

1 **HOME CHILD CARE AMENDMENTS**

2 2021 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Susan Pulsipher**

5 Senate Sponsor: Daniel McCay

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7 **LONG TITLE**

8 **General Description:**

9 This bill amends the Utah Child Care Licensing Act.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ increases the number of children that a child care provider can care for without  
13 obtaining a residential child care certificate.

14 **Money Appropriated in this Bill:**

15 None

16 **Other Special Clauses:**

17 ~~It~~ → ~~None~~ This bill provides a special effective date. ← ~~It~~

18 **Utah Code Sections Affected:**

19 AMENDS:

20 **26-39-102**, as last amended by Laws of Utah 2015, Chapter 220

21 **26-39-402**, as last amended by Laws of Utah 2018, Chapter 415

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

24 Section 1. Section **26-39-102** is amended to read:

25 **26-39-102. Definitions.**

26 As used in this chapter:

27 (1) "Advisory committee" means the Residential Child Care Licensing Advisory



28 Committee, created in Section 26-1-7.

29 (2) (a) "Center based child care" means, except as provided in Subsection (2)(b), a  
30 child care program licensed under this chapter.

31 (b) "Center based child care" does not include:

32 (i) a residential child care provider certified under Section 26-39-402; or

33 (ii) a facility or program exempt under Section 26-39-403.

34 (3) ~~Ĥ→ (a) ←Ĥ~~ "Child care" means continuous care and supervision of [five] ~~Ĥ→~~ [seven]  
34a five ←Ĥ or more

35 qualifying children, that is:

36 ~~Ĥ→ [(a)] (i) ←Ĥ~~ in lieu of care ordinarily provided by a parent in the parent's home;

37 ~~Ĥ→ [(b)] (ii) ←Ĥ~~ for less than 24 hours a day; and

38 ~~Ĥ→ [(c)] (iii) ←Ĥ~~ for direct or indirect compensation.

38a ~~Ĥ→ [Ĥ→ (b) ←Ĥ] "Child care" does not include residential child care for six or fewer qualifying~~  
38b ~~children. ←Ĥ] ←Ĥ~~

39 (4) "Child care program" means a child care facility or program operated by a person  
40 who holds a license or certificate issued in accordance with this chapter.

41 (5) "Exempt provider" means a person who provides care described in Subsection  
42 26-39-403(2).

43 (6) "Licensing committee" means the Child Care Center Licensing Committee created  
44 in Section 26-1-7.

45 (7) "Public school" means:

46 (a) a school, including a charter school, that:

47 (i) is directly funded at public expense; and

48 (ii) provides education to qualifying children for any grade from first grade through  
49 twelfth grade; or

50 (b) a school, including a charter school, that provides:

51 (i) preschool or kindergarten to qualifying children, regardless of whether the preschool  
52 or kindergarten is funded at public expense; and

53 (ii) education to qualifying children for any grade from first grade through twelfth  
54 grade, if each grade, from first grade to twelfth grade, that is provided at the school, is directly  
55 funded at public expense.

56 (8) "Qualifying child" means an individual who is:

57 (a) (i) under the age of 13; or

58 (ii) under the age of 18, if the person has a disability; and

- 59 (b) a child of:
- 60 (i) a person other than the person providing care to the child;
- 61 (ii) a licensed or certified residential child care provider, if the child is under the age of
- 62 four; or
- 63 (iii) an employee or owner of a licensed child care center, if the child is under the age
- 64 of four.

65 (9) "Residential child care" means child care provided in the home of a provider.

66 Section 2. Section **26-39-402** is amended to read:

67 **26-39-402. Residential child care certificate.**

68 (1) A residential child care provider of [~~five to~~] seven or eight qualifying children shall

69 obtain a Residential Child Care Certificate from the department, unless Section **26-39-403**

70 applies.

71 (2) The minimum qualifications for a Residential Child Care Certificate are:

72 (a) the submission of:

- 73 (i) an application in the form prescribed by the department;
- 74 (ii) a certification and criminal background fee established in accordance with Section
- 75 **26-1-6**; and
- 76 (iii) in accordance with Section **26-39-404**, identifying information for each adult

77 person and each juvenile age 12 through 17 years of age who resides in the provider's home:

78 (A) for processing by the Department of Public Safety to determine whether any such

79 person has been convicted of a crime;

80 (B) to screen for a substantiated finding of child abuse or neglect by a juvenile court;

81 and

82 (C) to discover whether the person is listed in the Licensing Information System

83 described in Section **62A-4a-1006**;

84 (b) an initial and annual inspection of the provider's home within 90 days of sending an

85 intent to inspect notice to:

- 86 (i) check the immunization record, as defined in Section **53G-9-301**, of each qualifying
- 87 child who receives child care in the provider's home;
- 88 (ii) identify serious sanitation, fire, and health hazards to qualifying children; and
- 89 (iii) make appropriate recommendations; and

90 (c) annual training consisting of 10 hours of department-approved training as specified  
91 by the department by administrative rule, including a current department-approved CPR and  
92 first aid course.

93 (3) If a serious sanitation, fire, or health hazard has been found during an inspection  
94 conducted pursuant to Subsection (2)(b), the department shall require corrective action for the  
95 serious hazards found and make an unannounced follow up inspection to determine  
96 compliance.

97 (4) In addition to an inspection conducted pursuant to Subsection (2)(b), the  
98 department may inspect the home of a residential care provider of [~~five to~~] seven or eight  
99 qualifying children in response to a complaint of:

100 (a) child abuse or neglect;

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

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

103 (5) Notwithstanding this section:

104 (a) a license under Section [26-39-401](#) is required of a residential child care provider  
105 who cares for nine or more qualifying children;

106 (b) a ~~H~~→ **[certified]** ←~~H~~ residential child care provider may not provide care to more than  
106a two

107 qualifying children under the age of two; and

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

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

111a ~~H~~→ **Section 3. Effective Date.**

111b **This bill takes effect on January 1, 2022.** ←~~H~~