

**CHILD CARE LICENSING MODIFICATIONS**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Gage Froerer**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies provisions related to child care licensing.

**Highlighted Provisions:**

This bill:

▶ extends the time period within which the Department of Health may conduct an investigation of a child care provider based on when the events in the complaint occurred; and

▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**26-39-501**, as last amended by Laws of Utah 2015, Chapter 220

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

Section 1. Section **26-39-501** is amended to read:

**26-39-501. Investigations -- Records.**

(1) The department may conduct investigations necessary to enforce the provisions of



28 this chapter.

29 (2) For purposes of this section:

30 (a) "Anonymous complainant" means a complainant for whom the department does not  
31 have the minimum personal identifying information necessary, including the complainant's full  
32 name, to attempt to communicate with the complainant after a complaint has been made.

33 (b) "Confidential complainant" means a complainant for whom the department has the  
34 minimum personal identifying information necessary, including the complainant's full name, to  
35 attempt to communicate with the complainant after a complaint has been made, but [~~who~~] the  
36 complainant elects under Subsection (3)(c) not to be identified to the subject of the complaint.

37 (c) "Subject of the complaint" means the licensee or certificate holder about whom the  
38 complainant is informing the department.

39 (3) (a) If the department receives a complaint about a child care program or an exempt  
40 provider, the department shall:

41 (i) solicit information from the complainant to determine whether the complaint  
42 suggests actions or conditions that could pose a serious risk to the safety or well-being of a  
43 qualifying child;

44 (ii) as necessary:

45 (A) encourage the complainant to disclose the minimum personal identifying  
46 information necessary, including the complainant's full name, for the department to attempt to  
47 subsequently communicate with the complainant;

48 (B) inform the complainant that the department may not investigate an anonymous  
49 complaint;

50 (C) inform the complainant that the identity of a confidential complainant may be  
51 withheld from the subject of a complaint only as provided in Subsection (3)(c)(ii); and

52 (D) inform the complainant that the department may be limited in its use of  
53 information provided by a confidential complainant, as provided in Subsection (3)(c)(ii)(B);  
54 and

55 (iii) inform the complainant that a person is guilty of a class B misdemeanor under  
56 Section [76-8-506](#) if the person gives false information to the department with the purpose of  
57 inducing a change in that person's or another person's licensing or certification status.

58 (b) If the complainant elects to be an anonymous complainant, or if the complaint

59 concerns events which occurred more than [~~six weeks~~] one year before the complainant  
60 contacted the department, the department:

61 (i) shall refer the information in the complaint to the Division of Child and Family  
62 Services within the Department of Human Services, law enforcement, or any other appropriate  
63 agency, if the complaint suggests actions or conditions which could pose a serious risk to the  
64 safety or well-being of a child;

65 (ii) may not investigate or substantiate the complaint; and

66 (iii) may, during a regularly scheduled annual survey, inform the exempt provider,  
67 licensee, or certificate holder that is the subject of the complaint of allegations or concerns  
68 raised by:

69 (A) the anonymous complainant; or

70 (B) the complainant who reported events more than [~~six weeks~~] one year after the  
71 events occurred.

72 (c) (i) If the complainant elects to be a confidential complainant, the department shall  
73 determine whether the complainant wishes to remain a confidential complainant:

74 (A) only until the investigation of the complaint has been completed; or

75 (B) indefinitely.

76 (ii) (A) If the complainant elects to remain a confidential complainant only until the  
77 investigation of the complaint has been completed, the department shall disclose the name of  
78 the complainant to the subject of the complaint at the completion of the investigation, but no  
79 sooner.

80 (B) If the complainant elects to remain a confidential complainant indefinitely, the  
81 department:

82 (I) notwithstanding Subsection [63G-2-201\(5\)\(b\)](#), may not disclose the name of the  
83 complainant, including to the subject of the complaint; and

84 (II) may not use information provided by the complainant to substantiate an alleged  
85 violation of state law or department rule unless the department independently corroborates the  
86 information.

87 (4) (a) Prior to conducting an investigation of a child care program or an exempt  
88 provider in response to a complaint, a department investigator shall review the complaint with  
89 the investigator's supervisor.

90 (b) The investigator may only proceed with the investigation [~~only~~] if:  
91 (i) the supervisor determines the complaint is credible;  
92 (ii) the complaint is not from an anonymous complainant; and  
93 (iii) prior to the investigation, the investigator [~~informs~~] provides the subject of the

94 complaint [~~of~~] with:

95 (A) except as provided in Subsection (3)(c), the name of the complainant; and

96 (B) except as provided in Subsection (4)(c), the substance of the complaint.

97 (c) An investigator is not required to inform the subject of a complaint of the substance  
98 of the complaint prior to an investigation if doing so would jeopardize the investigation.

99 However, the investigator shall inform the subject of the complaint of the substance of the  
100 complaint as soon as doing so will no longer jeopardize the investigation.

101 (5) If the department is unable to substantiate a complaint, any record related to the  
102 complaint or the investigation of the complaint:

103 (a) shall be classified under Title 63G, Chapter 2, Government Records Access and  
104 Management Act, as:

105 (i) a private or controlled record if appropriate under Section [63G-2-302](#) or [63G-2-304](#);

106 or

107 (ii) a protected record under Section [63G-2-305](#); and

108 (b) if disclosed in accordance with Subsection [63G-2-201](#)(5)(b), may not identify an  
109 individual child care program, exempt provider, licensee, certificate holder, or complainant.

110 (6) Any record of the department related to a complaint by an anonymous complainant  
111 is a protected record under Title 63G, Chapter 2, Government Records Access and  
112 Management Act, and, notwithstanding Subsection [63G-2-201](#)(5)(b), may not be disclosed in a  
113 manner that identifies an individual child care program, exempt provider, licensee, certificate  
114 holder, or complainant.