

## **BILL ANALYSIS**

Senate Research Center  
82R1145 KFF-D

S.B. 77  
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Health & Human Services  
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As Filed

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

Under the federally-funded Child and Adult Care Food Program (CACFP), child care centers and child care homes may either contract directly with the Texas Agricultural Department (TDA) to obtain low-costs meals, or go through a sponsoring agency that will work with TDA. These sponsoring agencies collect enrollment data from day care centers, provide their meals, and are then reimbursed by the USDA.

Most child care centers do not have enough money to purchase meals in advance and be reimbursed later, so they choose to work through a sponsoring agency. Administratively, it is easier for TDA to deal with a limited number of sponsors rather than thousands of individual child care centers.

Sponsors are currently not required to show proof of government identification, be bonded or insured, or undergo criminal background checks. S.B. 77 would strengthen the integrity of CACFP by requiring sponsoring agencies to maintain a performance bond and submit proof of a residential mailing address and government issued identification to TDA. This bill allows TDA to conduct a criminal background history record check on each principal of the sponsoring agency and deny applications if background investigations reveal a criminal conviction in the past seven years related to fraud, theft, or obstruction of justice. This bill also allows TDA to obtain a criminal history record check on an individual applying as the principal of a sponsoring agency under this program.

As proposed, S.B. 77 amends current law relating to certain requirements for sponsoring organizations and other institutions participating in the Child and Adult Care Food Program.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Department of Agriculture as the agency that operates the Child and Adult Care Food Program in SECTION 2 (Section 33.0271, Human Resources Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter F, Chapter 411, Government Code, by adding Section 411.1146, as follows:

Sec. 411.1146. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: DEPARTMENT OF AGRICULTURE. (a) Entitles the Texas Department of Agriculture (TDA) to obtain criminal history record information maintained by the Department of Public Safety of the State of Texas that relates to a person who is a principal of an applicant for participation in the Child and Adult Care Food Program as provided by Section 33.0271(d), Human Resources Code.

(b) Prohibits the criminal history record information obtained by TDA under this section from being released or disclosed to any person except in a criminal proceeding, in an administrative proceeding, on court order, or with the consent of the person who is the subject of the information.

SECTION 2. Amends Chapter 33, Human Resources Code, by adding Section 33.0271, as follows:

Sec. 33.0271. CHILD AND ADULT CARE FOOD PROGRAM: PROGRAM PARTICIPANT REQUIREMENTS. (a) Defines "institution" and "principal" in this section.

(b) Requires a sponsoring organization, to the extent permitted under federal law, to maintain a performance bond in an amount specified by TDA rule from a company holding a certificate of authority as an acceptable surety on federal bonds from the United States secretary of the treasury. Authorizes TDA and a sponsoring organization to rely on the list published by the United States Department of the Treasury in accordance with 31 C.F.R. Section 223.16 to determine whether a company holds a certificate of authority as an acceptable surety on federal bonds.

(c) Requires a person on application for participation in the Child and Adult Care Food Program, to the extent permitted under federal law applying to participate in the program, as a sponsoring organization or other institution to submit to TDA certain documents with respect to each of the applicant's principals for use in conducting a background and criminal history check.

(d) Authorizes TDA to conduct a background and criminal history check on each principal of an applicant for participation in the Child and Adult Food Care Program as a sponsoring organization or other institution using certain information.

(e) Authorizes TDA to refer an applicant who was discovered to have knowingly falsified statements contained in the application during the background and criminal history check authorized under Subsection (d) to an appropriate prosecuting attorney for criminal prosecution.

(f) Requires TDA to deny an application for participation in the program if a background and criminal history check authorized under Subsection (d) reveals that a principal of the applicant has been convicted of certain criminal offenses or any other criminal offense that indicates a lack of business integrity as determined by TDA.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2011.