

CHILD ABUSER EDUCATION RESTRICTIONS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Tyler Clancy

Senate Sponsor: Chris H. Wilson

LONG TITLE

General Description:

This bill prohibits an individual who has committed child abuse from the exempting the individual's child from required school attendance.

Highlighted Provisions:

This bill:

- ▶ prohibits an individual who has committed child abuse from exempting the individual's child from required school attendance; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-6-204, as last amended by Laws of Utah 2021, Chapter 359

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

Section 1. Section **53G-6-204** is amended to read:

53G-6-204. School-age children exempt from school attendance.

(1) (a) A local school board or charter school governing board may excuse a school-age



28 child from attendance for any of the following reasons:

29 (i) a school-age child over age 16 may receive a partial release from school to enter
30 employment, or attend a trade school, if the school-age child has completed grade 8; or

31 (ii) on an annual basis, a school-age child may receive a full release from attending a
32 public, regularly established private, or part-time school or class if:

33 (A) the school-age child has already completed the work required for graduation from
34 high school;

35 (B) the school-age child is in a physical or mental condition, certified by a competent
36 physician if required by the local school board or charter school governing board, which
37 renders attendance inexpedient and impracticable;

38 (C) proper influences and adequate opportunities for education are provided in
39 connection with the school-age child's employment; or

40 (D) the district superintendent or charter school governing board has determined that a
41 school-age child over the age of 16 is unable to profit from attendance at school because of
42 inability or a continuing negative attitude toward school regulations and discipline.

43 (b) A school-age child receiving a partial release from school under Subsection
44 (1)(a)(i) is required to attend:

45 (i) school part time as prescribed by the local school board or charter school governing
46 board; or

47 (ii) a home school part time.

48 (c) In each case, evidence of reasons for granting an exemption under Subsection (1)
49 must be sufficient to satisfy the local school board or charter school governing board.

50 (d) A local school board or charter school governing board that excuses a school-age
51 child from attendance as provided by this Subsection (1) shall issue a certificate that the child
52 is excused from attendance during the time specified on the certificate.

53 (2) (a) (i) As used in this Subsection (2)(a), "child abuse" means a criminal ~~offense~~ **felony or**
53a **attempted felony** ~~offense~~ **[that**
54 **would prohibit the granting of a custody order under Subsection 30-5a-103(10), including]** **of which**
54a **an individual is convicted, or to which an individual pleads guilty or no contest, for conduct**
54b **that constitutes any of the following** ~~offense~~ **:**

55 (A) child abuse under Section 76-5-109;

56 (B) aggravated child abuse under Section 76-5-109.2;

57 (C) child abandonment under Section 76-5-109.3;

58 (D) commission of domestic violence in the presence of a child under Section

59 [76-5-114](#);

60 (E) child abuse homicide under Section [76-5-208](#);

61 (F) child kidnapping under Section [76-5-301.1](#);

62 (G) human trafficking of a child under Section [76-5-308.5](#);

63 (H) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses, or in Title 76,
64 Chapter 5b, Part 2, Sexual Exploitation, if the victim is under 18 years old;

65 (I) sexual exploitation of a minor under Section [76-5b-201](#);

66 (J) aggravated sexual exploitation of a minor under Section [76-5b-201.1](#); or

67 (K) an offense in another state that, if committed in this state, would constitute an
68 offense described in this Subsection (2)(a)(i).

69 (ii) [A] Except as provided in Subsection (2)(a)(iii), a local school board shall excuse a
70 school-age child from attendance, if the school-age child's parent or legal guardian files a
71 signed and notarized affidavit with the school-age child's school district of residence, as
72 defined in Section [53G-6-302](#), that:

73 [(i)] (A) the school-age child will attend a home school; and

74 [(ii)] (B) the parent or legal guardian assumes sole responsibility for the education of
75 the school-age child, except to the extent the school-age child is dual enrolled in a public
76 school as provided in Section [53G-6-702](#).

77 (iii) If a parent or legal guardian has been convicted of child abuse or if a court of
78 competent jurisdiction has made a substantiated finding of child abuse ~~§~~ → ~~[or neglect]~~ ← ~~§~~ against
78a the
79 parent or legal guardian:

80 (A) the parent or legal guardian may not assume responsibility for the education of a
81 school-age child under Subsection (2)(a)(ii); and

82 (B) the local school board may not accept the affidavit described in Subsection
83 (2)(a)(ii) from the parent or legal guardian or otherwise exempt the school-age child from
84 attendance under Subsection (2)(a)(ii) in relation to the parent's or legal guardian's intent to
85 home school the child.

86 (iv) Nothing in this Subsection (2)(a) affects the ability of another of a child's parents
87 or legal guardians who is not prohibited under Subsection (2)(a)(iii) to file the affidavit
88 described in Subsection (2)(a)(ii).

89 (b) A signed and notarized affidavit filed in accordance with Subsection (2)(a) shall

90 remain in effect as long as:

91 (i) the school-age child attends a home school; [~~and~~]

92 (ii) the school district where the affidavit was filed remains the school-age child's
93 district of residence[-]; and

94 (iii) the parent or legal guardian who filed the signed and notarized affidavit has not
95 been convicted of child abuse or been the subject of a substantiated finding of child abuse ~~§~~→ [~~or~~
96 ~~neglect~~] ←~~§~~ by a court of competent jurisdiction.

97 (c) A parent or legal guardian of a school-age child who attends a home school is
98 solely responsible for:

99 (i) the selection of instructional materials and textbooks;

100 (ii) the time, place, and method of instruction; and

101 (iii) the evaluation of the home school instruction.

102 (d) A local school board may not:

103 (i) require a parent or legal guardian of a school-age child who attends a home school
104 to maintain records of instruction or attendance;

105 (ii) require credentials for individuals providing home school instruction;

106 (iii) inspect home school facilities; or

107 (iv) require standardized or other testing of home school students.

108 (e) Upon the request of a parent or legal guardian, a local school board shall identify
109 the knowledge, skills, and competencies a student is recommended to attain by grade level and
110 subject area to assist the parent or legal guardian in achieving college and career readiness
111 through home schooling.

112 (f) A local school board that excuses a school-age child from attendance [~~as provided~~
113 ~~by~~] under this Subsection (2) shall annually issue a certificate stating that the school-age child
114 is excused from attendance for the specified school year.

115 (g) A local school board shall issue a certificate excusing a school-age child from
116 attendance:

117 (i) within 30 days after receipt of a signed and notarized affidavit filed by the
118 school-age child's parent [~~pursuant to~~] or legal guardian under this Subsection (2); and

119 (ii) on or before August 1 each year thereafter unless:

120 (A) the school-age child enrolls in a school within the school district;

121 (B) the school-age child's parent or legal guardian notifies the school district that the
122 school-age child no longer attends a home school; or

123 (C) the school-age child's parent or legal guardian notifies the school district that the
124 school-age child's school district of residence has changed.

125 (3) A parent or legal guardian who is eligible to file and files a signed and notarized
126 affidavit [~~as provided in~~] under Subsection (2)(a) is exempt from the application of Subsections
127 [53G-6-202](#)(2), (5), and (6).

128 (4) (a) Nothing in this section may be construed to prohibit or discourage voluntary
129 cooperation, resource sharing, or testing opportunities between a school or school district and a
130 parent or legal guardian of a child attending a home school.

131 (b) The exemptions in this section apply regardless of whether:

132 (i) a parent or legal guardian provides education instruction to the parent's or legal
133 guardian's child alone or in cooperation with other parents or legal guardians similarly
134 exempted under this section; or

135 (ii) the parent or legal guardian makes payment for educational services the parent's or
136 legal guardian's child receives.