

HOME CHILD CARE AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Susan Pulsipher

Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill amends the Utah Child Care Licensing Act.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

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

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

26-39-102. Definitions.

As used in this chapter:

(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) "Child care" means continuous care and supervision of [~~five~~] seven or more
35 qualifying children, that is:

36 (a) in lieu of care ordinarily provided by a parent in the parent's home;

37 (b) for less than 24 hours a day; and

38 (c) for direct or indirect compensation.

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 certified residential child care provider may not provide care to more than 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.