

BILL ANALYSIS

C.S.H.B. 1385
By: Villarreal
Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Anecdotal evidence suggests there are currently a significant number of businesses who are operating unregistered child care facilities for their employees with no state oversight. CSHB 1385 seeks to ensure the safety of children under the care of these providers by bringing them into compliance with a state regulatory system. CSHB 1385 also recognizes the economic and social benefits of increased productivity to both employer and employee associated with on-site child care and seeks to create a system that will allow employers to maintain their ability to provide on-site child care for their employees while complying with state law.

Additionally, CSHB 1385 minimizes any burden to the Department of Family Protective Services (DFPS), Child Care Licensing division, by laying out an efficient and streamlined framework under which these currently unregistered business entities will be brought into compliance.

CSHB 1385 creates a new category of child care providers for small employers providing care to twelve or fewer children, and defines standards for these providers.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

CSHB 1385 defines "Employer-based day-care facility" as one operated by a small employer to provide care to not more than 12 children of the employer's employees; and is located on the employer's premises. The substitute defines a "small employer" as a corporation, partnership, sole proprietorship, or other legal entity that employs fewer than 50 full-time employees. The substitute prohibits a small employer from operating an employer-based day-care facility unless the employer holds a permit issued by the department under Chapter 42, Human Resources Code, subchapter F.

The substitute requires the department to develop and implement a streamlined application and permitting procedure. Upon application, the department is required to conduct a background and criminal history check on each prospective caregiver and an initial inspection to ensure the employer is able to comply with the fire and sanitation standards of its respective jurisdiction and also able to comply with the provisions of the substitute. The substitute authorizes the department to charge an applicant an administration fee to cover the costs of the department in processing the application. The department is required to process an application not later than the 30th day after the required information is received.

The substitute requires the department develop and implement a procedure for employers holding a license to operate a child-care facility to convert that license to a permit using an abbreviated application form and to have the initial inspection or background and criminal history checks waived if the department determines previously conducted inspections or background and criminal history checks are sufficient to ensure the safety of the children. An employer-based day-care facility is only authorized to provide care for a child whose parent or guardian is an employee of the small employer; works within the same building in which the facility is located; and is away from the building only for limited periods, during the hours the child is receiving care.

C.S.H.B. 1385 80(R)

The substitute requires an employer-based day-care facility to maintain a caregiver-to-child ratio of at least one caregiver to every four children receiving care. The substitute provides that a caregiver employed by an employer-based day-care facility be at least 18 years of age; have a high school diploma or its equivalent; receive at least the minimum training required for an employee of a licensed day-care center as prescribed by department rules; have a Child Development Associate or Certified Child-Care Professional credential or an equivalent credential, as determined by the department; and not have been precluded from having access to a child based on the results of a background and criminal history check. The substitute specifies information to be provided by the small employer to the department in order to conduct required background and criminal history checks upon application and at least every 24 months thereafter, along with information made available by the Department of Public Safety, or by the federal Bureau of Investigation; and the department's records of reported abuse and neglect. The substitute requires the small employer to pay to the department a fee in an amount not to exceed the administrative costs the department incurs in conducting a background and criminal history check.

The substitute states that an employer-based day-care facility and each employee of that facility are subject to the reporting requirements to the same extent as licensed child-care facility and employees of that facility.

The department is authorized to inspect an employer-based day-care facility if the department receives a complaint or report of child abuse or neglect alleged to have occurred at the facility. The department is authorized to require the small employer to take appropriate corrective action to comply with requirements and ensure the safety of children. The department is authorized to continue to inspect the facility until corrective action is taken and for a reasonable time thereafter. The department is authorized to charge a reasonable fee for the cost of services provided by the department in formulating, monitoring, and implementing a corrective action plan.

The department is authorized to suspend, deny, or revoke a permit if the employer does not comply with the provisions of this subchapter or any applicable department rules. The department is authorized to refuse to issue a permit to a small employer that had its authorization to operate a child-care facility under another subchapter revoked, suspended, or not renewed for a reason relating to child health or safety as determined by the department. This subchapter expires September 1, 2009.

EFFECTIVE DATE

This act will take effect September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

HB 1385 applied only to small employers providing care at the work place to not more than three of their employees' children. CSHB 1385 increases the maximum number of children who can be provided for under this license from three to twelve.

HB 1385 required employers to maintain a 3-to-1 ratio of children to qualified caregivers. CSHB increases the ratio to 4-to-1 children to qualified caregivers.