

**SCHOOL EMPLOYEE BACKGROUND CHECKS**

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Craig Hall**

Senate Sponsor: Deidre M. Henderson

---

---

**LONG TITLE**

**General Description:**

This bill exempts certain exempt providers from a background check administered by the Department of Health.

**Highlighted Provisions:**

This bill:

- ▶ exempts a provider who provides care to a qualifying child through an educational institution that is regulated by the State Board of Education from submitting information to the Department of Health for a background check.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**26-39-404**, as last amended by Laws of Utah 2018, Chapter 58

---

---

*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 exempt provider, except as provided in Subsection (1)(c), and each person requesting a residential certificate or to be licensed or to renew a license under this chapter

30 shall submit to the department the name and other identifying information, which shall include  
31 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) (i) The Utah Division of Criminal Investigation and Technical Services within the  
40 Department of Public Safety shall process the information required under Subsection (1)(a) to  
41 determine whether the individual has been convicted of any crime.

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

45 (iii) A person required to submit information to the department under Subsection (1)  
46 shall pay the cost of conducting the record check described in this Subsection (1)(b).

47 (c) An exempt provider who provides care to a qualifying child as part of a program  
48 administered by an educational institution that is regulated by the State Board of Education is  
49 not subject to this Subsection (1), unless required by the Child Care and Development Block  
50 Grant, 42 U.S.C. Secs. 9857-9858r.

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

56 (b) The department shall access the juvenile court records to determine whether a  
57 person described in Subsection (1) or (2)(a) has been adjudicated in juvenile court of

58 committing an act which if committed by an adult would be a felony or misdemeanor if:

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

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

61 (A) over the age of 28; and

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

64 (3) Except as provided in Subsections (4) and (5), a licensee under this chapter or an  
65 exempt provider may not permit a person who has been convicted, has pleaded no contest, or is  
66 currently subject to a plea in abeyance or diversion agreement for any felony or misdemeanor,  
67 or if the provisions of Subsection (2)(b) apply, who has been adjudicated in juvenile court of  
68 committing an act which if committed by an adult would be a felony or a misdemeanor, to:

69 (a) provide child care;

70 (b) provide volunteer services for a child care program or an exempt provider;

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

72 (d) function as an owner, director, or member of the governing body of a child care  
73 program or an exempt provider.

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

76 (i) specific misdemeanors; and

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

79 (b) In accordance with criteria established by rule, the executive director may consider  
80 and exempt individual cases not otherwise exempt under Subsection (4)(a) from the restrictions  
81 of Subsection (3).

82 (5) The restrictions of Subsection (3) do not apply to the following:

83 (a) a conviction or plea of no contest to any nonviolent drug offense that occurred on a  
84 date 10 years or more before the date of the criminal history check described in this section; or

85 (b) if the provisions of Subsection (2)(b) apply, any nonviolent drug offense

86 adjudicated in juvenile court on a date 10 years or more before the date of the criminal history  
87 check described in this section.