

2016 Regular Session

SENATE BILL NO. 109

BY SENATOR BARROW

EARLY CHILDHOOD ED. Provides for confidentiality of applications and client case records for child care assistance clients. (gov sig)

1 AN ACT

2 To enact R.S. 17:407.29, relative to early childhood programs; to provide relative to
3 confidentiality of applications and client case records for child care assistance
4 clients; to provide for exceptions; to provide for waiver of confidentiality; to provide
5 for penalties; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 17:407.29 is hereby enacted to read as follows:

8 **§407.29. Confidentiality of applications and client case records for child care**
9 **assistance clients; waiver; penalty**

10 **A. Applications for assistance and information contained in case records**
11 **of child care assistance clients of the Department of Education shall be**
12 **confidential and, except as otherwise provided in this Section, it shall be**
13 **unlawful for any person to solicit, disclose, receive, make use of, authorize,**
14 **knowingly permit, participate in, or acquiesce in the use of applications or client**
15 **case records or the information contained therein for any purpose not directly**
16 **connected with the administration of department programs.**

17 **B. Notwithstanding any provision of law to the contrary, all offices and**

1 divisions within the department are hereby expressly authorized to share access
2 to child care assistance case records as necessary for the administration of the
3 programs they administer, except as prohibited by federal law or regulation.

4 C. Publication of lists or names of clients or applicants is prohibited,
5 except as provided in this Section.

6 D. Subject to the exceptions enumerated in this Subsection, confidential
7 information may be released to an outside source not directly connected with
8 the administration of department programs, but only upon written request of
9 the outside source and only after written waiver by the applicant, client, or his
10 legal representative is provided. Governmental authorities, the courts, and law
11 enforcement agencies shall be considered the same as any other outside source,
12 except as provided in Subsections E, F, and G of this Section.

13 E.(1) Upon request of any authorized person as defined in this
14 Subsection, the most recent address and place of employment of any absent
15 parent shall be provided if such information is available, notwithstanding any
16 other provision of this Section. For the purposes of this Subsection, the term
17 "authorized person" shall mean:

18 (a) Any agent or attorney of any state agency which has the duty or
19 authority to seek to recover any amounts owed as child support.

20 (b) Any court of competent jurisdiction which has authority to issue an
21 order against an absent parent for the support and maintenance of a child, or
22 any agency of such court.

23 (c) Any resident parent, legal guardian, attorney, or agent of any child,
24 except a child currently receiving aid to dependent children, without regard to
25 the existence of any court order against an absent parent who has a duty to
26 support and maintain the child.

27 (2) Department information pertaining to financial assistance programs
28 may be released in accordance with federal laws and regulations governing the
29 release of financial assistance program information.

1 **F. The following information shall not be subject to waiver and shall not**
2 **be released to applicants, recipients, or outside sources, except those outside**
3 **sources engaged in the administration of department programs:**

4 **(1) Information furnished to the department by persons, governmental**
5 **agencies, or other legal entities, when the provider of information is subject to**
6 **a confidentiality statute or regulation which prohibits release of such**
7 **information to an outside source.**

8 **(2) Information contained in applications for assistance and case records**
9 **that is furnished to law enforcement agencies or courts to aid in the prosecution**
10 **of criminal offenses related to any department program.**

11 **G. The department may release information to other state agencies that**
12 **are engaged in rendering services or treatment to a department program**
13 **recipient or former recipient. The agency receiving the information from the**
14 **department pursuant to this Subsection shall be bound by the same**
15 **confidentiality standard as prescribed in this Section with regard to release of**
16 **information to the recipient, the client's legal representative, or an outside**
17 **source.**

18 **H. Following any department investigation of a public or private early**
19 **learning center, registered family child care home, or in-home provider, the**
20 **department may inform the parent or guardian of any child being cared for at**
21 **the center, home, or residence, or the parent or guardian of any child who has**
22 **applied for placement in the center, home, or residence of a valid finding of**
23 **child abuse, neglect, or exploitation occurring at the center, home, or residence,**
24 **upon the request of the parent or legal guardian. The department may also**
25 **advise such parent or legal guardian of a valid finding when it becomes**
26 **necessary for the department to take adverse action against a center, home, or**
27 **residence in the interest of the safety and welfare of the children. These**
28 **circumstances shall constitute authorized disclosures under the provisions of**
29 **R.S. 14:403(A)(2).**

1 **I. Any person who knowingly and willfully violates any of the provisions**
 2 **of this Section shall be fined not more than two thousand five hundred dollars**
 3 **or imprisoned for not more than two years in the parish jail, or both, nor less**
 4 **than five hundred dollars or ninety days on each count.**

5 **J. Notwithstanding any provision of this Section, in any hearing before**
 6 **the State Civil Service Commission, Equal Employment Opportunity**
 7 **Commission, and any office in the Louisiana Workforce Commission in its**
 8 **capacity of administering the Louisiana Employment Security Law, or in any**
 9 **civil or criminal judicial proceeding, wherein the work performance or conduct**
 10 **of an employee of the department is at issue, client case records relevant to said**
 11 **work performance or conduct shall be admissible. However, prior to admission**
 12 **into evidence, the client case records shall have client names and identifying**
 13 **data obliterated. The department shall provide to the employee the relevant**
 14 **case records with names and other identifying data obliterated, except that**
 15 **where an employee is disciplined as a result of allegations made by the**
 16 **guardian, parents, family members, or tutor of the client, the names of the**
 17 **accuser shall not be withheld so as to deny the employee the right of**
 18 **confrontation granted to him by the constitution and laws of the United States**
 19 **of America and the state of Louisiana.**

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

The original instrument was prepared by Margaret M. Corley. The following digest, which does not constitute a part of the legislative instrument, was prepared by Cheryl M. Serrett.

DIGEST

SB 109 Engrossed 2016 Regular Session Barrow

Present law provides for the Child Care and Development Fund Programs. (R.S. 17:407.28)

Proposed law provides that applications for assistance and the information contained in the case records of child care assistance clients of the Department of Education (department) shall be confidential and any use of such information not directly connected with the administration of the department programs shall be unlawful.

Proposed law provides that publication of the names of clients or applicants is prohibited except as provided.

Proposed law provides that confidential information may be released to an outside source not directly connected with the administration of the program when written request is submitted and a written waiver by the applicant, client or his legal representative is provided.

Proposed law provides that an authorized person shall be provided with the most recent address and place of employment of any absent parent. An authorized person shall mean:

- (1) Any agent of attorney of any state agency which has the authority to seek to recover child support.
- (2) Any court of competent jurisdiction, or agency of such court, which has authority to issue an order against an absent parent for the support and maintenance of a child.
- (3) Any resident parent, legal guardian, attorney, or agent of any child, except a child currently receiving aid to dependent children, without regard to the existence of any court order against an absent parent who has a duty to support and maintain any such child.

Proposed law provides that department information pertaining to financial assistance programs may be released in accordance with federal laws and regulations.

Proposed law provides that certain information shall not be subject to waiver and shall not be released to applicants, recipients, or outside sources, except those outside sources engaged in the administration of the programs of the department. Further provides that information not subject to waiver or release includes:

- (1) Information furnished to the department by persons, governmental agencies, or other legal entities when the provider of information is subject to a confidentiality statute or regulation which prohibits release of such information to an outside source.
- (2) Information contained in applications for assistance and case records that are furnished to law enforcement agencies or courts to aid in prosecution of criminal offenses related to any program.

Proposed law provides that the department may release information to other state agencies that are engaged in rendering services or treatment to a department program recipient or former recipient. Further provides that the agency receiving the information shall be bound by the same confidentiality standard as provided for in proposed law.

Proposed law provides that the department may inform the parent or guardian of any child being cared for at a public or private early learning center, registered family child care home, or in-home provider that the department is investigating or has found it necessary to take adverse action against such provider.

Proposed law provides that any person who knowingly and willfully violates any of the provisions of proposed law shall be fined not more than \$2,500 or imprisoned for not more than 2 years in the parish jail, or both, nor less than \$500 or 90 days on each count.

Proposed law provides that client case records shall be admissible in a hearing before the State Civil Service Commission, Equal Employment Opportunity Commission, and any

office in the Louisiana Workforce Commission in its capacity of administering the Louisiana Employment Security Law, wherein the work performance or conduct shall be admissible. Further provides that names and other identifying data be obliterated, except in the case of discipline resulting from allegations made by the guardian, parent, family members, or tutor of the client.

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

(Adds R.S. 17:407.29)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Education to the original bill

1. Makes technical changes.
2. Makes penalties contingent upon knowing and willful violation of proposed law.