

2020 Second Extraordinary Session

HOUSE BILL NO. 95

BY REPRESENTATIVES BUTLER, ADAMS, AMEDEE, BACALA, BAGLEY, BEAULLIEU, BISHOP, BOURRIAQUE, BRASS, BROWN, BRYANT, CARPENTER, GARY CARTER, ROBBY CARTER, CORMIER, COUSSAN, COX, CREWS, DAVIS, DEVILLIER, DESHOTEL, DUBUISSON, DUPLESSIS, DWIGHT, ECHOLS, EDMONDS, EDMONSTON, EMERSON, FARNUM, FIRMENT, FREEMAN, FREIBERG, FRIEMAN, GADBERRY, GAROFALO, GOUDEAU, GREEN, HARRIS, HILFERTY, HODGES, HORTON, HUGHES, HUVAL, ILLG, IVEY, JAMES, JEFFERSON, JENKINS, MIKE JOHNSON, TRAVIS JOHNSON, JONES, JORDAN, KERNER, LACOMBE, LYONS, MACK, MAGEE, MCCORMICK, MCFARLAND, MCKNIGHT, MCMAHEN, MIGUEZ, DUSTIN MILLER, MINCEY, MOORE, MUSCARELLO, ORGERON, CHARLES OWEN, ROBERT OWEN, PRESSLY, RISER, ROMERO, SCHEXNAYDER, SEABAUGH, SELDERS, ST. BLANC, STEFANSKI, TARVER, THOMAS, THOMPSON, TURNER, VILLIO, WHEAT, WHITE, WILLARD, AND ZERINGUE

EXCEP PERSON/DEV DISABLE: Requires the La. Department of Health to allow visitation of residents at intermediate care facilities by residents' family members during a public health emergency (Item #28)

1 AN ACT

2 To require the Louisiana Department of Health to allow visitation of residents of

3 intermediate care facilities by certain family members of those residents; to provide

4 conditions for such visitation; to provide for the application of certain law and

5 effectiveness of that law; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. The provisions of this Act shall apply exclusively during any state of

8 public health emergency declared in accordance with R.S. 29:766 to address the infectious

9 respiratory disease known as COVID-19.

10 Section 2.(A) Notwithstanding any law to the contrary, the Louisiana Department

11 of Health, referred to hereafter in this Section as the "department", shall allow any close

12 family member of a resident of an ICF/DD to visit the resident in accordance with the

13 provisions of this Section.

1 (B)(1) The department shall not restrict visitation of ICF/DD residents by close  
2 family members based upon the occurrence of an outbreak of COVID-19 infections among  
3 facility residents that is known to have resulted from transmission of COVID-19 to a resident  
4 from a staff member of the facility.

5 (2) The department shall prohibit any close family member who is infected with  
6 COVID-19 from visiting an ICF/DD resident.

7 (C)(1) The department may require any close family member who seeks to visit an  
8 ICF/DD resident at the facility to be tested for COVID-19 and shall allow the close family  
9 member to visit the resident if the test result is negative.

10 (2) The department may require that during any visit with an ICF/DD resident at the  
11 facility by a close family member, the close family member shall wear personal protective  
12 equipment of the same type and in the same amount that direct care staff are required to wear  
13 when physically interacting with facility residents.

14 (3) The department shall allow a close family member to visit an ICF/DD resident  
15 away from the facility campus and shall allow the resident to return to the facility only when  
16 the resident is tested for COVID-19 and the test result is negative.

17 (D) Neither the department nor the ICF/DD shall limit an on-campus visit with an  
18 ICF/DD resident by a close family member to a duration of less than two hours.

19 (E) For purposes of this Section, the following terms shall have the meaning  
20 ascribed in this Subsection:

21 (1) "Close family member" means a parent, step-parent, sibling, step-sibling, aunt,  
22 uncle, child, step-child, spouse, mother-in-law, father-in-law, grandparent, grandchild, or  
23 legal representative of the ICF/DD resident.

24 (2) "Department" means the Louisiana Department of Health.

25 (3) "ICF/DD" means an intermediate care facility for people with developmental  
26 disabilities licensed in accordance with the provisions of Part VI-E of Chapter 11 of Title  
27 40 of the Louisiana Revised Statutes of 1950.

28 Section 3. If the Louisiana Department of Health issues any citation, notice, or order  
29 to an ICF/DD pursuant to a licensing survey, inspection, or other evaluation conducted by  
30 the health standards section of the department and the citation, notice, or order has the effect

1 of prohibiting visitation at the facility and the facility disputes in writing any finding from  
 2 the survey, inspection, or evaluation, then the department shall resolve the dispute within  
 3 fourteen days of receiving written notice of the dispute from the facility. If the department  
 4 and the facility do not resolve the dispute within the period prescribed in this Section, then  
 5 visitation of clients at the ICF/DD may resume without penalty to the facility until such time  
 6 as the department and the facility resolve the dispute.

7 Section 4. The department shall take all administrative actions necessary to  
 8 effectuate the purpose and provisions of this Act.

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

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 95 Reengrossed

2020 Second Extraordinary Session

Butler

**Abstract:** Requires the La. Department of Health to allow visitation of residents at intermediate care facilities for people with developmental disabilities by persons designated as close family members.

Present law, R.S. 40:2180 et seq., provides for licensure and regulation by the Louisiana Department of Health (LDH) of intermediate care facilities for people with developmental disabilities (ICF/DD). Proposed law retains present law.

Proposed law provides that it shall apply exclusively during any state of public health emergency declared in accordance with present law, R.S. 29:766, to address the infectious respiratory disease known as COVID-19.

Proposed law provides that "close family member", for purposes of proposed law, means a parent, step-parent, sibling, step-sibling, aunt, uncle, child, step-child, spouse, mother-in-law, father-in-law, grandparent, grandchild, or legal representative of the ICF/DD resident.

Proposed law requires LDH to allow any close family member of a resident of an ICF/DD to visit the resident in accordance with the provisions of proposed law.

Proposed law prohibits LDH from restricting visitation of ICF/DD residents by close family members based upon the occurrence of an outbreak of COVID-19 infections among facility residents that is known to have resulted from transmission of COVID-19 to a resident from a staff member of the facility. Requires, however, that LDH prohibit any close family member who is infected with COVID-19 from visiting an ICF/DD resident.

Proposed law authorizes LDH to require any close family member who seeks to visit an ICF/DD resident at the facility to be tested for COVID-19, and to allow the close family member to visit the resident if the test result is negative.

Proposed law authorizes LDH to require that during any visit with an ICF/DD resident at the facility by a close family member, the close family member shall wear personal protective equipment of the same type and in the same amount that direct care staff are required to wear when physically interacting with facility residents.

Proposed law requires LDH to allow a close family member to visit an ICF/DD resident away from the facility campus and to allow the resident to return to the facility only after the resident is tested for COVID-19 and the test result is negative.

Proposed law stipulates that neither LDH nor the ICF/DD shall limit an on-campus visit with an ICF/DD resident by a close family member to a duration of less than two hours.

Proposed law provides that if LDH issues any citation, notice, or order to an ICF/DD pursuant to a licensing survey, inspection, or other evaluation and the citation, notice, or order has the effect of prohibiting visitation at the facility and the facility disputes in writing any finding from the survey, inspection, or evaluation, then LDH shall resolve the dispute within 14 days of receiving written notice of the dispute from the facility. Provides further that if LDH and the facility do not resolve the dispute within 14 days, then visitation of clients at the ICF/DD may resume without penalty to the facility until such time as the dispute is resolved.

Effective upon signature of governor or lapse of time for gubernatorial action.

#### Summary of Amendments Adopted by House

##### The House Floor Amendments to the engrossed bill:

1. Provide that if the La. Dept. of Health issues any citation, notice, or order to an ICF/DD pursuant to a licensing survey, inspection, or other evaluation and the citation, notice, or order has the effect of prohibiting visitation at the facility and the facility disputes in writing any finding from the survey, inspection, or evaluation, then the department shall resolve the dispute within 14 days of receiving written notice of the dispute from the facility. Provide further that if the department and the facility do not resolve the dispute within 14 days, then visitation of clients at the ICF/DD may resume without penalty to the facility until such time as the dispute is resolved.
2. Make technical changes.