

SB0124S01 compared with SB0124

~~{deleted text}~~ shows text that was in SB0124 but was deleted in SB0124S01.

Inserted text shows text that was not in SB0124 but was inserted into SB0124S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Gage Froerer proposes the following substitute bill:

CHILD CARE LICENSING AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lincoln Fillmore

House Sponsor: ~~{ }~~ Susan Pulsipher

LONG TITLE

General Description:

This bill amends provisions related to the Utah Child Care Licensing Act.

Highlighted Provisions:

This bill:

- ▶ exempts from the licensing and certification requirements of the Utah Child Care Licensing Act certain child care facilities currently exempted from licensure by rule;
- ▶ requires these facilities to meet existing criminal background check requirements for child care facilities exempted from the Utah Child Care Licensing Act;
- ▶ modifies the criminal background check requirements under the Utah Child Care Licensing Act related to nonviolent drug offenses that occurred 10 or more years before a criminal background check; and
- ▶ makes technical changes.

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Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-39-403, as last amended by Laws of Utah 2015, Chapter 220

[26-39-404, as last amended by Laws of Utah 2015, Chapter 220](#)

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

Section 1. Section **26-39-403** is amended to read:

26-39-403. Exclusions from chapter -- Criminal background checks by an excluded person.

(1) The provisions and requirements of this chapter do not apply to:

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

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

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

(d) care provided to ~~[qualifying children]~~ a qualifying child by or in the ~~[homes of parents, legal guardians, grandparents, brothers, sisters, uncles, or aunts]~~ home of a parent, legal guardian, grandparent, brother, sister, uncle, or aunt;

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

(f) care provided at a residential support program that is licensed by the Department of Human Services.

(2) The licensing and certification requirements of this chapter do not apply to:

(a) care provided to ~~[qualifying children]~~ a qualifying child as part of a course of study at or a program administered by an educational institution that is regulated by the boards of

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education of this state, a private education institution that provides education in lieu of that provided by the public education system, or by a parochial education institution;

(b) care provided to ~~[qualifying children]~~ a qualifying child by a public or private institution of higher education, if the care is provided in connection with a course of study or program, relating to the education or study of children, that is provided to students of the institution of higher education;

(c) care provided to ~~[qualifying children]~~ a qualifying child at a public school by an organization other than the public school, if:

(i) the care is provided under contract with the public school or on school property; or

(ii) the public school accepts responsibility and oversight for the care provided by the organization;

(d) care provided to ~~[qualifying children]~~ a qualifying child as part of a summer camp that operates on federal land pursuant to a federal permit; ~~[or]~~

(e) care provided by an organization that:

(i) qualifies for tax exempt status under Section 501(c)(3) of the Internal Revenue Code;

(ii) ~~[is provided]~~ provides care pursuant to a written agreement with:

(A) a municipality, as defined in Section 10-1-104, that provides oversight for the program; or

(B) a county that provides oversight for the program; and

(iii) ~~[is provided to children who are]~~ provides care to a child who is over the age of four and under the age of 13~~[-]; or~~

(f) care provided to a qualifying child at a facility where:

(i) the parent or guardian of the qualifying child is at all times physically present in the building where the care is provided and the parent or guardian is near enough to reach the child within five minutes if needed;

(ii) the duration of the care is less than four hours for an individual qualifying child in any one day;

(iii) the care is provided on a sporadic basis;

(iv) the care does not include diapering a qualifying child; and

(v) the care does not include preparing or serving meals to a qualifying child.

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(3) An exempt provider shall submit to the department:

(a) the information required under Subsections 26-39-404(1) and (2); and

(b) of the children receiving care from the exempt provider:

(i) the number of children who are less than two years old;

(ii) the number of children who are at least two years old and less than five years old;

and

(iii) the number of children who are five years old or older.

(4) An exempt provider shall post, in a conspicuous location near the entrance of the exempt provider's facility, a notice prepared by the department that:

(a) states that the facility is exempt from licensure and certification; and

(b) provides the department's contact information for submitting a complaint.

(5) The department may not release the information it collects under Subsection (3) except in an aggregate count of children receiving care from exempt providers, without identifying a specific provider.

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Legislative Review Note

~~Office of Legislative Research and General Counsel~~ Section 2. Section 26-39-404 is amended to read:

26-39-404. Disqualified individuals -- Criminal history checks -- Payment of costs.

(1) (a) Each exempt provider and each person requesting a residential certificate or to be licensed or to renew a license under this chapter shall submit to the department the name and other identifying information, which shall include fingerprints, of existing, new, and proposed:

(i) owners;

(ii) directors;

(iii) members of the governing body;

(iv) employees;

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(v) providers of care;

(vi) volunteers, except parents of children enrolled in the programs; and

(vii) all adults residing in a residence where child care is provided.

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

(i) the individual has resided in Utah for the last five years and applied for a certificate or license before July 1, 2013;

(ii) the individual has:

(A) previously submitted fingerprints under this section for a national criminal history record check; and

(B) resided in Utah continuously since that time; or

(iii) as of May 3, 1999, the individual had one of the relationships under Subsection (1)(a) with a child care provider having a residential certificate or licensed under this section and the individual has resided in Utah continuously since that time.

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

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

(iii) A person required to submit information to the department under Subsection (1) shall pay the cost of conducting the record check described in this Subsection (1)(c).

(2) (a) Each person requesting a residential certificate or to be licensed or to renew a license under this chapter shall submit to the department the name and other identifying information of any person age 12 through 17 who resides in the residence where the child care is provided. The identifying information required for a person age 12 through 17 does not include fingerprints.

(b) The department shall access the juvenile court records to determine whether a person described in Subsection (1) or (2)(a) has been adjudicated in juvenile court of committing an act which if committed by an adult would be a felony or misdemeanor if:

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(i) the person described in Subsection (1) is under the age of 28; or

(ii) the person described in Subsection (1) is:

(A) over the age of 28; and

(B) has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor.

(3) Except as provided in [Subsection] Subsections (4) and (5), a licensee under this chapter or an exempt provider may not permit a person who has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for any felony or misdemeanor, or if the provisions of Subsection (2)(b) apply, who has been adjudicated in juvenile court of committing an act which if committed by an adult would be a felony or a misdemeanor, to:

(a) provide child care;

(b) provide volunteer services for a child care program or an exempt provider;

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

(d) function as an owner, director, or member of the governing body of a child care program or an exempt provider.

(4) (a) The department may, by rule, exempt the following from the restrictions of Subsection (3):

(i) specific misdemeanors; and

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

(b) In accordance with criteria established by rule, the executive director may consider and exempt individual cases involving misdemeanors, not otherwise exempt under Subsection (4)(a) from the restrictions of Subsection (3).

(5) The restrictions of Subsection (3) do not apply to the following:

(a) a conviction or plea of no contest to any nonviolent drug offense that occurred on a date 10 years or more before the date of the criminal history check described in this section; or

(b) if the provisions of Subsection (2)(b) apply, any nonviolent drug offense adjudicated in juvenile court on a date 10 years or more before the date of the criminal history check described in this section.