

SENATE BILL NO. 397

BY SENATOR JOHNS AND REPRESENTATIVES BAGLEY, COX, HOLLIS,
HORTON, JACKSON, LEBAS, POPE, STOKES AND WILLMOTT

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,
18 to insure maintenance of these standards, and to regulate conditions in these facilities

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

* * *

§1403. Definitions

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

* * *

(7) "Residential home" means 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 may remain at the facility in accordance with R.S. 46:1403.1**, who are not related to the operators and, **except as provided in this Paragraph**, whose parents or guardians are not residents of the same facility, with or without transfer of custody. **However, a child of a person who is a resident of a residential home may reside with that parent at the same facility.**

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

A. Notwithstanding any other provision of law to the contrary, including but not limited to R.S. 46:1403(A)(1), a **person child** 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 General Education Development course, and any other program offered by the residential home.

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

8 * * *

9 §1407. Rules, regulations, and standards for licenses

10 * * *

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

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

15 * * *

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

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

24 * * *

25 E. The secretary of the department, in specific instances, may waive
 26 compliance with a minimum standard upon determination that the economic impact
 27 is sufficiently great to make compliance impractical, as long as the health and well-
 28 being of the staff or children **and youth** is not imperiled. If it is determined that the
 29 specialized provider or agency is meeting or exceeding the intent of a standard or
 30 regulation, the standard or regulation may be deemed to be met.

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

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

* * *

§1414.1. Disclosure requirements; penalties

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

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§1417. Inspections

It shall be the duty of the department, through its duly authorized agents, to inspect at regular intervals not to exceed one year, or as deemed necessary by the department, and without previous notice all specialized providers subject to the provisions of this Chapter. The department shall also develop and facilitate coordination with and among other authorized agencies making inspections at regular intervals. A specialized provider shall be open to inspection only during working hours by parents or legal guardians of children or youth in care and by authorized inspection personnel.

1 * * *

2 §1423. Removal of individuals from facility

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

10 * * *

11 §1428. Immunization information; influenza

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

22 B.(1) The Department of Health and Hospitals shall develop and provide
 23 information on influenza immunization to the Department of Children and Family
 24 Services. The Department of Children and Family Services shall provide such
 25 information to each licensed specialized provider or child-placing agency, which
 26 shall make the information available to each child's parent or legal guardian **and to**
 27 **each youth aged eighteen or above** pursuant to Subsection A of this Section.

28 * * *

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

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

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____