

ACT No. 354

2015 Regular Session

HOUSE BILL NO. 734

BY REPRESENTATIVE SEABAUGH AND SENATOR WALSWORTH

1 AN ACT

2 To amend and reenact R.S. 15:587.1(A)(1)(a) and (D)(2), the heading of Part X-C of
3 Chapter 1 of Title 17, R.S. 17:407.61, 407.62(4) through (6), and 407.63 through
4 407.72 and to enact R.S. 17:407.62(7), relative to regulation of certain child care
5 providers; to provide relative to definitions; to provide relative to registration,
6 criminal background checks, education, inspection, and regulation of such providers;
7 to provide relative to the powers and duties of the State Board of Elementary and
8 Secondary Education with respect to such providers; to provide relative to the
9 powers and duties of the state Department of Education with respect to such
10 providers; to provide with respect to the powers and duties of the State Fire Marshal
11 with respect to such providers; to provide relative to revocation and reinstatement
12 of registration for such providers; to provide relative to penalties, fees, and fines
13 assessed against such providers; to provide for an effective date; and to provide for
14 related matters.

15 Be it enacted by the Legislature of Louisiana:

16 Section 1. R.S. 15:587.1(A)(1)(a) and (D)(2) are hereby amended and reenacted to
17 read as follows:

18 §587.1. Provision of information to protect children

19 A.(1)(a) As provided in R.S. 15:825.3, R.S. 17:15, ~~and 407.42, and 407.71,~~
20 Children's Code Article 424.1, and R.S. 46:51.2 and 1441.13, any employer or others
21 responsible for the actions of one or more persons who have been given or have
22 applied to be considered for a position of supervisory or disciplinary authority over
23 children, and as provided in R.S. 46:51.2(A), the Department of Children and Family
24 Services as employer of one or more persons who have been given or have applied
25 to be considered for a position whose duties include the investigation of child abuse

1 or neglect, supervisory or disciplinary authority over children, direct care of a child,
2 or performance of licensing surveys, shall request in writing that the bureau supply
3 information to ascertain whether that person or persons have been arrested for or
4 convicted of, or pled nolo contendere to, any criminal offense. The request must be
5 on a form prepared by the bureau and signed by a responsible officer or official of
6 the organization or department making the request. It must include a statement
7 signed by the person about whom the request is made which gives his permission for
8 such information to be released.

9 * * *

10 D.

11 * * *

12 (2) The prohibition in Paragraph (1) of this Subsection against an individual
13 applicant bearing any of the costs of providing information shall not apply to
14 requests made pursuant to the provisions of R.S. 17:15 or 407.71 or R.S. 46:51.2.

15 * * *

16 Section 2. The heading of Part X-C of Chapter 1 of Title 17, R.S. 17:407.61,
17 407.62(4) through (6), and 407.63 through 407.72 are hereby amended and reenacted and
18 R.S. 17:407.62(7) is hereby enacted to read as follows:

19 PART X-C. Family Child ~~Day~~ Care Provider and In-Home Provider Registration Law

20 §407.61. Short title

21 This Part may be cited as the "Family Child ~~Day~~ Care ~~Home~~ Provider and In-
22 Home Child Care Provider Registration Law".

23 §407.62. Definitions

24 As used in this Part, the following definitions shall apply unless the context
25 clearly states otherwise.

26 * * *

27 (4) "Department" means the ~~Department of Health and Hospitals or the state~~
28 ~~Department of Education, as indicated by the context.~~

29 (5) "Family child ~~day~~ care ~~home~~ provider" means ~~any place, facility, or~~
30 ~~home operated by any institution, society, agency, corporation, person or persons,~~

1 ~~or any other group for the primary purpose of providing care, supervision, and~~
2 ~~guidance of an individual who provides child care services for fewer than twenty-~~
3 ~~four hours per day per child, as the sole caregiver, for six or fewer children, in a~~
4 ~~private residence.~~

5 (6) "In-home provider" means an individual who provides child care services
6 in the child or children's own home.

7 (7) "Relative" or "related" means the child, grandchild, niece, or nephew of
8 the primary child care provider in of a family child day care home provider or in-
9 home provider.

10 §407.63. Requirement for registration; exemptions

11 A. All family child ~~day care homes that~~ providers and in-home providers
12 who either directly or indirectly receive state or federal funds, directly or indirectly,
13 related to the care provided shall be registered.

14 B. Family child ~~day care homes that~~ providers and in-home providers who
15 do not directly or indirectly receive state or federal funds, directly or indirectly,
16 related to the care provided and individuals who provide care for only related family
17 members, shall not be required to be registered.

18 C. All family child ~~day care homes~~ providers and in-home providers shall
19 be registered prior to directly or indirectly receiving any state or federal funds;
20 ~~directly or indirectly~~ related to the care provided.

21 §407.64. Rules and regulations; inspection requirements

22 A. ~~The Department of Health and Hospitals shall promulgate rules and~~
23 ~~regulations in accordance with the Administrative Procedure Act to carry out the~~
24 ~~provisions of this Part for all family child day care homes which receive state or~~
25 ~~federal funds except those family child day care homes which participate in the~~
26 ~~United States Child and Adult Care Food Program or the Child Care and~~
27 ~~Development Fund.~~

28 B. ~~The Department of Education~~ State Board of Elementary and Secondary
29 Education shall promulgate rules and regulations in accordance with the
30 Administrative Procedure Act to carry out the provisions of this Part for those

1 registered family child ~~day~~ care ~~homes that~~ providers and in-home providers who
2 participate in the United States Child and Adult Care Food Program or the Child
3 Care and Development Fund.

4 ~~C. B. A~~ Each registered family child ~~day~~ care ~~home~~ provider and in-home
5 provider shall be inspected and approved by the office of state fire marshal in
6 accordance with the rules and regulations as established ~~under Subsections A and B~~
7 pursuant to Subsection A of this Section, developed in consultation with the office
8 of state fire marshal.

9 §407.65. Inspections

10 The ~~Department of Education~~ department, through its duly authorized agents,
11 shall reserve the right to visit and inspect each registered family child ~~day~~ care
12 ~~homes~~ provider and in-home provider as deemed necessary by the department. ~~All~~
13 Any residence or home in which care is provided by a registered family child ~~day~~
14 care ~~homes~~ provider or in-home provider shall be open to inspection by the
15 department, parents of children in care, and by other authorized inspection personnel
16 during normal working hours or when children are in care.

17 §407.66. Fees

18 A.(1) The office of state fire marshal shall have the authority to charge each
19 family child ~~day~~ care ~~home~~ provider and in-home provider applying for registration
20 or renewal of registration an annual fee for services. This fee shall be adopted in
21 accordance with the Administrative Procedure Act.

22 (2) A fee shall be charged to cover the cost of inspection for family child ~~day~~
23 care ~~homes~~ providers and in-home providers regulated by the ~~Department of State~~
24 Board of Elementary and Secondary Education in accordance ~~to~~ with R.S.
25 17:407.64~~(B)~~(A). The fee shall be set at thirty dollars per inspection and used for the
26 sole purpose of employing personnel to perform such inspections.

27 B. The office of state fire marshal shall transfer sufficient funds to the
28 ~~Department of Health and Hospitals or the Department of Education~~ department for
29 those family child ~~day~~ care ~~homes which~~ providers and in-home providers who
30 receive state or federal funds but do not participate in the United States Child and

Adult Care Food Program to carry out the registration process in accordance with this Part.

§407.67. Revocation or refusal to renew registration; written notice

The ~~authorized~~ department shall have the authority to deny, revoke, or refuse to renew a registration of a registered family child ~~day~~ care ~~home~~ provider or in-home provider if an applicant has failed to comply with the provisions of this Part, any applicable published rule or regulation relating to registered family child ~~day~~ care ~~homes~~ providers or in-home providers, or any other state, federal, or local rule or regulation. If a registration is denied, revoked, or withdrawn, the action shall be effective when made and the family child ~~day~~ care ~~home~~ provider or in-home provider shall be notified in writing. This notice shall give the reason for denial, revocation, or withdrawal of the registration.

§407.68. Revocation or refusal of registration; appeal procedure

Upon the refusal of the department to grant or renew a registration or upon the revocation of a registration, the family child ~~day~~ care ~~home~~ provider or in-home provider having been refused a registration or renewal or having had a registration revoked shall have the right to appeal such action to the division of administrative law by submitting a written request for an appeal to the department within thirty calendar days after receipt of the notification of the refusal or revocation. The department shall notify the division of administrative law within ten calendar days of receipt of a request for an appeal and the appeal hearing shall be held no later than thirty calendar days after such notice, with an administrative ruling no later than thirty calendar days from the date of the hearing. This provision shall in no way preclude the right of the party to seek relief through mandamus suit against the department, as provided by law.

§407.69. Operating without or in violation of registration; penalty; injunctive relief

A. ~~Whoever operates a~~ Any family child ~~day~~ care ~~home~~ provider or in-home provider who is required to be registered under this Part and who provides child care services without a valid registration issued by the department shall be fined not less than twenty-five dollars nor more than one hundred dollars. Each day ~~of operation~~

1 child care services are provided in violation of the requirements of this Part shall
2 constitute a separate offense.

3 B. The department may also file suit in the district court in the parish in
4 which the family child ~~day care home is located~~ provider or in-home provider is
5 providing care, for injunctive relief, including a temporary restraining order, to
6 restrain the family child ~~day care home~~ provider or in-home provider from
7 continuing the violation.

8 §407.70. Notification of health and safety violations

9 The department shall notify the appropriate agencies if it ~~is determined~~
10 determines that one or more violations exist ~~within~~ at the residence where care is
11 being provided by a family child day care home which provider or in-home provider
12 that place the health and well-being of a child or children in imminent danger.

13 §407.71. Grounds for revocation or refusal to renew registration; criminal activities;
14 lack of CPR or first aid training

15 A.(1) ~~No family child day care home may have in its employ, or living in the~~
16 ~~home, any person who has been convicted of or pled nolo contendere to a crime~~
17 listed in R.S. 15:587.1(C) may be a registered family child care provider, be
18 employed in the residence or on the property of the residence where the care is
19 provided by the registered family child care provider, or live in the residence where
20 care is provided by the registered family child care provider. The cost of any
21 criminal background check which may be required by the department as proof of
22 compliance with this Subsection shall be the responsibility of the family child ~~day~~
23 ~~care home~~ provider.

24 (2) No person who has been convicted of or pled nolo contendere to a crime
25 listed in R.S. 15:587.1(C) may be a registered in-home child care provider, be an
26 adult employed in the home or on the property of the home where care is provided
27 by the registered in-home child care provider, or be any adult living in the home
28 where care is provided by the registered in-home child care provider who is not a
29 caregiver. For the purposes of this Paragraph, the term "caregiver" shall mean any
30 person legally obligated to provide or secure care for a child, including a parent,

1 legal custodian, foster home parent, or other person providing a residence for the
2 child. The cost of any criminal background check which may be required by the
3 department as proof of compliance with this Subsection shall be the responsibility
4 of the in-home provider.

5 (3) The State Board of Elementary and Secondary Education shall establish
6 by regulation requirements and procedures consistent with the provisions of R.S.
7 15:587.1 that require the submission of a person's fingerprints in a form acceptable
8 to the Louisiana Bureau of Criminal Identification and Information and through
9 which:

10 (a) The department may request information concerning whether or not a
11 registered family child care provider, any adult employed in the residence or on the
12 property of the residence where care is provided, or any adult living in the residence
13 where care is provided has been arrested for, convicted of, or pled nolo contendere
14 to any criminal offense.

15 (b) The department may request information concerning whether or not the
16 registered in-home provider, any adult employed in the home or on the property of
17 the home where care is provided, or any adult living in the home where care is
18 provided has been arrested for, convicted of, or pled nolo contendere to any criminal
19 offense.

20 ~~B. The primary child care provider of any~~ Each family child day care home
21 provider and in-home provider shall have documented current certification in either
22 Infant/Child CPR or Infant/Child/Adult CPR in order to be registered.

23 C. The department may deny, revoke, or refuse to renew any registration of
24 a family child ~~day care home~~ which provider or in-home provider who violates the
25 provisions of this Section.

26 D. The provisions of this Section shall not apply to a family child ~~day care~~
27 ~~home in which the primary child care~~ provider or in-home provider when such
28 ~~provider at such home~~ is related to all the children receiving child care at such home.

29 E. The provisions of this Section shall not apply to a family child ~~day care~~
30 ~~home~~ provider or in-home provider who is registered with the Department of

1 ~~Education department~~ solely for participation in the United States Child and Adult
2 Care Food Program.

3 §407.72. Orientation

4 A. ~~All~~ Each family child ~~day care home providers~~ provider and in-home
5 provider who is receiving payments from the ~~Department of Education~~ department
6 shall be required to participate in a four-hour orientation. The orientation curriculum
7 shall include but not be limited to the following subjects: recordkeeping;
8 immunization schedules and requirements; recognizing signs of child abuse; child
9 abuse prevention; communicating with parents; age appropriate activities for young
10 children; child development; child safety; and nutritional needs of children. The
11 orientation ~~will~~ shall count toward the required hours of professional development
12 training mandated by the ~~Department of Education~~ State Board of Elementary and
13 Secondary Education.

14 B. New family child ~~day care home providers~~ and in-home providers are
15 required to provide proof of orientation participation within ~~twelve~~ six months ~~after~~
16 ~~beginning operation of initial registration~~. ~~New~~ Newly registered providers, at the
17 time of initial application, are required to sign an agreement committing to attend the
18 required orientation within ~~twelve~~ six months.

19 Section 3. This Act shall become effective on July 1, 2015.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____