



HOUSE BILL 815: The Loving Homes Act.

2023-2024 General Assembly

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| Committee: | | Date: | December 5, 2023 |
| Introduced by: | | Prepared by: | Debbie Griffiths Staff Attorney |
| Analysis of: | S.L. 2023-82 | | |

OVERVIEW: S.L. 2023-82 allows a foster home which otherwise qualifies for family foster home licensure but for having five biological children residing in the home to provide care for one foster child or sibling group and codifies certain provisions of the Administrative Code related to family foster homes.

If the amended State plan does not require approval by the U.S. Secretary of Health and Human Services, Section 1 of the act becomes effective on October 1, 2023. If the amended State plan requires approval, then Section 1 becomes effective on the date that the amended family foster care home rule is approved by the Secretary. The Secretary of North Carolina Health and Human Services must report to the Revisor of Statutes the effective date of the statute once known. The remainder of the act became effective July 7, 2023.

CURRENT LAW: Under 10A NCAC 70E.1001, no more than five children can reside in a family foster home unless an exception applies. The maximum includes the foster parents' own children, children placed in foster care, licensed capacity for in home day care, children kept for babysitting, and any other children residing in the home. The exceptions include keeping a sibling group together and the out of home services agreement must address the foster parent's skill, stamina, and ability to care for the children.

42 U.S.C. 672(c)(1)(A) defines a foster family home as a home meeting the standards for licensure set by the state in which a child or children reside with an individual licensed or approved by the state to provide foster care. Additionally, the individual has been deemed by the state as being capable of adhering to the reasonable and prudent parent standard. The individual provides 24-hour substitute care for the child or children while placed away from the parents. The individual cannot provide care for more than six children in foster care except where an exception exists. Exceptions include keeping a sibling group together and to allow parenting youth in foster care to remain with his or her child.

BILL ANALYSIS: SECTION 1 OF S.L. 2023-82. G.S. 131D-10.2C-ALLOWABLE NUMBER OF CHILDREN IN FAMILY FOSTER HOME.

Section 1 of S.L. 2023-82 codifies certain portions of 10A NCAC 70E.1001 that address family foster care as follows:

- The maximum number of children remains at five children in a foster home including the foster parents' own children, children placed in foster care, licensed capacity for in home day care, children kept for babysitting, and any other children residing in the home.
- The exception for keeping a sibling group together provided the out of home service agreement addresses the foster parent's stamina, skill, and ability to care for the children.

Section 1 of S.L. 2023-82 creates a new exception to the maximum number of children allowed to reside in a foster home to include a home that would otherwise meet the licensure criteria to become a foster

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Legislative Analysis
Division
919-733-2578

House Bill 815

Page 2

home but for having five children residing in the home. S.L. 2023-82 allows a home under this exception to be licensed to provide care for one foster child or a sibling group.

SECTION 2 OF S.L. 2023-82. IMPLEMENTATION.

Section 2 of S.L. 2023-82 requires that the Social Services Commission adopt temporary rules to implement Section 1 of S.L. 2023-82. The temporary rules will remain in effect until permanent rules become effective.

SECTION 3 OF S.L. 2023-82. APPROVAL BY U.S. SECRETARY OF HEALTH AND HUMAN SERVICES.

If the provisions of Section 1 of S.L. 2023-82 require approval by the U.S. Secretary of Health and Human Services to maintain federal funding for foster care maintenance payments, the Department of Health and Human Services, Division of Social Services or the appropriate agency must submit the State's amended plan for approval.

EFFECTIVE DATE: If the amended State plan does not require approval by the U.S. Secretary of Health and Human Services, Section 1 of S.L. 2023-82 becomes effective on October 1, 2023. If the amended State plan requires approval, then Section 1 of S.L., 2023-82 becomes effective on the date that the amended family foster care home rule is approved by the Secretary. The Secretary of North Carolina Health and Human Services must report to the Revisor of Statutes the effective date of the statute once known. The remainder of S.L. 2023-82 became effective July 7, 2023.