years of age; or

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 4. 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.