

CHILD CARE LICENSING AMENDMENTS

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Leonard M. Blackham

AN ACT RELATING TO HEALTH; AMENDING THE MAKE UP OF THE CHILD CARE ADVISORY COMMITTEE; CLARIFYING WHEN A PROVIDER'S CHILDREN ARE COUNTED FOR LICENSING AND CERTIFICATE PURPOSES; PROHIBITING A CERTIFIED RESIDENTIAL CHILD CARE PROVIDER FROM TAKING CARE OF MORE THAN TWO CHILDREN UNDER THE AGE OF TWO; AND MAKING TECHNICAL AND CONFORMING AMENDMENTS.

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

AMENDS:

26-39-102, as last amended by Chapter 158, Laws of Utah 1998

26-39-103, as last amended by Chapter 143, Laws of Utah 1998

26-39-104, as last amended by Chapters 143 and 158, Laws of Utah 1998

26-39-105.5, as enacted by Chapter 158, Laws of Utah 1998

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~~;

(a) a child of a person other than the provider of child care[-];

(b) a child of a licensed or certified residential child care provider who is under the age of four; and

(c) a child of an employee or owner of a licensed child care center who is under the age of four.

(2) "Child care" means continuous care and supervision of 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.

(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.

Section 2. Section **26-39-103** is amended to read:

26-39-103. Child Care Licensing Advisory Committee.

(1) There is established the Child Care Licensing Advisory Committee to advise the department on rules promulgated by the department pursuant to this chapter. It shall be composed of ~~[nine]~~ the following 13 members who shall be appointed by the executive director~~[-Two members shall represent consumers of child care programs licensed pursuant to this chapter, four members shall be providers licensed pursuant to this chapter at least two of whom shall be facility owner-operators, two members shall be health care providers, and one member shall be an individual with expertise in early childhood development.];~~

(a) two child care consumers;

(b) two licensed residential child care providers;

(c) one certified residential child care provider;

(d) five representatives of licensed child care center programs;

(e) one individual with expertise in early childhood development; and

(f) two health care providers.

(2) ~~[Of the initial members of the Child Care Licensing Advisory Committee, the executive director shall appoint three to four-year terms, three to three-year terms, and three to two-year terms. Thereafter, appointments]~~ Appointments shall be for four-year terms, except for those members who have been appointed to complete an unexpired term. Appointments and reappointments may be staggered so that 1/4 of the committee changes each year. The committee shall annually elect a chairman from its membership.

(3) The advisory committee shall meet at least quarterly, or more frequently as determined by the executive director, the chairman, or three or more members of the committee. ~~[Five]~~ Seven members constitute a quorum and a vote of the majority of the members present constitutes an action of the committee.

(4) Advisory committee members shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties as established by the director of the Division of Finance, pursuant to Section 63A-3-107. Advisory committee members may decline reimbursement.

Section 3. Section **26-39-104** is amended to read:

26-39-104. Duties of the department.

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

(a) make and enforce rules to implement the provisions of this chapter and, as necessary to protect children's common needs for a safe and healthy environment, to provide for:

(i) adequate facilities and equipment; and

(ii) competent caregivers considering the age of the children and the type of program offered by the licensee;

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

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

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

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

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

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

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

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

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

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

educational philosophy or approach of the provider. The department shall allow for a broad range of educational training and academic background in certification or qualification of child day care directors.

(3) In licensing and regulating child care programs, the department shall reasonably balance the benefits and burdens of each regulation and, by rule, provide for a range of licensure, depending upon the needs and different levels and types of child care provided. ~~[The department shall prepare language for the 1999 General Session of the Legislature to codify as much licensing regulation implemented pursuant to this subsection as the department determines to be practicable.]~~

(4) Notwithstanding the definition of "child" in Subsection 26-39-102(1), the department shall count children under the age of 14 toward the minimum square footage requirement for indoor and outdoor areas, including the child of:

- (a) a licensed residential child care provider; or
- (b) an owner or employee of a licensed child care center.

Section 4. Section **26-39-105.5** is amended to read:

26-39-105.5. Residential child care certificate.

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

(b) The qualifications for a Residential Child 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; and

(C) identifying information described in Subsection 26-39-107(1) for each adult person who resides in the provider's home;

(I) for processing by the Department of Public Safety to determine whether any such person has been convicted of a crime; and

(II) to screen for a substantiated finding of child abuse or neglect pursuant to Section 62A-4a-116;

(ii) an initial and annual inspection of the provider's home within 90 days of sending an intent to inspect notice 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; and

(iii) for new providers, completion of:

(A) five hours of department-approved training; and

(B) a department-approved CPR and first aid course.

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

(i) require corrective action for the serious hazards found and make an unannounced follow up inspection to determine compliance; or

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

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

(i) child abuse or neglect;

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

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

(2) Notwithstanding this section:

(a) a license under Section 26-39-105 is required of a residential child care provider who cares for nine or more children;

~~[(b) a Residential Care Certificate under Subsection (1) is required of a residential care provider who provides care for four or more children, based on the sum of:]~~

~~[(i) children under two years of age; and]~~

~~[(ii) the provider's own children under four years of age; and]~~

(b) a certified residential child care provider may not provide care to more than two children under the age of two; and

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

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