

## **BILL ANALYSIS**

Senate Research Center

S.B. 76  
By: Nelson  
Health & Human Services  
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Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

S.B. 76 amends current law relating to certain providers of subsidized child care, the use of certain personal information to prevent fraud in child-care programs, and the disclosure of certain personal information for the purpose of investigation and enforcement of unemployment compensation violations.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Workforce Commission in SECTION 2 (Section 301.192, Labor Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subtitle B, Title 4, Labor Code, by adding Chapter 313, as follows:

#### CHAPTER 313. REQUIREMENTS FOR PROVIDERS OF RELATIVE CHILD CARE

Sec. 313.001. DEFINITIONS. Defines "department," "relative child care," and "teen parent" in this chapter.

Sec. 313.002. LOCATION OF CARE. (a) Requires that relative child care, except as provided by Subsections (b) and (c), be provided in the child-care provider's home.

(b) Requires the Texas Workforce Commission (TWC) to allow relative child care in the child's home:

(1) for a disabled child and the child's siblings;

(2) for a child under 18 months of age and the child's siblings;

(3) for a child of a teen parent; and

(4) when the parent's work schedule necessitates child-care services during the evening, overnight, or on the weekend and taking the child outside of the child's home would be disruptive to the child.

(c) Authorizes TWC to allow relative child care in the child's home if TWC determines that other child-care provider arrangements are not available in the community.

Sec. 313.003. LISTING AS FAMILY HOME. Requires a relative child-care provider to list the provider's home with the Department of Family and Protective Services (DFPS) as a family home.

Sec. 313.004. NOTICE OF BACKGROUND AND CRIMINAL HISTORY CHECKS. Requires TWC to provide notice of the background and criminal history check requirement to the parent or guardian of the child who will receive care through a relative child-care provider before the parent or guardian selects the provider.

Sec. 313.005. MEMORANDUM OF UNDERSTANDING. Requires TWC and DFPS to adopt a memorandum of understanding regarding the administration and payment of costs of listing a relative child-care provider as required by this chapter.

SECTION 2. Amends Chapter 301, Labor Code, by adding Subchapter K, as follows:

SUBCHAPTER K. DETECTION AND PREVENTION OF CHILD-CARE FRAUD,  
WASTE, AND ABUSE

Sec. 301.191. PREVENTION AND DETECTION OF CHILD-CARE FRAUD, WASTE, AND ABUSE. (a) Requires TWC to develop risk assessment protocols to identify and assess possible instances of fraud, waste, and abuse in child-care programs, including:

(1) the use of unemployment insurance wage records to identify:

(A) potential ineligible parents due to a change in income or underreporting of income;

(B) relative child-care providers who are engaged in other employment; and

(C) parents who do not have the required work history; and

(2) the identification of parents who apply for or receive child-care service in multiple workforce areas simultaneously.

(b) Requires TWC to ensure that local workforce development boards implement procedures to prevent and detect fraud, waste, and abuse in child-care programs.

(c) Authorizes TWC to use a motor vehicle record, including photographic image and signature, to prevent and detect fraud, waste, and abuse in child-care programs.

(d) Authorizes TWC to use the information under Subsection (c) otherwise for enforcement under this title.

Sec. 301.192. CORRECTION OF CHILD-CARE FRAUD, WASTE, AND ABUSE. (a) Requires TWC to ensure that corrective action is initiated against a child-care provider who commits fraud, including:

(1) temporarily or permanently withholding payments to the provider for child-care services already delivered;

(2) recovering money paid for child care from the child-care provider;

(3) stopping the provision of authorized child care at the provider's facility or location; or

(4) taking any other action consistent with the intent of the governing statutes or rules to investigate, prevent, or stop suspected fraud.

(b) Requires TWC to ensure that corrective action is initiated against a parent who commits fraud, including:

(1) recovering money paid for child care from the parent;

(2) declaring the parent ineligible for future child care under a TWC program;

(3) limiting the enrollment of the parent's child to a regulated child-care provider; or

(4) taking any other action consistent with the intent of the governing statutes or rules to investigate, prevent, or stop suspected fraud.

(c) Entitles the provider or parent to appeal the proposed corrective action in accordance with procedures adopted by TWC by rule if TWC proposes to take a corrective action under Subsection (a) or (b).

SECTION 3. Amends Subchapter C, Chapter 42, Human Resources Code, by adding Section 42.0523, as follows:

Sec. 42.0523. LISTING OF RELATIVE CHILD-CARE PROVIDERS. (a) Authorizes a child-care provider who only provides child care under Chapter 313, Labor Code, to children related to the provider to list the provider's home as a family home.

(b) Requires DFPS, before it may list a child-care provider's home under this section, in addition to conducting any other background or criminal history check required for a family home listing, to search the central database of sex offender registration records maintained by the Department of Public Safety under Chapter 62 (Sex Offender Registration Program), Code of Criminal Procedure, to determine whether the provider is listed in the registry as a sex offender.

(c) Provides that the address of a family home listed under this section is the address of the child-care provider's home, regardless of whether the child care is provided in the provider's home or in the child's home.

(d) Provides that a relative child-care provider's home listed as a family home under this section is exempt from the health and safety requirements of 45 C.F.R. Section 98.41(a) (relating to requirements designed to protect the health and safety of children that are applicable to certain child care providers).

SECTION 4. Amends Subchapter A, Chapter 302, Labor Code, by adding Section 302.0047, as follows:

Sec. 302.0047. ELECTRONIC VALIDATION OF CHILD-CARE SERVICES AND ATTENDANCE. Requires TWC, if feasible, to use an electronic validation system to ensure that parents verify that a provider of relative child care is providing care and that the child for whom the care is provided is in attendance during the period for which the child-care provider is being reimbursed for services.

SECTION 5. Amends Section 42.054(g), Human Resources Code, to provide that the provisions of Subsections (b) through (f) of this section (relating to certain licensing fees) do not apply to certain facilities, including a family home listed under Section 42.0523 in which the relative child-care provider cares for the child in the child's own home. Makes a nonsubstantive change.

SECTION 6. Amends Section 730.005, Transportation Code, to require that personal information obtained by an agency in connection with a motor vehicle record be disclosed for use in connection with certain matters, including enforcement by TWC under Title 4 (Employment Services and Unemployment), Labor Code.

SECTION 7. Amends Section 730.007(c), Transportation Code, to provide that this section does not prohibit the disclosure of a person's photographic image to a law enforcement agency or a criminal justice agency for an official purpose, an agency of this state investigating an alleged violation of a state or federal law relating to the obtaining, selling, or purchasing of a benefit authorized by Chapter 31 (Financial Assistance and Service Programs) or 33 (Nutritional Assistance Programs), Human Resources Code, or an agency of this state investigating an

alleged violation of a state or federal law under authority provided by Title 4, Labor Code; or prevent a court from compelling by subpoena the production of a person's photographic image.

SECTION 8. Requires TWC and DFPS to adopt the memorandum of understanding required by Section 313.005, Labor Code, as added by this Act, not later than October 1, 2011.

SECTION 9. Requires a state agency, if necessary for implementation of a provision of this Act, to request a waiver or authorization from a federal agency, and authorizes a delay of implementation until such a waiver or authorization is granted.

SECTION 10. Requires TWC, notwithstanding Chapter 313, Labor Code, as added by this Act, to ensure that payments made on or after November 1, 2011, to providers of relative child care, as defined by Section 313.001, Labor Code, as added by this Act, are made only to providers with respect to whom a background and criminal history check has been conducted as required by that chapter.

SECTION 11. Effective date: September 1, 2011.