

## **BILL ANALYSIS**

C.S.S.B. 206  
By: Nelson  
Human Services  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Currently, eligible low-income parents are authorized to apply to receive federally subsidized childcare administered by the Texas Workforce Commission. Federal law allows states to use regulated child care centers and homes and unregulated relatives to provide child care services. As a result, criminals may provide child care to relatives on an unregulated basis.

C.S.S.B. 206 requires the relative caregiver of a child to submit to certain background checks every five years before being allowed to care for a child.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Workforce Commission in SECTION 1 (Section 312.005, Labor Code) and to the executive commissioner of the Health and Human Services Commission in SECTION 1 (Section 312.004, Labor Code) of this bill.

### **ANALYSIS**

The bill defines "department" and "unregulated self-arranged child-care."

The bill requires the Texas Workforce Commission (commission) and the Department of Family and Protective Services (department) to adopt a memorandum of understanding regarding the administration and payment of costs of background and criminal history checks (checks) required under this chapter.

The bill requires the commission to ensure that money appropriated and used by the commission or a local workforce development board to pay for child-care services provided by an unregulated self-arranged child-care (care) provider (provider) is used only to pay a provider who, after completion of a check required by this chapter, is not precluded from providing that care.

The bill requires an individual who seeks to provide care, before beginning to provide that care, to submit his or her name to the department and a complete set of acceptable fingerprints for use in conducting a check to the Department of Public Safety (DPS).

The bill requires the department to conduct checks using the information provided by the individual, information made available by certain federal, state, and local entities after the department submits fingerprints provided by the individual under this section to DPS for the purpose of conducting a state and federal criminal history check, and the department registry of reported abuse and neglect.

The bill requires the department to use the standards that apply in conducting checks under Section 42.056 (Required Background and Criminal History Checks), Human Resources Code, for listed or registered family home providers, in determining whether to preclude an individual from providing care.

The bill requires a provider of care for whom a check was conducted and who has continuously received payments for providing that care to submit the information described by Subsection (a) in the manner provided by that subsection no later than three years after the date the previous check was completed, and requires the department to use that information to conduct a check in the manner prescribed by Subsections (b) and (c). The bill requires a care provider for whom a

check was conducted who ceases and then seeks to resume providing care to give the information described by Subsection (a) in the manner provided by that subsection and undergo another check, unless the department determines that it is unnecessary.

The bill requires the commission to provide notice of the check requirements to the parent or guardian of the child who will receive care through an unregulated self-arranged child-care provider before the parent or guardian selects the provider.

The bill authorizes the executive commissioner of the Health and Human Services Commission to adopt rules to implement this section.

The bill requires the commission to pay the department the costs incurred in conducting checks using funds available for that purpose under the federal Child Care and Development Block Grant Act, in accordance with the memorandum of understanding. The bill requires the commission by rule to mandate a local workforce development board to reimburse the commission for costs paid under Subsection (a) for an individual who, after a check is conducted, is not precluded from providing care and begins receiving payments for care, and requires the board to withhold the amount of the costs for the individual from the first child-care payment made to the individual to reimburse the commission and remit that amount to the commission.

The bill requires the department to notify a provider or prospective provider of care if it is determined that the individual is precluded from providing that care because of a check under Section 312.004.

The bill requires the department to include certain information regarding the process to dispute the accuracy of a check with DPS.

The bill requires a care provider and the parent or guardian of the child who receives care through the provider to each, except as provided by Section 312.008, submit a statement to the commission no later than the 15th day of the month following the end of each calendar quarter during which the provider provided care. The bill provides that the statement specify the number of hours the provider cared for the child each month of the previous calendar quarter, include the statement of the provider or the parent or guardian that the record of hours is accurate and be signed by the provider or the parent or guardian, as applicable.

The bill authorizes the statement to be on a form provided by the commission but prohibits the commission from requiring that the statement be notarized.

The bill requires the commission to provide notice to each individual required to submit a statement that knowingly making, presenting, or using a false governmental record is a criminal offense under Section 37.10 (Tampering with Governmental Record), Penal Code.

The bill requires the commission to, if feasible, use an electronic validation system to verify that a provider of care services is actually providing those services and that the child for whom the services are provided is actually in attendance during the period the provider claims to be providing the services.

The bill provides that a care provider and a parent or guardian of a child who receives services through that provider are not required to submit a statement if the commission verifies the provision of services and the attendance of the child using an electronic validation system.

The bill requires the commission to audit a random sample of providers on a regular basis to determine whether submitted statements and the electronic validation system are accurate and to ensure that the commission and local workforce development boards are paying providers only for care that is actually provided.

The bill adds a provider or prospective provider of unregulated self-arranged child care, as defined by Section 312.001, Labor Code, to the list of individuals for whom the department is required to obtain criminal history record information maintained by DPS.

The bill authorizes delay of implementation until any necessary federal waivers or authorizations are obtained, and requires a state agency needing a waiver to request one.

The bill requires the commission and the department to adopt the memorandum of understanding mandated by Section 312.002, Labor Code, as added by this Act, by October 1, 2007.

The bill requires the commission to ensure that payments made on or after November 1, 2007, to providers of unregulated self-arranged child care are made to providers for whom a background and criminal history check has been conducted.

### **EFFECTIVE DATE**

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

The substitute removes language that required a provider and the parent or guardian of the child who receives care through the provider to each submit an affidavit containing certain information to the commission, authorizing the affidavit to be on a form provided by the commission, prohibiting the commission from requiring that the affidavit be notarized, and requiring the commission to provide notice to each individual required to submit a affidavit that knowingly making, presenting, or using a false governmental record is a criminal offense.

The substitute adds language requiring a care provider and the parent or guardian of the child who receives care through the provider to each submit a statement to the commission and sets forth what the statement must include, authorizing the statement to be on a form provided by the commission, prohibiting the commission from requiring that the statement be notarized, and requiring the commission to provide notice to each individual required to submit a statement that knowingly making, presenting, or using a false governmental record is a criminal offense.

The substitute adds language requiring the commission to, if feasible, use an electronic validation system to verify that a provider of care services is actually providing those services and that the child for whom the services are provided is actually in attendance during the period the provider claims to be providing the services and exempting those providers whose services are able to be verified through the electronic verification system from submitting a statement.

The substitute adds language requiring the commission to audit care provider to determine that submitted statements and the electronic validation system are accurate.