

Representative Susan Pulsipher proposes the following substitute bill:

CHILD CARE REVISIONS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Susan Pulsipher

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions related to caring for children.

Highlighted Provisions:

This bill:

- ▶ makes optional the requirement to obtain a certificate from the Department of Health and Human Services to provide residential child care;
- ▶ raises the age of a child dependent for whom an individual taxpayer may claim a child tax credit; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

26B-2-404, as renumbered and amended by Laws of Utah 2023, Chapter 305

26B-2-405, as renumbered and amended by Laws of Utah 2023, Chapter 305

59-10-1047, as enacted by Laws of Utah 2023, Chapter 462



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

Section 1. Section **26B-2-404** is amended to read:

26B-2-404. Residential Child Care Certificate.

(1) Except as provided in Section [26B-2-405](#), a person ~~[shall obtain]~~ may request a Residential Child Care Certificate from the department if[:] the person provides residential child care for eight or fewer qualifying children.

~~[(a) the person provides residential child care for seven or eight qualifying children; or]~~

~~[(b) the person:]~~

~~[(i) provides residential child care for six or less qualifying children; and]~~

~~[(ii) requests to be certified.]~~

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

(a) the submission of:

(i) an application in the form prescribed by the department;

(ii) a certification and criminal background fee established in accordance with Section [26B-1-209](#); and

(iii) in accordance with Section [26B-2-406](#), identifying information for each adult person and each juvenile age 12 through 17 years old who resides in the provider's home:

(A) for processing by the Department of Public Safety to determine whether any such person has been convicted of a crime;

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

(C) to discover whether the person is listed in the Licensing Information System described in Section [80-2-1002](#);

(b) an initial and annual inspection of the provider's home within 90 days of sending an intent to inspect notice to:

(i) check the immunization record, as defined in Section [53G-9-301](#), of each qualifying child who receives child care in the provider's home;

(ii) identify serious sanitation, fire, and health hazards to qualifying children; and

(iii) make appropriate recommendations; and

(c) annual training consisting of 10 hours of department-approved training as specified

57 by the department by administrative rule, including a current department-approved CPR and
58 first aid course.

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

63 (4) In addition to an inspection conducted pursuant to Subsection (2)(b), the
64 department may inspect the home of a certified provider in response to a complaint of:

- 65 (a) child abuse or neglect;
- 66 (b) serious health hazards in or around the provider's home; or
- 67 (c) providing residential child care without the appropriate certificate or license.

68 (5) With respect to residential child care, the department may only make and enforce
69 rules necessary to implement this section.

70 Section 2. Section **26B-2-405** is amended to read:

71 **26B-2-405. Exclusions from part -- Criminal background checks by an excluded**
72 **person.**

73 (1) (a) Except as provided in Subsection (1)(b), the provisions and requirements of this
74 part do not apply to:

- 75 (i) a facility or program owned or operated by an agency of the United States
76 government;
- 77 (ii) group counseling provided by a mental health therapist, as defined in Section
78 [58-60-102](#), who is licensed to practice in this state;
- 79 (iii) a health care facility licensed under Part 2, Health Care Facility Licensing and
80 Inspection;
- 81 (iv) care provided to a qualifying child by or in the home of a parent, legal guardian,
82 grandparent, brother, sister, uncle, or aunt;
- 83 (v) care provided to a qualifying child, in the home of the provider, for less than four
84 hours a day or on a sporadic basis, unless that child care directly affects or is related to a
85 business licensed in this state;
- 86 (vi) care provided at a residential support program that is licensed by the department;
- 87 (vii) center based child care for four or ~~less~~ fewer qualifying children, unless the

88 provider requests to be licensed under Section 26B-2-403; or

89 (viii) residential child care for ~~[six or less]~~ eight or fewer qualifying children, unless
90 the provider requests to be licensed under Section 26B-2-403 or certified under Section
91 26B-2-404.

92 (b) ~~[Notwithstanding Subsection (1)(a), a person who]~~ A person that does not hold a
93 license or certificate from the department under this part may not, at any given time, provide
94 child care in the person's home for more than 10 children in total under the age of 13, or under
95 the age of 18 if a child has a disability, regardless of whether a child is related to the person
96 providing child care.

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

98 (a) care provided to a qualifying child as part of a course of study at or a program
99 administered by an educational institution that is regulated by the boards of education of this
100 state, a private education institution that provides education in lieu of that provided by the
101 public education system, or by a parochial education institution;

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

106 (c) care provided to a qualifying child at a public school by an organization other than
107 the public school, if:

108 (i) the care is provided under contract with the public school or on school property; or
109 (ii) the public school accepts responsibility and oversight for the care provided by the
110 organization;

111 (d) care provided to a qualifying child as part of a summer camp that operates on
112 federal land pursuant to a federal permit;

113 (e) care provided by an organization that:

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

116 (ii) provides care pursuant to a written agreement with:

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

- 119 (B) a county that provides oversight for the program; and
 - 120 (iii) provides care to a child who is over the age of four and under the age of 13; or
 - 121 (f) care provided to a qualifying child at a facility where:
 - 122 (i) the parent or guardian of the qualifying child is at all times physically present in the
 - 123 building where the care is provided and the parent or guardian is near enough to reach the child
 - 124 within five minutes if needed;
 - 125 (ii) the duration of the care is less than four hours for an individual qualifying child in
 - 126 any one day;
 - 127 (iii) the care is provided on a sporadic basis;
 - 128 (iv) the care does not include diapering a qualifying child; and
 - 129 (v) the care does not include preparing or serving meals to a qualifying child.
 - 130 (3) An exempt provider shall submit to the department:
 - 131 (a) the information required under Subsections 26B-2-406(1) and (2); and
 - 132 (b) of the children receiving care from the exempt provider:
 - 133 (i) the number of children who are less than two years old;
 - 134 (ii) the number of children who are at least two years old and less than five years old;
 - 135 and
 - 136 (iii) the number of children who are five years old or older.
 - 137 (4) An exempt provider shall post, in a conspicuous location near the entrance of the
 - 138 exempt provider's facility, a notice prepared by the department that:
 - 139 (a) states that the facility is exempt from licensure and certification; and
 - 140 (b) provides the department's contact information for submitting a complaint.
 - 141 (5) (a) Except as provided in Subsection (5)(b), the department may not release the
 - 142 information the department collects from exempt providers under Subsection (3).
 - 143 (b) The department may release an aggregate count of children receiving care from
 - 144 exempt providers, without identifying a specific provider.
- 145 Section 3. Section 59-10-1047 is amended to read:
- 146 **59-10-1047. Nonrefundable child tax credit.**
- 147 (1) As used in this section:
 - 148 (a) "Joint filing status" means the same as that term is defined in Section 59-10-1018.
 - 149 (b) "Head of household filing status" means the same as that term is defined in Section

150 59-10-1018.

151 (c) "Married filing separately status" means a married individual who:

152 (i) does not file a single federal individual income tax return jointly with that married
153 individual's spouse for the taxable year; and

154 (ii) files a single federal individual income tax return for the taxable year.

155 (d) "Modified adjusted gross income" means the sum of the following for a claimant
156 or, if the claimant's federal individual income tax return is allowed a joint filing status, the
157 claimant and the claimant's spouse:

158 (i) adjusted gross income for the taxable year for which a tax credit is claimed under
159 this section;

160 (ii) any interest income that is not included in adjusted gross income for the taxable
161 year described in Subsection (1)(d)(i); and

162 (iii) any addition to adjusted gross income required by Section 59-10-114 for the
163 taxable year described in Subsection (1)(d)(i).

164 (e) "Qualifying child" means an individual:

165 (i) with respect to whom the claimant is allowed to claim a tax credit under Section 24,
166 Internal Revenue Code, on the claimant's federal individual income tax return for the taxable
167 year; and

168 (ii) who is at least one year old and younger than [~~four~~] six years old on the last day of
169 the claimant's taxable year.

170 (f) "Single filing status" means a single individual who files a single federal individual
171 income tax return for the taxable year.

172 (2) Subject to Subsection 59-10-1002.2, a claimant may claim a nonrefundable tax
173 credit of \$1,000 for each qualifying child.

174 (3) A claimant may not carry forward or carry back the amount of the tax credit that
175 exceeds the claimant's tax liability.

176 (4) The tax credit allowed by Subsection (2) claimed on a return filed under this part
177 shall be reduced by \$.10 for each dollar by which modified adjusted gross income for purposes
178 of the return exceeds:

179 (a) for a federal individual income tax return that is allowed a married filing separately
180 status, \$27,000;

181 (b) for a federal individual income tax return that is allowed a single filing status or
182 head of household filing status, \$43,000; and

183 (c) for a federal individual income tax return [~~under this chapter~~] that is allowed a joint
184 filing status, \$54,000.

185 Section 4. **Effective date.**

186 (1) Except as provided in Subsection (2), this bill takes effect on May 1, 2024.

187 (2) The actions affecting Section [59-10-1047](#) take effect for a taxable year beginning
188 on or after January 1, 2025.