

CHILD CARE AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karen Kwan

Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill modifies provisions relating to a background check of an individual associated with a child care facility, program, or provider.

Highlighted Provisions:

This bill:

- ▶ modifies provisions relating to the Department of Health's ability to access the Licensing Information System, maintained by the Department of Human Services, for purposes of a background check of an individual associated with a child care facility, program, or provider; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

62A-4a-1006, as last amended by Laws of Utah 2017, Chapter 195

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

Section 1. Section **62A-4a-1006** is amended to read:

62A-4a-1006. Licensing Information System -- Contents -- Juvenile court finding -- Protected record -- Access -- Criminal penalty.

30 (1) (a) The division shall maintain a sub-part of the Management Information System
31 established pursuant to Section 62A-4a-1003, to be known as the Licensing Information
32 System, to be used:

- 33 (i) for licensing purposes; or
- 34 (ii) as otherwise specifically provided for by law.

35 (b) The Licensing Information System shall include only the following information:

- 36 (i) the information described in Subsections 62A-4a-1005(1)(b) and (3)(b);
- 37 (ii) consented-to supported findings by alleged perpetrators under Subsection
38 62A-4a-1005(3)(a)(iii); and

39 (iii) the information in the licensing part of the division's Management Information
40 System as of May 6, 2002.

41 (2) Notwithstanding Subsection (1), the department's access to information in the
42 Management Information System for the licensure and monitoring of foster parents is governed
43 by Sections 62A-4a-1003 and 62A-2-121.

44 (3) Subject to Subsection 62A-4a-1005(3)(e), upon receipt of a finding from the
45 juvenile court under Section 78A-6-323, the division shall:

- 46 (a) promptly amend the Licensing Information System; and
- 47 (b) enter the information in the Management Information System.

48 (4) (a) Information contained in the Licensing Information System is classified as a
49 protected record under Title 63G, Chapter 2, Government Records Access and Management
50 Act.

51 (b) Notwithstanding the disclosure provisions of Title 63G, Chapter 2, Government
52 Records Access and Management Act, the information contained in the Licensing Information
53 System may only be used or disclosed as specifically provided in this chapter and Section
54 62A-2-121.

55 (c) The information described in Subsection (4)(b) is accessible only to:

- 56 (i) the Office of Licensing within the department:
 - 57 (A) for licensing purposes; or

- 58 (B) as otherwise specifically provided for by law;
- 59 (ii) the division to:
- 60 (A) screen ~~[a person]~~ an individual at the request of the Office of Guardian Ad Litem:
- 61 (I) at the time that ~~[person]~~ individual seeks a paid or voluntary position with the
- 62 Office of Guardian Ad Litem; and
- 63 (II) on an annual basis, throughout the time that the ~~[person]~~ individual remains with
- 64 the Office of Guardian Ad Litem; and
- 65 (B) respond to a request for information from a person whose name is listed in the
- 66 Licensing Information System;
- 67 (iii) persons designated by the Department of Health and approved by the Department
- 68 of Human Services, only for the following purposes:
- 69 (A) licensing a child care program or provider;
- 70 (B) determining whether ~~[a person]~~ an individual associated with a ~~[covered health]~~
- 71 child care facility, [as defined by the Department of Health by rule, who provides direct care to
- 72 a child] program, or provider, who is exempt from being licensed or certified by the
- 73 Department of Health under Title 26, Chapter 39, Utah Child Care Licensing Act, has a
- 74 supported finding of a severe type of child abuse or neglect; or
- 75 (C) determining whether an individual who is seeking an emergency medical services
- 76 license has a supported finding of a severe type of child abuse or neglect[-];
- 77 (iv) persons designated by the Department of Workforce Services and approved by the
- 78 Department of Human Services for the purpose of qualifying child care providers under
- 79 Section [35A-3-310.5](#); and
- 80 (v) the department, as specifically provided in this chapter.
- 81 (5) The persons designated by the Department of Health under Subsection (4)(c)(iii)
- 82 and the persons designated by the Department of Workforce Services under Subsection
- 83 (4)(c)(iv) shall adopt measures to:
- 84 (a) protect the security of the Licensing Information System; and
- 85 (b) strictly limit access to the Licensing Information System to those persons

86 designated by statute.

87 (6) All persons designated by statute as having access to information contained in the
88 Licensing Information System shall be approved by the Department of Human Services and
89 receive training from the department with respect to:

90 (a) accessing the Licensing Information System;

91 (b) maintaining strict security; and

92 (c) the criminal provisions of Sections 62A-4a-412 and 63G-2-801 pertaining to the
93 improper release of information.

94 (7) (a) A person, except those authorized by this chapter, may not request another
95 person to obtain or release any other information in the Licensing Information System to screen
96 for potential perpetrators of abuse or neglect.

97 (b) A person who requests information knowing that ~~[it]~~ the request is a violation of
98 this Subsection (7) ~~[to do so]~~ is subject to the criminal penalty described in Sections
99 62A-4a-412 and 63G-2-801.