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## DIGEST

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HB 734 Original

2015 Regular Session

Seabaugh

**Abstract:** Provides relative to the registration and regulation of certain child care providers who receive state or federal funds related to the care provided.

Present law authorizes the Dept. of Education to oversee the registration and regulation of unlicensed child care providers. Proposed law generally retains present law and adds new provider types to the registration law and requires criminal background checks for such providers, as explained more fully below.

### Definitions and Registration

Present law defines the types of unlicensed child care facilities that must be registered with the department.

Present law requires operators of "family child day care homes" to register with the department. Defines "family child day care home" as "any place, facility, or home operated by any institution, society, agency, corporation, person or persons, or any other group for the primary purpose of providing care, supervision, and guidance of six or fewer children." Proposed law repeals present law.

Proposed law requires "family child care providers" to register with the department and defines such providers as "an individual who provides child care services for fewer than 24 hours per day per child, as the sole caregiver, for six or fewer children, in a private residence."

Proposed law further requires "in-home providers" to register with the department. Defines such providers as "an individual who provides child care services in the child or children's own home."

Present law required registration by an unlicensed day care facility if such facility received state or federal funds, directly or indirectly. Proposed law requires the unlicensed day care provider to register if the federal or state funds received are related to the care provided.

Present law provides an exception to registration requirements for an unlicensed caregiver providing care exclusively for related family members. Proposed law retains present law.

Present law required the unlicensed child care provider to be registered before the provider could receive any state or federal funds, directly or indirectly. Proposed law retains present law for state or federal funds that are related to the care provided.

## Oversight

Present law authorized the state Dept. of Health and Hospitals and the Dept. of Education to oversee unlicensed child care providers. Proposed law places all authority for overseeing such providers with the Dept. of Education.

Present law requires the overseeing dept. to promulgate rules and regulations in accordance with the APA for the registration, oversight, and inspection of unlicensed child care providers. Proposed law retains present law.

## Inspections

Present law authorizes inspections of unlicensed child care facilities by the department, the state fire marshal, parents, and "other authorized inspection personnel" during normal working hours or when children are in care. Proposed law retains present law.

Present law authorizes the state fire marshal to assess a \$30 fee to unlicensed child care facilities who apply for registration to cover the cost of facility inspections. Proposed law retains present law.

## Revocation of Registration; Appeal; Violations

Present law authorizes the overseeing department to deny, revoke, or refuse to renew a registration if an application has failed to comply with present law. Proposed law retains present law.

Present law establishes an appeal process for an unlicensed child care provider who has had his registration revoked or denied. Proposed law retains present law.

Present law provides that any provider who operates without a valid registration shall be fined not less than \$25 and not more than \$100. Provides that each day of operation in violation of present law constitutes a separate offense. Proposed law retains present law.

## Grounds for Revocation and Criminal Background Checks

Present law prohibits any unlicensed child care provider from employing or allowing a person who had been convicted of or plead *nolo contendere* to any of a group of certain enumerated present law crimes, such as first-degree murder and cruelty to juveniles, to live in the place where care is provided.

Proposed law prohibits any individual who has been convicted of or plead *nolo contendere* to any such enumerated present law crimes from being a family child care provider, from being employed in the residence or on the property of the residence where the care is provided, or living in the residence where such care is provided.

For "in-home providers", proposed law is the same as proposed law relative to family child care providers, except that "caregivers" cannot be expelled for convictions or pleading *nolo contendere*

to any of the enumerated present law crimes. Defines "caregiver" as "any person legally obligated to provide or secure care for a child, including a parent, legal custodian, foster home parent, or other person providing a residence for the child."

Present law exempts providers who are related to all children receiving care from the criminal background check requirements. Proposed law retains present law.

Present law (R.S. 15:587.1) authorizes certain agencies and employers to obtain criminal background information on specific classes of people. Proposed law authorizes the Dept. of Ed. to obtain criminal background information on registered unlicensed child care providers and any adults living in the home or employed on the premises.

Present law (R.S. 15:587.1(D)), with certain exceptions, prohibits the individual whose criminal history is being reviewed from being charged for such background checks. Proposed law requires the unlicensed child care provider to pay the cost of any criminal background check necessary to prove compliance with proposed law.

#### Required Training

Present law requires each unlicensed child care provider to participate in a four-hour orientation.

Present law provides that such orientation counts toward required professional development training mandated by the Dept. of Ed. Proposed law provides that the orientation counts toward required training mandated by BESE.

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

(Amends R.S. 15:587.1(A)(1)(a) and (D)(2), the heading of Part X-C of Ch. 1 of Title 17, R.S. 17:407.61, 407.62(4)-(6), and 407.63-407.72; Adds R.S. 17:407.62(7))