

28 license under this chapter shall submit to the department the name and other identifying
29 information, which shall include fingerprints, of existing, new, and proposed:

- 30 (i) owners;
- 31 (ii) directors;
- 32 (iii) members of the governing body;
- 33 (iv) employees;
- 34 (v) providers of care;
- 35 (vi) volunteers, except parents of children enrolled in the programs; and
- 36 (vii) all adults residing in a residence where child care is provided.

37 (b) A person seeking renewal of a residential certificate or license under this section is
38 not required to submit fingerprints of an individual referred to in Subsections (1)(a)(i) through
39 (vi), if:

- 40 (i) the individual has resided in Utah for the last five years;
- 41 (ii) the individual has:
 - 42 (A) previously submitted fingerprints under this section for a national criminal history
 - 43 record check; and
 - 44 (B) resided in Utah continuously since that time; or
 - 45 (iii) as of May 3, 1999, the individual had one of the relationships under Subsection
 - 46 (1)(a) with a child care provider having a residential certificate or licensed under this section
 - 47 and the individual has resided in Utah continuously since that time.

48 (c) (i) The Utah Division of Criminal Investigation and Technical Services within the
49 Department of Public Safety shall process the information required under Subsection (1)(a) to
50 determine whether the individual has been convicted of any crime.

51 (ii) The Utah Division of Criminal Investigation and Technical Services shall submit
52 fingerprints required under Subsection (1)(a) to the FBI for a national criminal history record
53 check.

54 (iii) The applicant for the license or residential certificate shall pay the cost of
55 conducting a record check under this Subsection (1)(c).

56 ~~[(2) An owner, director, member of the governing body, employee, provider of care, or~~
57 ~~volunteer who has a felony conviction may not provide child care or operate a residential~~
58 ~~certificate or licensed child care program.]~~

59 ~~[(3) An owner, director, member of the governing body, employee, or other provider of~~
 60 ~~care who has been convicted of a misdemeanor may not provide child care or operate a~~
 61 ~~residential certificate or licensed child care program, except that:]~~

62 (2) Except as provided in Subsection (3), a licensee under this chapter may not permit a
 63 person who has been convicted, has pleaded no contest, or is currently subject to a plea in
 64 abeyance or diversion agreement for any felony or misdemeanor, or who has been adjudicated
 65 in juvenile court of committing an act which if committed by an adult would be a felony or
 66 misdemeanor, to:

67 (a) provide child care;

68 (b) provide volunteer services for a licensed child care program or a child care program
 69 operating under a residential child care certificate;

70 (c) reside at the premises where child care is provided; or

71 (d) function as an owner, director, or member of the governing body of a licensed child
 72 care program or a child care program operating under a residential child care certificate.

73 (3) (a) [the] The department may, by rule, [exclude specified] exempt the following
 74 from the restrictions of Subsection (2):

75 (i) specific misdemeanors [that do not disqualify an individual under this section]; and

76 (ii) acts adjudicated in juvenile court, which if committed by an adult would be
 77 misdemeanors.

78 (b) [the] In accordance with criteria established by rule, the executive director may
 79 consider and [approve] exempt individual cases [in accordance with criteria established by
 80 rule] not otherwise exempt under Subsection (3)(a) from the restrictions of Subsection (2).

Legislative Review Note

as of 1-4-06 3:20 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0254

Child Care Licensing Restrictions

17-Jan-06

10:23 AM

State Impact

No state or local government fiscal impact.

Individual and Business Impact

Some individuals with a criminal record may have their child care employment opportunities limited, resulting in a fiscal impact to that individual.

Office of the Legislative Fiscal Analyst