

## **BILL ANALYSIS**

C.S.S.B. 76  
By: Nelson  
Human Services  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Observers assert that current law does not adequately address providers of relative child care. C.S.S.B. 76 seeks to address this issue by amending current law relating to certain providers of subsidized child care.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Workforce Commission in SECTION 2 of this bill.

### **ANALYSIS**

C.S.S.B. 76 amends the Labor Code to require certain subsidized relative child care to be provided in the child-care provider's home, except that the Texas Workforce Commission (TWC) is required to allow relative child care in the child's home for a disabled child and the child's siblings; for a child under 18 months of age and the child's siblings; for a child of a teen parent; and 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. The bill authorizes the TWC to allow relative child care in the child's home if the TWC determines that other child-care provider arrangements are not available in the community. The bill 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. The bill requires the 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. The bill requires the TWC and DFPS, not later than October 1, 2011, to adopt a memorandum of understanding regarding the administration and payment of costs of listing a relative child-care provider as a family home. The bill defines "department," "relative child care," and "teen parent."

C.S.S.B. 76 requires the TWC to develop risk assessment protocols to identify and assess possible instances of fraud, waste, and abuse in child-care programs, including the identification of parents who apply for or receive child-care services in multiple workforce areas simultaneously and the use of unemployment insurance wage records to identify potential ineligible parents due to a change in income or underreporting of income, relative child-care providers who are engaged in other employment, and parents who do not have the required work history. The bill requires the TWC to ensure that local workforce development boards implement procedures to prevent and detect fraud, waste, and abuse in child-care programs.

C.S.S.B. 76 requires the TWC to ensure that corrective action is initiated against a child-care provider who commits fraud, including temporarily or permanently withholding payments to the provider for child-care services already delivered, recovering money paid for child care from the child-care provider, stopping the provision of authorized child care at the provider's facility or location, or taking any other action consistent with the intent of the governing statutes or rules to investigate, prevent, or stop suspected fraud. The bill requires the TWC to ensure that corrective

action is initiated against a parent who commits fraud, including recovering money paid for child care from the parent, declaring the parent ineligible for future child care under a TWC program, limiting the enrollment of the parent's child to a regulated child-care provider, or taking any other action consistent with the intent of the governing statutes or rules to investigate, prevent, or stop suspected fraud. The bill entitles a provider or parent against whom the TWC proposes to take such corrective action to appeal the proposed corrective action in accordance with procedures adopted by the commission by rule.

C.S.S.B. 76 requires the 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.

C.S.S.B. 76 amends the Human Resources Code to authorize a child-care provider who only provides subsidized relative child care, as described under the bill's provisions establishing requirements for certain relative child-care providers, to children related to the provider to list the provider's home as a family home. The bill requires DFPS, before listing such a child-care provider's home as a family home and 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 to determine whether the provider is listed in the registry as a sex offender. The bill specifies that the address of a family home listed under the bill's provisions 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. The bill exempts a relative child-care provider's home that is listed as a family home under the bill's provisions from certain federal health and safety requirements that are applicable to child-care providers of services for which assistance is provided under the federal Child Care and Development Fund.

C.S.S.B. 76 makes certain provisions of law relating to fees charged to a child-care facility, licensed child-care facility, or family home by DFPS inapplicable to a family home listed under the bill's provisions in which the relative child-care provider cares for the child in the child's own home.

C.S.S.B. 76 requires a state agency that is affected by a provision of the bill to request a federal waiver or authorization if the agency determines that a waiver or authorization is necessary for the implementation of the provision, and it authorizes the agency to delay implementation until the federal waiver or authorization is obtained. The bill requires the TWC to ensure that payments made on or after November 1, 2011, to providers of relative child care are made only to providers with respect to whom a background and criminal history check has been conducted.

#### **EFFECTIVE DATE**

September 1, 2011.

#### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.S.B. 76 differs from the original, in the definition of "relative child care," by including as a condition for child care to be considered relative child care that the provider of such care operates a listed family home that provides care for one or more children related to the provider and does not hold any other license or permit to provide child care under statutory provisions relating to the regulation of certain facilities, homes, and agencies that provide child-care services, whereas the original includes as such a condition that the provider does not hold a license, listing, or registration under those statutory provisions to provide care for children not related to the provider for less than 24 hours a day.