

Rep. Mulligan, Graf. 12
Rep. St. John, Hills. 27
Rep. Jurius, Belk. 2
Rep. Berrien, Rock. 18
Rep. McWilliams, Merr. 27
February 4, 2020
2020-0446h
05/04

Amendment to HB 1712

1 Amend the bill by replacing all after the enacting clause with the following:

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3 1 Child Day Care Licensees; Hearings. Amend RSA 170-E:13, II and III to read as follows:

4 II. Any applicant, licensee or permittee aggrieved by a decision of the department to
5 suspend, revoke, deny or refuse to renew a license or permit, **or aggrieved by an unfavorable**
6 **decision following informal dispute resolution under RSA 170-E:10-a**, may appeal to the
7 commissioner. For purposes of carrying out the provisions of this section, the commissioner may, in
8 accordance with the rules adopted by the department of personnel pursuant to RSA 541-A, appoint a
9 hearings officer or officers, as necessary, to preside over such hearings. A hearings officer may
10 affirm, deny or modify the decision of the department. The commissioner shall adopt rules, pursuant
11 to RSA 541-A, relative to procedures for the appeal process provided under this paragraph.

12 III. When the department decides to suspend, revoke, deny, or refuse to renew a license or
13 permit, and it expressly finds that the continued operation of a child day care agency ~~[violates any~~
14 ~~minimum standard prescribed by law or rule, or otherwise jeopardizes]~~ **poses a present and**
15 **credible threat to** the health~~[;]~~ **or** safety~~[; morals or welfare]~~ of children served by the agency, the
16 department shall include in its order issued under paragraph I an order of closure directing that the
17 operation of the agency terminate immediately **or on the date specified**. ~~[In this event, the agency~~
18 ~~shall not]~~ **Unless the department has ordered the agency to terminate immediately, the**
19 **agency shall be permitted to** operate during the pendency of any proceeding for the review of the
20 decision of the department~~[; except under court order]~~. **Notwithstanding the above, the agency**
21 **shall retain the right to seek injunctive relief in accordance with RSA 170-E:22.**

22 2 New Section; Child Day Care Licensing; Retaliation Prohibited. Amend RSA 170-E by
23 inserting after section 8 the following new section:

24 170-E:8-a Retaliation Prohibited. The department shall not retaliate against an applicant,
25 licensee, or permittee for any reason. Any applicant, licensee, or permittee who believes that the
26 department's actions regarding licensure or permit status, or the findings of a monitoring visit, were
27 retaliatory in nature may request a hearing under RSA 170-E:12, II or informal dispute resolution
28 under RSA 170-E:10-a.

29 3 Effective Date. This act shall take effect January 1, 2021.

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AMENDED ANALYSIS

This bill permits a child day care applicant, licensee, or permittee to appeal the decision resulting from the informal dispute resolution process. The bill also provides that, unless the department of health and human services has ordered a child day care agency to close immediately, the agency may operate pending appeal of the department's decision. The bill also prohibits the department from retaliating against a child day care applicant, licensee, or permittee.