

BACKGROUND CHECKS FOR CHILD CARE WORKERS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Tim M. Cosgrove

Senate Sponsor: Peter C. Knudson

LONG TITLE

General Description:

This bill modifies Title 26, Chapter 39, Utah Child Care Licensing Act, by amending the requirements for background checks of child care workers.

Highlighted Provisions:

This bill:

- ▶ eliminates the exemption from a fingerprint-based background check for an individual who has resided in Utah for five years for individuals who apply for licensure after July 1, 2013; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-39-404, as renumbered and amended by Laws of Utah 2008, Chapter 111

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

Section 1. Section **26-39-404** is amended to read:

26-39-404. Disqualified individuals -- Criminal history checks -- Payment of costs.

(1) (a) Each person requesting a residential certificate or to be licensed or to renew a

30 license under this chapter shall submit to the department the name and other identifying
31 information, which shall include fingerprints, of existing, new, and proposed:

- 32 (i) owners;
- 33 (ii) directors;
- 34 (iii) members of the governing body;
- 35 (iv) employees;
- 36 (v) providers of care;
- 37 (vi) volunteers, except parents of children enrolled in the programs; and
- 38 (vii) all adults residing in a residence where child care is provided.

39 (b) A person seeking renewal of a residential certificate or license under this section is
40 not required to submit fingerprints of an individual referred to in Subsections (1)(a)(i) through
41 (vi), if:

42 (i) the individual has resided in Utah for the last five years and applied for a certificate
43 or license before July 1, 2013;

44 (ii) the individual has:

45 (A) previously submitted fingerprints under this section for a national criminal history
46 record check; and

47 (B) resided in Utah continuously since that time; or

48 (iii) as of May 3, 1999, the individual had one of the relationships under Subsection
49 (1)(a) with a child care provider having a residential certificate or licensed under this section
50 and the individual has resided in Utah continuously since that time.

51 (c) (i) The Utah Division of Criminal Investigation and Technical Services within the
52 Department of Public Safety shall process the information required under Subsection (1)(a) to
53 determine whether the individual has been convicted of any crime.

54 (ii) The Utah Division of Criminal Investigation and Technical Services shall submit
55 fingerprints required under Subsection (1)(a) to the FBI for a national criminal history record
56 check.

57 (iii) The applicant for the license or residential certificate shall pay the cost of

58 conducting a record check under this Subsection (1)(c).

59 (2) (a) Each person requesting a residential certificate or to be licensed or to renew a
60 license under this chapter shall submit to the department the name and other identifying
61 information of any person age 12 through 17 who resides in the residence where the child care
62 is provided. The identifying information required for a person age 12 through 17 does not
63 include fingerprints.

64 (b) The department shall access the juvenile court records to determine whether a
65 person described in Subsection (1) or (2)(a) has been adjudicated in juvenile court of
66 committing an act which if committed by an adult would be a felony or misdemeanor if:

67 (i) the person described in Subsection (1) is under the age of 28; or

68 (ii) the person described in Subsection (1) is:

69 (A) over the age of 28; and

70 (B) has been convicted, has pleaded no contest, or is currently subject to a plea in
71 abeyance or diversion agreement for a felony or misdemeanor.

72 (3) Except as provided in Subsection (4), a licensee under this chapter may not permit a
73 person who has been convicted, has pleaded no contest, or is currently subject to a plea in
74 abeyance or diversion agreement for any felony or misdemeanor, or if the provisions of
75 Subsection (2)(b) apply, who has been adjudicated in juvenile court of committing an act which
76 if committed by an adult would be a felony or a misdemeanor, to:

77 (a) provide child care;

78 (b) provide volunteer services for a licensed child care program or a child care program
79 operating under a residential child care certificate;

80 (c) reside at the premises where child care is provided; or

81 (d) function as an owner, director, or member of the governing body of a licensed child
82 care program or a child care program operating under a residential child care certificate.

83 (4) (a) The department may, by rule, exempt the following from the restrictions of
84 Subsection (3):

85 (i) specific misdemeanors; and

86 (ii) specific acts adjudicated in juvenile court, which if committed by an adult would be
87 misdemeanors.

88 (b) In accordance with criteria established by rule, the executive director may consider
89 and exempt individual cases involving misdemeanors, not otherwise exempt under Subsection
90 (4)(a) from the restrictions of Subsection (3).