

2020 Regular Session

SENATE BILL NO. 465

BY SENATOR MIZELL

EARLY CHILDHOOD ED. To provide for "Early Learning Home Centers" and require licensing. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 17:407.35(C) and 407.65(5) and (7), and to enact Part X-B-1 of  
3 Chapter 1 of Title 17 of the Louisiana Revised Statutes of 1950, to be comprised of  
4 R.S. 17:407.55.1 through 407.55.15, relative to "Early Learning Home Centers"; to  
5 provide for definitions, licensure requirements, licensure exemptions, and licensure  
6 rules; to provide for inspection of centers; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 17:407.35(C) and 407.65(5) and (7) are hereby amended and  
9 reenacted, and Part X-B-1 of Chapter 1 of Title 17 of the Louisiana Revised Statutes of  
10 1950, comprised of R.S. 17:407.55.1 through 407.55.15, is hereby enacted to read as  
11 follows:

12 §407.35. Exemptions from licensure requirements

13 \* \* \*

14 C. Nothing in this Part shall apply to children in programs licensed or  
15 operated by the Louisiana Department of Health ~~or~~, the Department of Children and  
16 Family Services, **or Early Learning Homes with valid licenses issued by the**  
17 **department pursuant to R.S. 17:407.55.1 et seq.**

\* \* \*

PART X-B1 EARLY LEARNING HOME LICENSING LAW

§407.55.1. Short title

This Part may be cited as the "Early Learning Home Licensing Act".

§407.55.2. Definitions

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

(1) "Child" means a person who has not reached age eighteen or otherwise been legally emancipated.

(2) "Department" means the state Department of Education.

(3) "Related" or "relative" means the child or grandchild of the early learning home provider or a child in the legal custody of the provider.

(4) "Early learning home" means a private residence in which an individual lives and provides child care services for more than twelve and one-half hours in a continuous seven-day week, and in which no individual child remains for more than twenty-four hours in one continuous stay, for seven but not more than twelve children, not including those related to the individual.

§407.55.3. Requirement of licensure

Each early learning homes shall be licensed by the department prior to beginning operations.

§407.55.4. Exemptions from licensure requirements

A. Family child care providers as provided in R.S. 17:407.61 et seq. are exempt from licensure under this Part.

B. Nothing in this Part shall apply to children in programs licensed or operated by the Louisiana Department of Health, the Department of Children and Family Services, or the U.S. Department of Defense.

§407.55.5. Operating without a license; penalties

The department may take action against a person who operates an early learning home without a valid license issued by the department. Such actions

1 may include the following:

2 A. Assessment of a civil fine of up to one thousand dollars for each day  
3 of the knowing and continued unlicensed operation of an early learning home.

4 B. Filing a suit in the district court in the parish in which the early  
5 learning home is located for injunctive relief, including a temporary restraining  
6 order, to enjoin the continuing the violation.

7 §407.55.6. Licenses; application; temporary or provisional

8 A. Application for licensure of a new early learning home shall be made  
9 to the department using forms furnished by the department. Upon receipt of an  
10 application for a license and verification that minimum requirements for such  
11 license as established by rule are satisfied, and upon verifying that the home is  
12 in compliance with all applicable state and local laws and regulations, the  
13 department shall issue an early learning home license for such time period as  
14 may be provided for by rule.

15 B. The State Board of Elementary and Secondary Education may  
16 provide by rule for the issuance of temporary, provisional, or extended licenses  
17 if a disapproval has not been received from any state or local agency authorized  
18 by any laws or rules to inspect or approve such homes.

19 C. A license shall apply only to the home stated on the application, and  
20 such license, once issued, shall not be transferable from one person to another  
21 or from one home to another.

22 D. Each licensed early learning home shall display its license in a  
23 prominent place at the home where it is visible to parents of children in care.

24 §407.55.7. Rules, regulations, and standards for licenses

25 A. The State Board of Elementary and Secondary Education shall  
26 promulgate rules and regulations for licensure of early learning homes which,  
27 at a minimum, shall:

28 (1) Promote the health, safety, and welfare of children in care at any  
29 early learning home.

1                   (2) Promote safe and proper physical facilities at all early learning  
2 homes.

3                   (3) Ensure adequate supervision of those in care at all early learning  
4 homes.

5                   (4) Include procedures for the receipt, recordation, and disposition of  
6 complaints.

7                   B. Every early learning home approved for licensure by the department  
8 shall be required to have approval from the office of state fire marshal.

9                   C. The State Board of Elementary and Secondary Education, upon  
10 request by the department, may waive compliance with a licensing minimum  
11 standard upon determination that the economic impact is sufficiently great to  
12 make compliance impractical, as long as the health and well-being of children  
13 is not imperiled. If it is determined that the early learning home is meeting or  
14 exceeding the intent of a standard or regulation, the standard or regulation may  
15 be deemed to be met.

16                   D. Nothing in the rules, regulations, and standards adopted pursuant to  
17 this Section shall authorize or require medical examination, immunization, or  
18 treatment of any child whose parents object to such examination, immunization,  
19 or treatment.

20                   §407.55.8. Review of criminal history information and state central registry of  
21 child abuse and neglect

22                   A. No person who has been convicted of or pled nolo contendere to a  
23 crime listed in R.S. 15:587.1(C), whose name is recorded on the state registry  
24 within the Department of Children and Family Services as a perpetrator for a  
25 justified finding of abuse or neglect of a child, whose name is on any other  
26 state's child abuse and neglect registry or repository, whose name is on the  
27 Louisiana Sex Offender and Child Predator Registry, whose name is on any  
28 other state's sex offender registry, or whose name is on the National Crime  
29 Information Center's National Sex Offender Registry may be an early learning

1 home provider, be employed in the residence or on the property of the residence  
2 where the care is provided by an early learning home provider, or live in the  
3 residence where care is provided by the early learning home provider. The cost  
4 of any criminal background check which may be required by the department  
5 as proof of compliance with this Subsection shall be the responsibility of the  
6 early learning home provider.

7 B.(1) The State Board of Elementary and Secondary Education shall  
8 establish by regulation requirements and procedures through which the  
9 department shall:

10 (a) Request, consistent with the provisions of R.S. 15:587.1, from the  
11 Bureau of Criminal Identification and Information, information concerning  
12 whether or not an early learning home provider, any adult employed in the  
13 residence or on the property of the residence where care is provided by an early  
14 learning home provider, or any adult living in the residence where care is  
15 provided by an early learning home provider has been arrested for, convicted  
16 of, or pled nolo contendere to any criminal offense.

17 (b) Request information from the Department of Children and Family  
18 Services as to whether the individual's name is recorded on the state central  
19 registry for child abuse and neglect.

20 (c) Request information from the National Crime Information Center as  
21 to whether the individual's name is recorded on the National Sex Offender  
22 Registry.

23 (2) The department shall require and provide for the submission of a  
24 person's fingerprints in a form acceptable to the Louisiana Bureau of Criminal  
25 Identification and Information. A person who has submitted his fingerprints to  
26 the Louisiana Bureau of Criminal Identification and Information, and for  
27 whom the department has received a Louisiana or federal criminal history  
28 information report, may be hired on a provisional basis until such time as all  
29 required background checks have been completed; a provisional employee shall

1 be monitored in accordance with rules adopted by the State Board of  
2 Elementary and Secondary Education by an individual who has completed a  
3 criminal background check. Under no circumstances shall an early learning  
4 home employ a person in any capacity until the department has received the  
5 required Louisiana or federal criminal history information report.

6 (3) The department may charge a processing fee not to exceed fifteen  
7 dollars and may collect the processing fees charged by the Bureau of Criminal  
8 Identification and Information for a state criminal history report, the Federal  
9 Bureau of Investigation for a federal criminal history information report, the  
10 National Crime Information Center for a search of the National Sex Offender  
11 Registry, the Department of Children and Family Services for a search of its  
12 state central registry of abuse and neglect, and processing fees charged by other  
13 states when it receives a request for a criminal background check and shall  
14 timely submit the appropriate processing fees to the appropriate agencies.

15 §407.55.9. Inspections

16 It shall be the duty of the department, through its duly authorized  
17 agents, to inspect at regular intervals not to exceed one year, and without  
18 previous notice, and as deemed necessary by the department, all early learning  
19 homes subject to the provisions of this Part. The early learning homes shall be  
20 open to inspection by authorized inspection personnel and by parents or legal  
21 custodians of children in care only during working hours.

22 §407.55.10. Denial, refusal to renew, or revocation of license; written notice

23 The department shall have the power to deny, revoke, or refuse to renew  
24 a license for an early learning home if an applicant has failed to comply with the  
25 provisions of this Part or any applicable, published rule or regulation of the  
26 State Board of Elementary and Secondary Education relating to early learning  
27 homes. If a license is denied or revoked, or renewal is refused, the action shall  
28 be effective when made, and the department shall notify the applicant or  
29 licensee of such action in writing immediately, and of the reason for the denial

1 or revocation, or refusal to renew the license.

2 §407.55.11. Denial, refusal to renew, or revocation of license; appeal procedure

3 A. Upon the refusal of the department to grant or renew a license or  
4 upon the revocation of a license, the applicant or licensee having been refused  
5 a license or renewal, or having had a license revoked shall have the right to  
6 appeal such action to the division of administrative law by submitting a written  
7 request for an appeal to the department within thirty calendar days after  
8 receipt of the notification of the refusal to grant a license, or within fifteen  
9 calendar days after receipt of the notification of the refusal to renew or  
10 revocation. The department shall notify the division of administrative law  
11 within ten calendar days of receipt of a request for an appeal and the appeal  
12 hearing shall be held no later than thirty calendar days after such notice, with  
13 an administrative ruling no later than fifteen calendar days from the date of a  
14 hearing for revocation or refusal to renew a license, or within thirty days from  
15 the date of a hearing for the denial of a new license.

16 B. Notwithstanding any law, rule, regulation, or provision to the  
17 contrary, including but not limited to R.S. 49:964(A)(2), the department shall  
18 be entitled to seek judicial review from any final decision or order rendered by  
19 the division of administrative law in any appeal hearing arising under this Part.  
20 The venue of judicial review shall be the district court of the parish in which the  
21 licensee is located.

22 §407.55.12. Complaints against homes

23 A. It shall be the duty of the department, through its duly authorized  
24 agents, to report all complaints, including but not limited to complaints alleging  
25 child abuse or the prevention or spread of communicable diseases, against any  
26 early learning home provider to the appropriate agencies for investigation and  
27 disposition.

28 B. The identity of a person making a complaint against early learning  
29 home provider shall be confidential and shall not be subject to the Public

1           **Records Law.**

2           **§407.55.13. Disclosure of home information**

3                   **A. The department shall make available, upon written request of a**  
4                   **parent or legal custodian of any child who has applied for placement in an early**  
5                   **learning home licensed by the department, the following information relative**  
6                   **to such early learning home:**

7                           **(1) Any violations of standards, rules, or regulations in the prior twelve**  
8                           **months.**

9                           **(2) Any waivers of minimum standards authorized for such early**  
10                          **learning homes.**

11                          **B. Requests may be sent by email, facsimile, or mail and shall include the**  
12                          **name of each early learning home for which information is requested.**

13                          **C. Early learning homes shall make available to parents or legal**  
14                          **custodians information on how to view or obtain copies of early learning home**  
15                          **licensing inspections from the department's website.**

16           **§407.55.14. Immunization information; influenza**

17                          **A. Each licensed early learning home, before November first of each**  
18                          **year, shall make available to each child's parent or legal custodian information**  
19                          **relative to the risks associated with influenza and the availability, effectiveness,**  
20                          **known contraindications and possible side effects of the influenza**  
21                          **immunization. Such information shall include the causes and symptoms of**  
22                          **influenza, the means by which influenza is spread, the places where a parent or**  
23                          **legal custodian may obtain additional information, and where a child may be**  
24                          **immunized against influenza. Such information shall be updated annually if**  
25                          **new information on such disease is available.**

26                          **B.(1) The Louisiana Department of Health shall develop and provide**  
27                          **information on influenza immunization to the department. The department**  
28                          **shall provide such information to each licensed early learning home, which shall**  
29                          **make the information available to each child's parent or legal custodian**



1 pursuant to Subsection A of this Section.

2 (2) The Louisiana Department of Health and the department shall  
3 determine respectively the most cost-effective and efficient means of  
4 distributing such information.

5 C. Nothing in this Section shall be construed to require any early  
6 learning home, the department, or the Louisiana Department of Health to  
7 provide or pay for immunizations against influenza.

8 §407.55.15. Rules

9 The State Board of Elementary and Secondary Education shall  
10 promulgate rules and regulations in accordance with the provisions of the  
11 Administrative Procedure Act to carry out the provisions of this Part.

12 \* \* \*

13 §407.62. Definitions

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

16 (1) "Child" means a person who has not reached the age of eighteen years.  
17 The words "child" and "children" are used interchangeably in this Part.

18 (2) "Child and Adult Care Food Program" means the federal nutrition  
19 reimbursement program as funded by the United States Department of Agriculture  
20 through the state Department of Education.

21 (3) "Child Care and Development Fund" means the child care programs  
22 funded through the federal Child Care and Development Fund Block Grant Act and  
23 administered by the state Department of Education.

24 (4) "Department" means the state Department of Education.

25 (5) "Family child care provider" means an individual who resides in and  
26 provides child care services in a private residence for fewer than twenty-four hours  
27 per day per child, as the sole caregiver, for six or fewer children, ~~in a private~~  
28 residence not including those related to the individual.

29 (6) "In-home provider" means an individual who provides child care services

1 in the child or children's own home.

2 (7) "Relative" or "related" means the child, grandchild, ~~niece, or nephew of~~  
3 ~~the primary child care provider of a~~ **or a child in the legal custody of the** family  
4 child care provider or in-home provider.

5 \* \* \*

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

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The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Cheryl Serrett.

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SB 465 Original DIGEST 2020 Regular Session Mizell

Present law provides for early learning center licensing and family child day care registration, which provide for licensing or registration of providers that care for seven or more children, not including those related to the caregiver. Present law also defines "related".

Proposed law provides for the licensing of providers that care for fewer than seven children, not including those related to the caregiver.

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

(Amends R.S. 17:407.35(C), and 407.65(5) and (7); adds R.S. 17:407.55.1-55.15)