

Regular Session, 2013

SENATE BILL NO. 222

BY SENATOR WALSWORTH

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CHILDREN. Revises licensure procedures for child day care centers and facilities. (8/1/13)

1 AN ACT  
2 To amend and reenact R.S. 46:1403, 1404(A), 1405, 1415, 1419 through 1422, 1425(A) and  
3 (B), 1427(introductory paragraph), and 1428(A), to enact R.S. 46:1406 and 1407,  
4 and to repeal R.S. 46:1408, 1409, 1412, 1413, and 1424, relative to child care  
5 facilities; to provide for licensure requirements; to provide for transitional  
6 provisions; to provide for licensure procedures; to provide for rules; to provide for  
7 disclosure; to provide for agencies and facilities subject to regulation; to provide for  
8 revocation or refusal to renew licenses; to provide for violations; to provide for  
9 appeals; to provide for penalties; to provide for injunctive relief; and to provide for  
10 related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 46:1403, 1404(A), 1405, 1415, 1419 through 1422, 1425(A) and (B),  
13 1427(introductory paragraph), and 1428(A) are hereby amended and reenacted, and R.S.  
14 1406 and 1407 are hereby enacted to read as follows:

15 §1403. Definitions

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

1           (1) **"Camp" means any place or facility operated by any institution,**  
2           **society, agency, corporation, person or persons, or any other group which serves**  
3           **only children at least five years of age or older and operates only when school**  
4           **is not in session during the summer months and/or school holidays.**

5           (2) "Child" means a person who has not reached age eighteen or otherwise  
6           been legally emancipated. The words "child" and "children" are used interchangeably  
7           in this Chapter.

8           ~~(2)~~(3) "Child-placing agency" means any institution, society, agency,  
9           corporation, facility, person or persons, or any other group engaged in placing  
10          children in foster care or with substitute parents for temporary care or for adoption,  
11          or engaged in assisting or facilitating the adoption of children, or engaged in placing  
12          youth in transitional placing programs, but shall not mean a person who may  
13          occasionally refer children for temporary care.

14          ~~(3) "Community home" means any place, facility, or home operated by any~~  
15          ~~institution, society, agency, corporation, person or persons, or any other group which~~  
16          ~~receives therein at least four but not more than six individuals, who are not related~~  
17          ~~to the operator and whose parents or guardians are not residents of the same facility,~~  
18          ~~for supervision, care, lodging, and maintenance, with or without transfer of custody.~~

19          (4) "Day **Child day** care center" means any place or facility operated by any  
20          institution, society, agency, corporation, person or persons, or any other group for  
21          the purpose of providing care, supervision, and guidance of seven or more children,  
22          not including those related to the caregiver, unaccompanied by parent or guardian,  
23          on a regular basis for at least twelve and one-half hours in a continuous seven-day  
24          week. **If a child day care center provides transportation or arranges for**  
25          **transportation to and from the center, either directly or by contract with third**  
26          **parties, all hours during which a child is being transported shall be included in**  
27          **calculating the hours of operation.** A day care center that remains open for more  
28          than twelve and one-half hours in a continuous seven-day week, and in which no  
29          individual child remains for more than twenty-four hours in one continuous stay shall

1 be known as a full-time day care center. A day care center that remains open after  
2 9:00 p.m. shall meet the appropriate regulations established for nighttime care.

3 (5) "Department" means ~~the Department of Health and Hospitals, with~~  
4 ~~respect to facilities and agencies funded under Title XIX of the Social Security Act,~~  
5 ~~and the Department of Children and Family Services for all other facilities and~~  
6 ~~agencies.~~

7 (6) ~~"Group home" means any place, facility, or home operated by any~~  
8 ~~institution, society, agency, corporation, person or persons, or any other group which~~  
9 ~~receives therein at least seven but not more than fifteen children who are not related~~  
10 ~~to the operators and whose parents or guardians are not residents of the same facility~~  
11 ~~for supervision, care, lodging, and maintenance, with or without transfer of custody.~~

12 **"License category" means the category of license applied for or held, which**  
13 **shall include child day care centers, maternity homes, residential homes, and**  
14 **child-placing agencies.**

15 (7) **"License type" means the type of license applied for or held, which**  
16 **shall include Type I, Type II, Type III, and Type IV licenses.**

17 (8) "Maternity home" means any place or facility in which any institution,  
18 society, agency, corporation, person or persons, or any other group regularly receives  
19 and provides necessary services for children before, during, and immediately  
20 following birth. This definition shall not include any place or facility which receives  
21 and provides services for women who receive maternity care in the home of a  
22 relative within the sixth degree of kindred, computed according to civil law, or  
23 general or special hospitals in which maternity treatment and care is part of the  
24 medical services performed and the care of children only brief and incidental.

25 (8)(9) "Related" or "relative" means a natural or adopted child or grandchild  
26 of the caregiver or a child in the legal custody of the caregiver.

27 (9)(10) "Residential home" means any place, facility, or home operated by  
28 any institution, society, agency, corporation, person or persons, or any other group  
29 to provide full-time care, **twenty-four hours per day,** for ~~more than fifteen~~ **more**

1 **than four** children who are not related to the operators and whose parents or  
2 guardians are not residents of the same facility, with or without transfer of custody.  
3 ~~A residential home as defined in this Paragraph includes facilities known as~~  
4 ~~children's homes, halfway houses, residential treatment centers, training schools, and~~  
5 ~~facilities for the mentally retarded, emotionally disturbed, socially maladjusted, or~~  
6 ~~otherwise mentally or physically handicapped.~~

7 ~~(10)~~**(11)** "School", as referred to in R.S. 46:1415, means any institution or  
8 facility which provides for education of children in grades one or above. Any  
9 kindergarten or prekindergarten attached thereto shall be considered part of that  
10 school.

11 **(12) "Specialized provider" means a child-placing agency, maternity**  
12 **home, or residential home.**

13 **(13) A "Type I license" means a license held by a child day care center**  
14 **or residential home that is owned or operated by a church or religious**  
15 **organization that does not wish to be licensed as a Type II or Type III center.**  
16 **"Type I license" also means a license held by a child day care center or**  
17 **residential home holding a Class B license prior to the effective date of this**  
18 **Section.**

19 **(14) "Type I license" means the license held by a privately owned child**  
20 **day care center that either receives no state or federal funds from any source,**  
21 **whether directly or indirectly, or whose only source of state or federal funds is**  
22 **the federal food and nutrition program.**

23 **(15) "Type II license" means the license held by any publicly- or**  
24 **privately-owned specialized provider.**

25 **(16) "Type III license" means the license held by any publicly- or**  
26 **privately-owned child day care center which receives state or federal funds,**  
27 **directly or indirectly, from any source other than the federal food and nutrition**  
28 **program. Type III child day care centers must meet the performance and**  
29 **academic standards of the Early Childhood Care and Education Network**

1 regarding kindergarten readiness, as determined by the State Board of  
2 Elementary and Secondary Education.

3 ~~(11)~~**(17)** "Youth" means a person not less than sixteen years of age nor older  
4 than twenty-one years of age.

5 B. For purposes of this Chapter "child care facility" shall include ~~community~~  
6 ~~homes~~, maternity homes, ~~group homes~~, **child** day care centers, and residential homes  
7 as defined in this Section.

8 \* \* \*

9 §1404. Requirement of licensure

10 A. All child **day** care facilities **centers** and ~~child-placing agencies~~  
11 **specialized providers**, including facilities owned or operated by any governmental,  
12 profit, nonprofit, private, or church agency, shall be licensed **pursuant to this**  
13 **Chapter**. Child care licenses shall be of ~~two~~ **four** types: ~~Class A and Class B. All~~  
14 ~~child-placing agency licenses shall be Class A only.~~ **Type I, Type II, Type III, and**  
15 **Type IV.**

16 \* \* \*

17 §1405. Transitional provisions

18 ~~All child care facilities which were licensed on September 1, 1985, shall~~  
19 ~~automatically be issued Class A licenses. All child care facilities which were~~  
20 ~~registered on September 1, 1985, shall automatically be issued Class B licenses~~  
21 ~~without the necessity of making an application for licensure~~ **A.(1) Until such time**  
22 **as rules are promulgated by the department, child care facilities and**  
23 **child-placing agencies shall follow the rules, regulations, and standards for**  
24 **Class A and Class B licensure as established by R.S. 46:1409 and 1413.**

25 **(2) The department shall provide for the creation of a child care**  
26 **committee to include one representative from Louisiana's Early Childhood**  
27 **Advisory Council, the Child Care Association of Louisiana, the nonpublic**  
28 **school commission, the Department of Children and Family Services, and the**  
29 **Department of Education. The Department of Children and Family Services**

1 shall seek input from the committee in the development of the rules and  
2 regulations establishing Type I, Type II, Type III, and Type IV licenses and  
3 shall submit all recommended rules and regulations pursuant to this Section to  
4 the committee for approval.

5 B. All existing child day care centers or residential homes possessing a  
6 Class B license on July 31, 2013, shall automatically be issued an authorization  
7 certificate as provided by rule.

8 C.(1)All child day care centers that meet the definition for a Type II  
9 license pursuant to this Chapter shall be issued a Type II license.

10 (2) Any child day care center possessing a Class A license upon the  
11 effective date of this Section that meets the definition of a Type II license  
12 pursuant to this Chapter, shall automatically be issued a Type II license.

13 D. All existing child day care centers that meet the definition for a Type  
14 III license pursuant to this Chapter shall be automatically issued a Type III  
15 license in accordance with applicable regulations.

16 E.(1) All existing child placing agencies, maternity homes, and residential  
17 homes that meet the definition for a Type IV license pursuant to this Chapter  
18 shall be issued a Type IV license as provided by rule.

19 (2) Any maternity home, residential home, or child-placing agency  
20 possessing a Class A license upon the effective date of this Section that meets the  
21 definition of a Type IV license pursuant to this Chapter, shall automatically be  
22 issued a Type IV license.

23 F. Any child day care center requesting to change their license type for  
24 the following year shall apply to the department no later than December first  
25 of the preceding year. This Subsection shall not apply to child day care centers  
26 changing location or ownership that are required to apply for a new licence  
27 pursuant to Subsection 1406(D) of this Chapter.

28 §1406. Licenses and authorization certificates; application; temporary or  
29 provisional; fees

1           A. Application for licensure of a new child day care center or specialized  
2           provider shall be made by the child day care center or specialized provider to  
3           the department upon forms furnished by the department. Upon receipt of the  
4           application for a license and verification that minimum requirements for such  
5           license as established by rule are satisfied, and that the facility or agency is in  
6           compliance with all other state and local laws and regulations, the department  
7           shall issue a Type I, Type II, Type III, or Type IV license for the appropriate  
8           license category for such period as may be provided for by rule.

9           B. The department may provide through the promulgation of rules for  
10          the issuance of temporary, provisional, or extended licenses for each license  
11          category and type if a disapproval has not been received from any other state  
12          or local agency regulated by any other laws or rules to inspect such facilities or  
13          agencies.

14          C. A license of any type or category shall apply only to the location stated  
15          on the application, and such license, once issued, shall not be transferable from  
16          one person to another or from one location to another. If the location or  
17          ownership of the facility is changed, then the license shall be automatically  
18          revoked. A new application form shall be completed prior to all license or  
19          authorization certificate renewals.

20          D. All licensed or authorized facilities shall display the license in a  
21          prominent place at the facility, except that a facility operated by a church or  
22          religious organization may be exempt from such requirement provided the  
23          license is available upon request.

24          E. There shall be an annual license for each type of child day care center  
25          and specialized provider in an amount equal to the annual license fee in full  
26          force and effect for all Class A and Class B child care facilities and child-placing  
27          agencies possessing such license upon the effective date of this Section, without  
28          an increase in the amount of such fees.

29          F. There shall be an annual license fee of twenty-five dollars for any

1 license issued to a child day care center providing care for fifteen or fewer  
2 children; one hundred dollars for any license issued to a child day care center  
3 providing care for at least sixteen but no more than fifty children; one hundred  
4 seventy-five dollars for any license issued to a child day care center providing  
5 care for at least fifty-one but no more than one hundred children; and two  
6 hundred fifty dollars for any license issued to a child day care center providing  
7 care for more than one hundred children.

8 G. There shall be an annual license fee of one hundred dollars for any  
9 license issued to a residential home providing care for six or less children; two  
10 hundred dollars for any license issued to a residential facility providing care for  
11 at least seven but no more than fifteen children; and three hundred dollars for  
12 any license issued to a residential facility providing care for sixteen or more  
13 children.

14 H. There shall be an annual license fee of fifty dollars for any license  
15 issued to a child-placing agency or maternity home.

16 I. The fees provided for in this Section shall not apply to any Type I child  
17 day care center owned or operated by a church or religious organization.

18 J. Annual fees for any type or category of license shall not be increased  
19 unless expressly authorized by statute as provided in Article VII, § 2.1 of the  
20 Louisiana Constitution.

21 §1407. Rules, regulations and standards for licenses

22 A. The department shall promulgate regulations for each category and  
23 type of license to carry out the provisions of this Chapter in accordance with the  
24 provisions of the Administrative Procedure Act. The department shall seek  
25 input and guidance from the Louisiana Advisory Council on Child Care and  
26 Early Education concerning the proposed rules and regulations for approval in  
27 accordance with the Administrative Procedure Act.

28 B.(1) The regulations developed by the department, at a minimum, shall:

29 (a) Promote the health, safety, and welfare of children attending any



1 **facility.**

2 **(b) Promote safe, comfortable, and proper physical facilities.**

3 **(c) Insure adequate supervision of those attending facilities by capable,**  
4 **qualified, and healthy personnel.**

5 **(d) Insure adequate and healthy food service in facilities where food is**  
6 **offered.**

7 **(e) Prohibit discrimination by child day care centers and specialized**  
8 **providers on the basis of race, color, creed, sex, national origin, handicapping**  
9 **condition, ancestry, or whether the child is being breastfed. However, this shall**  
10 **not restrict the hiring or admission policies of a licensed day care center owned**  
11 **by a church or religious organization, which may give preference in hiring or**  
12 **admission to members of the church or denomination. Nor shall it affect the**  
13 **rights of religious sectarian child-placing agencies to consider creed in any**  
14 **decision or action relating to foster care or adoption.**

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

19 **(g) Include procedures by which parents and guardians are given an**  
20 **opportunity for consultation and information about the educational and**  
21 **therapeutic programs for the individual in attendance.**

22 **(h) Include regulations and standards for nighttime care.**

23 **(i) Include procedures for the receipt, recordation, and disposition of**  
24 **complaints.**

25 **(j) Include procedures for the child's return to the parents.**  
26 **Arrangements for the child's return to the parent shall not include third parties**  
27 **or other child care agencies unless written agreement between the child care**  
28 **agency and the parent is on file with the child care agency.**

29 **(k) Include procedures that allow a child day care center to remedy**

1 certain deficiencies immediately upon identification by the department in an  
2 onsite inspection, provided that any deficiency that may be remedied in such  
3 manner does not constitute a critical violation of licensing standards as  
4 determined by the department.

5 (2) Any entity approved by the department shall also be required to have  
6 the following:

7 (a) Approval from the office of the state fire marshal, code enforcement  
8 and building safety.

9 (b) Approval from the office of public health.

10 (c) Adherence by Type III child day care centers, to the performance and  
11 academic standards of the Early Childhood Care and Education Network  
12 regarding kindergarten readiness as determined by the State Board of  
13 Elementary and Secondary Education. The Department of Education shall base  
14 its approval upon the uniform accountability system.

15 (3) No facility holding a Type I license shall receive any state or federal  
16 funds, from any source, whether directly or indirectly. If a facility holding a  
17 Type I license receives any state or federal funds its license shall be  
18 automatically revoked.

19 (4) No facility holding a Type II license shall receive any state or federal  
20 funds, from any source, whether directly or indirectly, other than those received  
21 solely for food and nutrition. If a facility holding a Type II license receives any  
22 state or federal funds, whether directly or indirectly, other than those received  
23 solely for food and nutrition, its license shall be automatically revoked.

24 C. The department shall prepare standard forms for applications and for  
25 inspection reports.

26 D. A comprehensive review of all standards, rules, and regulations for  
27 all licenses shall be made at least every three years by the department.

28 E. The secretary of the department, in specific instances, may waive  
29 compliance with a minimum standard upon determination that the economic

1 impact is sufficiently great to make compliance impractical, as long as the  
2 health and well-being of the staff or children is not imperiled. If it is determined  
3 that the facility or agency is meeting or exceeding the intent of a standard or  
4 regulation, the standard or regulation may be deemed to be met.

5 F. Discrimination by child care facilities and child-placing agencies on  
6 the basis of race, color, creed, sex, national origin, disability, as defined by R.S.  
7 51:2232(11), ancestry, or whether the child is being breastfed is prohibited.  
8 However, this shall not restrict the hiring or admission policies of a church or  
9 religious organization, which may give preference in hiring or admission to  
10 members of the church or denomination.

11 G. The department shall not regulate or attempt to regulate or control  
12 the religious or spiritual content of the curriculum of a school or facility  
13 sponsored by a church or religious organization.

14 H. Nothing in the rules, regulations, and standards adopted pursuant to  
15 this Section shall authorize or require medical examination, immunization, or  
16 treatment of any child whose parents object to such examination, immunization,  
17 or treatment on religious grounds.

18 I. Every facility shall have a written discipline policy, which shall be  
19 made available to parents and to authorized inspection personnel upon request.

20 \* \* \*

21 §1415. Facilities and agencies subject to regulation; exemptions

22 All child ~~day~~ care facilities centers and ~~child-placing agencies~~ specialized  
23 providers shall be subject to the provisions of this Chapter. However, private or  
24 public day schools serving children in grades one and above ~~or operating,~~ including  
25 any kindergartens or prekindergarten programs attached thereto, as well as  
26 ~~Montessori schools~~, camps, and all care given without charge, shall be exempt from  
27 such provisions.

28 \* \* \*

29 §1419. Revocation or refusal to renew license; written notice

1           The department shall have the power to deny, revoke, or refuse to renew a  
2 license for a ~~child-care facility~~ **child day care center** or ~~child-placing agency~~  
3 **specialized provider** if an applicant has failed to comply with the provisions of this  
4 Chapter or any applicable, published rule or regulation of the department relating to  
5 ~~child-care facilities~~ **child day care centers** and ~~child-placing agencies~~ **specialized**  
6 **providers**. If a license is denied, revoked, or withdrawn, the action shall be effective  
7 when made and the department shall notify the applicant, ~~or licensee,~~ **or specialized**  
8 **provider** of such action in writing immediately and of the reason for the denial,  
9 revocation, or withdrawal of the license.

10 §1420. Refusal or revocation of license; appeal procedure

11           **A.** Upon the refusal of the department to grant a license or upon the  
12 revocation of a license, the agency, institution, society, corporation, person or  
13 persons, or other group having been refused a license or having had a license  
14 revoked shall have the right to appeal such action by submitting a written request to  
15 the secretary of the department within thirty days after receipt of the notification of  
16 the refusal of the license or, in the case of revocation, within fifteen calendar days  
17 after receipt of the notification of the revocation. The appeal hearings shall be held  
18 no later than thirty days after the request therefor, except as provided in the  
19 Administrative Procedure Act, and shall be conducted in accordance with applicable  
20 regulations of the department and the provisions of R.S. 46:107. This provision shall  
21 in no way preclude the right of the party to seek relief through mandamus suit  
22 against the department, as provided by law.

23           **B. Notwithstanding any law, rule, regulation, or provision to the**  
24 **contrary, including but not limited to R.S. 49:964(A)(2), the Department of**  
25 **Children and Family Services shall be entitled to seek judicial review from any**  
26 **final decision or order rendered by the division of administrative law in any**  
27 **appeal hearing arising under this Chapter.**

28 §1421. Operating without or in violation of license; penalty

29           Whoever operates any child ~~day care facility~~ **center** or ~~child-placing agency~~

1 **specialized provider**, as defined in R.S. 46:1403, without a valid license issued by  
2 the department shall be fined not less than one thousand dollars for each day of such  
3 offense.

4 §1422. Operating without or in violation of license; injunctive relief

5 If any child ~~day care facility~~ **center** or ~~child-placing agency~~ **specialized**  
6 **provider** operates without a valid license issued by the department, the department  
7 may file suit in the district court in the parish in which the facility is located for  
8 injunctive relief, including a temporary restraining order, to restrain the institution,  
9 society, agency, corporation, person or persons, or any other group operating the  
10 facility or agency from continuing the violation. The state health officer shall have  
11 exclusive authority over all matters involving the prevention or spread of  
12 communicable diseases within a child ~~day care facility~~ **center** or ~~child-placing~~  
13 ~~agency~~ **specialized provider**.

14 \* \* \*

15 §1425. Adoption services; requirements for advertising; injunctive relief; exceptions;  
16 penalties

17 A. It shall be unlawful for any person other than a **licensed** child-placing  
18 agency ~~possessing a Class A or Class B license~~ or a Louisiana-based crisis  
19 pregnancy center to advertise through print or electronic media that it will adopt  
20 children or assist in the adoption of children.

21 B. If any person advertises in violation of this Section, the attorney general,  
22 the Department of Children and Family Services, the appropriate district attorney,  
23 or any licensed ~~Class A or Class B~~ child-placing agency or a Louisiana-based crisis  
24 pregnancy center may file suit in district court according to the general rules of  
25 venue to obtain injunctive relief to restrain the person from continuing the violation.

26 \* \* \*

27 §1427. Parent-child relationship

28 The Department of ~~Social~~ **Children and Family** Services shall not interfere  
29 with the parent-child relationship regarding the religious training of a child, where

1 all of the following conditions are met:

2 \* \* \*

3 §1428. Immunization information; influenza

4 A. Each licensed child care facility, ~~whether licensed as a Class A or Class~~  
5 ~~B~~ facility, before November first of each year, shall make available to each child's  
6 parent or legal guardian information relative to the risks associated with influenza  
7 and the availability, effectiveness, known contraindications and possible side effects  
8 of the influenza immunization. Such information shall include the causes and  
9 symptoms of influenza, the means by which influenza is spread, and the places  
10 where a parent or legal guardian may obtain additional information and where a child  
11 may be immunized against influenza. Such information shall be updated annually if  
12 new information on such disease is available.

13 \* \* \*

14 Section 2. R.S. 46:1408, 1409, 1412, 1413, and 1424 are hereby repealed.

15 Section 3. Sections 1 and 2 shall become effective on January 1, 2014.

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The original instrument was prepared by Alan Miller. The following digest,  
which does not constitute a part of the legislative instrument, was prepared  
by Christopher D. Adams.

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#### DIGEST

Walsworth (SB 222)

Present law provides for licensing of child-placing agencies, community homes, day care centers, group homes, maternity homes, and residential homes with Class A and Class B licenses.

Proposed law provides for licensing of camps, child-placing agencies, community homes, child day care centers, group homes, maternity homes, and residential homes with Type I, II and III licenses.

Proposed law defines a "specialized provider" as a child-placing agency, maternity home, or residential home.

Proposed law defines a "Type I license" as a license held by a child day care center or residential home that is owned or operated by a church or religious organization that does not wish to be licensed as a Type II or Type III center. "Type I license" also means a license held by a child day care center or residential home holding a Class B license prior to the effective date of the proposed law.

Proposed law defines a "Type II license" as a license held by any publicly- or privately-owned specialized provider.

Proposed law defines a "Type III license" as a license held by any publicly- or privately-owned child day care center which receives state or federal funds, directly or indirectly, from any source other than the federal food and nutrition program. Type III child day care centers must meet the performance and academic standards of the Early Childhood Care and Education Network regarding kindergarten readiness, as determined by the State Board of Elementary and Secondary Education.

Proposed law provides the department creates a child care committee to seek input in developing rules and regulations to establish Type I, Type II, Type III, and Type IV licenses.

Proposed law provides that all child day care centers that meet the definition for a Type II license pursuant to proposed law shall be issued a Type II license.

Proposed law provides any child day care center possessing a Class A license on the effective date of the proposed law that meets the definition of Type II license pursuant to proposed law shall be issued a Type II license.

Proposed law provides that all existing child day care centers that meet the definition for a Type III license, or possess a Class B license pursuant to proposed law shall be issued a Type III license.

Proposed law provides that all existing child placing agencies, maternity homes, and residential homes that meet the definition for a Type IV license pursuant to proposed law shall be issued a Type IV license.

Proposed law provides any maternity home, residential home, or child-placing agency possessing a Class A license upon the effective date of the proposed law that meets the definition of a Type IV license pursuant to proposed law shall be issued a Type IV license.

Proposed law provides any child day care center requesting to change their license type shall apply with the department no later than December first of the preceding year.

Proposed law provides that all applicable fees provided for in present law remain in effect. Exempts from fees any authorized child day care center owned or operated by a church or religious organization.

Proposed law requires the department to promulgate regulations for each category and type of license to carry out the provisions of proposed law in accordance with the provisions of the APA. Requires that the department seek input and guidance from the Louisiana Advisory Council on Child Care and Early Education.

The regulations developed by the department, at a minimum, shall:

- (a) Promote the health, safety, and welfare of children attending any facility.
- (b) Promote safe, comfortable, and proper physical facilities.
- (c) Insure adequate supervision of those attending facilities by capable, qualified, and healthy personnel.
- (d) Insure adequate and healthy food service in facilities where food is offered.
- (e) Prohibit discrimination by child day care centers and specialized providers on the basis of race, color, creed, sex, national origin, handicapping condition, ancestry, or whether the child is being breastfed. However, this shall not restrict the hiring or admission policies of a licensed day care center owned by a church or religious organization, which may give preference in hiring or admission to members of the church or denomination. Nor shall it

affect the rights of religious sectarian child-placing agencies to consider creed in any decision or action relating to foster care or adoption.

- (f) Require providers to have a written description of admission policies and criteria which expresses the needs, problems, situations, or patterns best addressed by its program. These policies shall be available to the person legally responsible for any child referred for placement.
- (g) Include procedures by which parents and guardians are given an opportunity for consultation and information about the educational and therapeutic programs for the individual in attendance.
- (h) Include regulations and standards for nighttime care.
- (i) Include procedures for the receipt, recordation, and disposition of complaints.
- (j) Include procedures for the child's return to the parents. Arrangements for the child's return to the parent shall not include third parties or other child care agencies unless written agreement between the child care agency and the parent is on file with the child care agency.
- (k) Include procedures that allow a child day care center to remedy certain deficiencies immediately upon identification by the department in an onsite inspection, provided that any deficiency that may be remedied in such manner does not constitute a critical violation of licensing standards as determined by the department.

Proposed law requires any entity approved by the department also do the following:

- (1) Gain approval from the office of state fire marshal.
- (2) Gain approval from the office of public health.
- (3) Adhere by Type III child care centers, to the performance and academic standards of the Early Childhood Care and Education Network regarding kindergarten readiness as determined by BESE. The Department of Education shall base its approval upon the uniform accountability system.

Proposed law provides no facility holding a Type I license shall receive any state or federal funds, from any source, whether directly or indirectly. If a facility holding a Type I license receives any state or federal funds its license shall be automatically revoked.

Proposed law requires that no facility holding a Type II license shall receive any state or federal funds, from any source, whether directly or indirectly, other than those received solely for food and nutrition. If a facility holding a Type II license receives any state or federal funds, whether directly or indirectly, other than those received solely for food and nutrition, its license or authorization certificate shall be automatically revoked.

Proposed law requires the department to prepare standard forms for applications and for inspection reports.

Proposed law requires a comprehensive review of all standards, rules, and regulations for all licenses shall be made at least every three years by the department.

Proposed law allows the department secretary, in specific instances, to waive compliance with a minimum standard upon determination that the economic impact is sufficiently great to make compliance impractical, as long as the health and well-being of the staff or children is not imperiled. If it is determined that the facility or agency is meeting or exceeding the



intent of a standard or regulation, the standard or regulation may be deemed to be met.

Proposed law provides discrimination by child care facilities and child placing agencies on the basis of race, color, creed, sex, national origin, disability, as defined by present law, ancestry, or whether the child is being breastfed is prohibited. However, this shall not restrict the hiring or admission policies of a church or religious organization, which may give presence in hiring or admission to members of the church or denomination.

Proposed law prohibits the department from regulating or attempting to regulate or control the religious or spiritual content of the curriculum of a school or facility sponsored by a church or religious organization.

Proposed law provides that nothing in the rules, regulations, and standards adopted pursuant to proposed law shall authorize or require medical examination, immunization, or treatment of any child whose parents object to such examination, immunization, or treatment on religious grounds.

Proposed law requires that every facility have a written discipline policy, which shall be made available to parents and to authorized inspection personnel upon request.

Effective August 1, 2013.

(Amends R.S. 46:1403, 1404(A), 1405, 1415, 1419 through 1422, 1425(A) and (B), 1427(intro para), and 1428(A); adds R.S. 46:1406 and 1407; and repeals R.S. 46:1408, 1409, 1412, 1413, and 1424)

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Health and Welfare to the original bill

1. Removes authorization certificates.
2. Defines a Type I license.
3. Provides for licensure transition.
4. Creates a child care committee within the Department of Children and Family Services.
5. Prohibits a facility holding a Type I license from receiving any federal or state funds.
6. Prohibits discrimination.
7. Technical changes.