

2016 Regular Session

SENATE BILL NO. 397

BY SENATOR JOHNS

FEES/LICENSES/PERMITS. Provides relative to the Specialized Provider Licensing Act.
(8/1/16)

1 AN ACT

2 To amend and reenact R.S. 46:1402, 1403(7), 1403.1, 1407(B)(1)(a), (f), and (g), (E), (H),
3 and (I), 1414.1(D), 1417, 1423, and 1428(A) and (B)(1), relative to residential
4 facilities; to provide for residents of residential homes; to provide for completion of
5 educational courses by such residents; to provide for the jurisdiction, powers, duties,
6 and regulations of the Department of Children and Family Services regarding youth
7 under care by specialized providers; to provide definitions; and to provide for related
8 matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 46:1402, 1403(7), 1403.1, 1407(B)(1)(a), (f), and (g), (E), (H), and
11 (I), 1414.1(D), 1417, 1423, and 1428(A) and (B)(1) are hereby amended and reenacted to
12 read as follows:

13 §1402. Legislative intent; declaration of purpose and policy

14 It is the intent of the legislature to protect the health, safety, and well-being
15 of the children **and youth** of the state who are in out-of-home care on a regular or
16 consistent basis. Toward that end, it is the purpose of this Chapter to establish
17 statewide minimum standards for the safety and well-being of children **and youth**,

1 to insure maintenance of these standards, and to regulate conditions in these facilities
 2 through a program of licensing. It shall be the policy of the state to insure protection
 3 of all individuals under care by specialized providers and to encourage and assist in
 4 the improvement of programs. It is the further intent of the legislature that the
 5 freedom of religion of all citizens shall be inviolate. This Chapter shall not give the
 6 Department of Health and Hospitals or the Department of Children and Family
 7 Services jurisdiction or authority to regulate, control, supervise, or in any way be
 8 involved in the form, manner, or content of any curriculum or instruction of a school
 9 or specialized provider sponsored by a church or religious organization so long as
 10 the civil and human rights of the clients and residents are not violated.

11 * * *

12 §1403. Definitions

13 As used in this Chapter, the following definitions shall apply unless the
 14 context clearly states otherwise:

15 * * *

16 (7) "Residential home" means any place, facility, or home operated by any
 17 institution, society, agency, corporation, person or persons, or any other group to
 18 provide full-time care, twenty-four hours per day, for more than four children, **who**
 19 **may remain at the facility in accordance with R.S. 46:1403.1,** who are not related
 20 to the operators and, **except as provided in this Paragraph,** whose parents or
 21 guardians are not residents of the same facility, with or without transfer of custody.
 22 **However, a child of a person who is a resident of a residential home may reside**
 23 **with that parent at the same facility.**

24 * * *

25 §1403.1. Extended stay for completion of educational courses or other programs

26 **A.** Notwithstanding any other provision of law to the contrary, including but
 27 not limited to R.S. 46:1403(A)(1), a **person child** housed at a residential home, may
 28 stay at such home for a period not to exceed six months beyond his eighteenth
 29 birthday to complete any educational course that he began at such facility, including

1 but not limited to a General Education Development course, and any other program
2 offered by the residential home.

3 **B. Notwithstanding Subsection A of this Section and any other provision**
4 **of law to the contrary, including but not limited to R.S. 46:1403(A)(1), a child**
5 **housed at a residential home that does not receive Title IV-E funding pursuant**
6 **to 42 U.S.C. 670 et seq., may remain at such home until his twenty-first birthday**
7 **to complete any educational course that he began at such facility, including but**
8 **not limited to a General Education Development course, and any other program**
9 **offered by the residential home.**

10 * * *

11 §1407. Rules, regulations, and standards for licenses

12 * * *

13 B.(1) The regulations developed by the department, at a minimum, shall
14 accomplish all of the following:

15 (a) Promote the health, safety, and welfare of children **and youth** attending
16 any specialized provider.

17 * * *

18 (f) Require residential home and maternity home providers to have a written
19 description of admission policies and criteria which expresses the needs, problems,
20 situations, or patterns best addressed by its program. These policies shall be available
21 to the person legally responsible for any child **or to any youth aged eighteen or**
22 **above** referred for placement.

23 (g) Include procedures by which parents and guardians are given an
24 opportunity for consultation and information about the educational and therapeutic
25 programs for the child **or youth** in attendance.

26 * * *

27 E. The secretary of the department, in specific instances, may waive
28 compliance with a minimum standard upon determination that the economic impact
29 is sufficiently great to make compliance impractical, as long as the health and well-

1 being of the staff or children **and youth** is not imperiled. If it is determined that the
2 specialized provider or agency is meeting or exceeding the intent of a standard or
3 regulation, the standard or regulation may be deemed to be met.

4 * * *

5 H. Nothing in the rules, regulations, and standards adopted pursuant to this
6 Section shall authorize or require medical examination, immunization, or treatment
7 of any child whose parents, **or of any youth aged eighteen or above who,** object to
8 such examination, immunization, or treatment on religious grounds.

9 I. Each residential home and maternity home facility shall have a written
10 discipline policy, which shall be made available to parents, **to youth aged eighteen**
11 **or above,** and to authorized inspection personnel upon request.

12 * * *

13 §1414.1. Disclosure requirements; penalties

14 * * *

15 D. Any owner, operator, current or prospective employee, or volunteer of a
16 specialized provider licensed by the department who discloses that he is currently
17 recorded on the state central registry for a justified finding of abuse or neglect shall
18 be entitled to a risk assessment evaluation provided by the department to determine
19 that the individual does not pose a risk to children **or youth**. Any such individual
20 who is determined to pose a risk to children **or youth** shall have the right to file an
21 appeal in accordance with R.S. 49:992 of the Administrative Procedure Act. Any
22 such determination by the risk evaluation panel shall be kept on file at all times by
23 the department.

24 * * *

25 §1417. Inspections

26 It shall be the duty of the department, through its duly authorized agents, to
27 inspect at regular intervals not to exceed one year, or as deemed necessary by the
28 department, and without previous notice all specialized providers subject to the
29 provisions of this Chapter. The department shall also develop and facilitate

1 coordination with and among other authorized agencies making inspections at
2 regular intervals. A specialized provider shall be open to inspection only during
3 working hours by parents or legal guardians of children **or youth** in care and by
4 authorized inspection personnel.

5 * * *

6 §1423. Removal of individuals from facility

7 The department shall remove any child, **youth**, or all children **and youth**
8 from any specialized provider when it is determined that one or more violations exist
9 within the specialized provider which places the health and well-being of the child,
10 **youth**, or children **and youth** in imminent danger; provided, however, that a
11 contradictory hearing shall be held within seven days thereafter by the district court
12 of the district to determine whether the action was justified and whether and how
13 long it shall continue.

14 * * *

15 §1428. Immunization information; influenza

16 A. Each licensed specialized provider or child-placing agency, before
17 November first of each year, shall make available to each child's parent or legal
18 guardian **and to each youth aged eighteen or above** information relative to the risks
19 associated with influenza and the availability, effectiveness, known
20 contraindications, and possible side effects of the influenza immunization. Such
21 information shall include the causes and symptoms of influenza, the means by which
22 influenza is spread, and the places where a parent or legal guardian may obtain
23 additional information and where a child **or youth** may be immunized against
24 influenza. Such information shall be updated annually if new information on such
25 disease is available.

26 B.(1) The Department of Health and Hospitals shall develop and provide
27 information on influenza immunization to the Department of Children and Family
28 Services. The Department of Children and Family Services shall provide such
29 information to each licensed specialized provider or child-placing agency, which

1 shall make the information available to each child's parent or legal guardian **and to**
 2 **each youth aged eighteen or above** pursuant to Subsection A of this Section.

3 * * *

4 Section 2. The department shall adopt rules in accordance with the Administrative
 5 Procedure Act to implement the provisions of this Act.

6 Section 3. Section 2 of this Act shall become effective upon signature by the
 7 governor or, if not signed by the governor, upon expiration of the time for bills to become
 8 law without signature by the governor, as provided by Article III, Section 18 of the
 9 Constitution of Louisiana. If vetoed by the governor and subsequently approved by the
 10 legislature, Section 2 of this Act shall become effective on the day following such approval.

The original instrument was prepared by Mary Dozier O'Brien. The following digest, which does not constitute a part of the legislative instrument, was prepared by McHenry Lee.

DIGEST

SB 397 Reengrossed

2016 Regular Session

Johns

Present law provides that a "youth" means a person not less than 16 years of age nor older than 21 years of age.

Present law provides that "child" means an individual who has not reached the age of 18 years or otherwise been legally emancipated.

Present law provides for the intent; rules, regulations, and standards for licenses; disclosure requirements and penalties; inspections; and removal of individuals from licensed specialized providers who house children.

Proposed law retains present law but allows the specialized providers to house youths.

Present law defines "residential home" as any place, facility, or home operated by any institution, society, agency, corporation, person or persons, or any other group to provide full-time care, twenty-four hours per day, for more than four children who are not related to the operators and whose parents or guardians are not residents of the same facility, with or without transfer of custody.

Proposed law retains present law but creates an exemption to allow a child of a person who is a resident of a residential home to reside with the parent at the same facility and adds that the children may remain at the facility in accordance with provisions of present law and proposed law on extended stay for completion of certain educational programs.

Present law provides that a person housed at a residential home may stay at such home for a period not to exceed six months beyond his eighteenth birthday to complete any educational course that he began at such facility, including but not limited to a GED course, and any other program offered by the residential home.

Proposed law retains present law but provides an exemption for a child housed at a residential home that does not receive Title IV-E funding to remain in the home until his

twenty-first birthday to complete any educational course begun at the facility, including a GED course, and any other program offered by the home.

Present law prohibits any medical examination, immunization, or treatment of any child whose parents object to such examination, immunization, or treatment on religious grounds.

Proposed law retains present law but includes any youth aged 18 or above who objects to such examination, immunization, or treatment on religious grounds.

Present law provides that each residential home and maternity home facility must have a written discipline policy, which shall be made available to parents, and to authorized inspection personnel upon request.

Proposed law retains present law but also requires that the written discipline policy be made available to any youth aged 18 or above.

Present law provides for the dissemination of information relative to the risks associated with influenza and information on influenza immunization to each child's parent or legal guardian.

Proposed law requires the same influenza information be disseminated to each youth aged 18 or above.

Requires the Dept. of Children and Family Services to adopt rules in accordance with the APA. This rulemaking authority is effective upon signature of the governor or lapse of time for gubernatorial action.

Effective August 1, 2016.

(Amends R.S. 46:1402, 1403(7), 1403.1, 1407(B)(1)(a), (f), and (g), (E), (H), and (I), 1414.1(D), 1417, 1423, and 1428(A) and (B)(1))

Summary of Amendments Adopted by Senate

Senate Floor Amendments to engrossed bill

1. Adds "youth" to those who may be housed at certain residential homes.
2. Adds an exemption to allow a child of a person who is a resident of a residential home to reside with the parent at the same facility.
3. Adds an exemption to allow children who are pursuing certain educational courses to remain housed at the residential home until his twenty-first birthday.
4. Prohibits medical examinations, immunizations, or treatment of any youth aged 18 or older who object to such examinations, immunizations, or treatments based on religious objections.
5. Requires that written discipline policy be provided to any youth aged 18 or above.
6. Requires certain influenza information be provided to any youth aged 18 or above.