

By: Hartnett

H.B. No. 1831

A BILL TO BE ENTITLED

AN ACT

relating to public school child care.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 33.902, Education Code, is amended by amending Subsections (a), (b), and (d) and adding Subsection (e) to read as follows:

(a) In this section, "eligible school-age students" means children enrolled as students in prekindergarten through grade 7 who are educationally disadvantaged.

(b) Each school district that on September 1 of a school year has a student membership of more than 5,000 [~~and that does not provide directly or by contract child care services before and after the school day and during school holidays and vacations for the district's school-age students~~] shall annually:

(1) conduct a survey of private child care providers operating in the community to determine the degree to which those providers are meeting the needs of the district's eligible school-age students for child care before and after the school day and during school holidays and vacations; and

(2) consider, during at least two public hearings, the need for and availability of the child care described by Subdivision (1) [before, after, or both before and after the school day and during school holidays and vacations] for the district's eligible school-age students.

1           (d) If child care services provided by private providers are  
2 insufficient to meet the needs of the district's eligible  
3 school-age students, the [The] Work and Family Policies  
4 Clearinghouse may distribute money appropriated by the legislature  
5 to any school district for the purpose of implementing [~~school-age~~]  
6 child care before and after the school day and during school  
7 holidays and vacations for the [~~a school~~] district's eligible  
8 school-age students. Eligible use of funds shall include  
9 planning, development, establishment, expansion, or improvement of  
10 child care services and reasonable start-up costs. The  
11 clearinghouse may distribute money to pay fees charged for  
12 providing services to students who are considered to be at risk of  
13 dropping out of school under Section 29.081. The Texas Workforce  
14 Commission shall by rule establish procedures and eligibility  
15 requirements for distributing this money to school districts.

16           (e) A child care program implemented by a school district  
17 must comply with the applicable child care licensing requirements  
18 and standards imposed under Chapter 42, Human Resources Code.

19           SECTION 2. Section 33.903, Education Code, is amended by  
20 amending Subsections (b), (e), (g), (h), and (k) and adding  
21 Subsection (n) to read as follows:

22           (b) The legislature may make appropriations to the agency  
23 for the purpose of supporting before- and after-school child care  
24 programs for eligible school-age students in a school district that  
25 is operating a community education development project.

26           (e) The agency may not consider a school district's  
27 application for child care funding unless the application:

1 (1) contains a resolution by the district's board of  
2 trustees or governing body adopting a particular child care plan;

3 (2) states that the district has determined that child  
4 care services provided by private providers are insufficient to  
5 meet the needs of the district's eligible school-age students;

6 (3) states that the district will obtain appropriate  
7 licensing for the district's child care program under Chapter 42,  
8 Human Resources Code, and comply with applicable standards adopted  
9 under that chapter;

10 (4) states the anticipated funding requirements for  
11 the district's child care program and provides the agency with the  
12 data and any analysis used to prepare the funding estimate;

13 (5) [~~3~~] includes or is accompanied by a statement  
14 outlining how the proposed project effectuates the goals of this  
15 section and complies with the guidelines and objectives established  
16 under Subsection (d);

17 (6) [~~4~~] provides that the district will provide  
18 before- and after-school care between the hours of 7 a.m. and 6 p.m.  
19 for any eligible school-age student in prekindergarten  
20 [~~kindergarten~~] through grade seven [~~eight~~] whose parents or legal  
21 guardians work, attend school, or participate in a job-training  
22 program during those hours;

23 (7) [~~5~~] specifies that the district's child care  
24 program outlined in the application will maintain a ratio of not  
25 less than one caregiver per 20 students in prekindergarten  
26 [~~kindergarten~~] through grade three and a ratio of not less than one  
27 caregiver per 25 students in grades four through seven, unless a

1 lower ratio is imposed under Chapter 42, Human Resources Code,  
2 ~~[eight]~~ and will provide age-appropriate educational and  
3 recreational activities and homework assistance; and

4 (8) ~~[(6)]~~ states that the district has appointed a  
5 child care administrator.

6 (g) Each school district may provide full-day care for  
7 eligible school-age students on school holidays and teacher  
8 preparation days and during periods school is in recess, including  
9 summer vacation.

10 (h) A school district may supplement any funds received  
11 under this section with funds received through other government  
12 assistance programs, program tuition, or private donations. Any  
13 tuition charge may reflect only the actual cost of care provided to  
14 the student, and the agency or other appropriate governmental  
15 agency approved by the commissioner may audit a program to ensure  
16 compliance with this subsection. ~~[A school district shall use  
17 state funds awarded under this section to benefit educationally  
18 disadvantaged children before using those funds for the care of  
19 other children.]~~

20 (k) Each school district receiving funds under this section  
21 shall adopt minimum training and skills requirements that each  
22 individual providing child care or staff assistance for a district  
23 program under this section must satisfy. The minimum standards  
24 must be at least as stringent as any standards applicable under  
25 Chapter 42, Human Resources Code. The agency shall determine  
26 whether those minimum requirements fulfill the aims and policies of  
27 this section and shall suspend the payment of funds to any district

1 whose minimum requirements fail to fulfill the aims and policies of  
2 this section. The State Board of Education by rule shall adopt  
3 criteria by which the agency shall evaluate district minimum  
4 training and skills requirements. Any suspension order is subject  
5 to Chapter 2001, Government Code. A district may seek review of a  
6 suspension order under the review process adopted under Subsection  
7 (m).

8 (n) In this section, "eligible school-age students" has the  
9 meaning assigned by Section 33.902.

10 SECTION 3. Section 42.041(b), Human Resources Code, is  
11 amended to read as follows:

12 (b) This section does not apply to:

13 (1) a state-operated facility;

14 (2) an agency foster home or agency foster group home;

15 (3) a facility that is operated in connection with a  
16 shopping center, business, religious organization, or  
17 establishment where children are cared for during short periods  
18 while parents or persons responsible for the children are attending  
19 religious services, shopping, or engaging in other activities,  
20 including retreats or classes for religious instruction, on or near  
21 the premises, that does not advertise as a child-care facility or  
22 day-care center, and that informs parents that it is not licensed by  
23 the state;

24 (4) a school or class for religious instruction that  
25 does not last longer than two weeks and is conducted by a religious  
26 organization during the summer months;

27 (5) a youth camp licensed by the Department of State

1 Health Services;

2 (6) a facility licensed, operated, certified, or  
3 registered by another state agency;

4 (7) an educational facility that is accredited by the  
5 Texas Education Agency, the Southern Association of Colleges and  
6 Schools, or an accreditation body that is a member of the Texas  
7 Private School Accreditation Commission and that operates  
8 primarily for educational purposes for prekindergarten and above, a  
9 before-school or after-school program operated directly by an  
10 accredited educational facility other than a public school  
11 district, or a before-school or after-school program operated by  
12 another entity under contract with the educational facility, if the  
13 [~~Texas Education Agency, the~~] Southern Association of Colleges and  
14 Schools[~~7~~] or the other accreditation body, as applicable, has  
15 approved the curriculum content of the before-school or  
16 after-school program operated under the contract;

17 (8) an educational facility that operates solely for  
18 educational purposes for prekindergarten through at least grade  
19 two, that does not provide custodial care for more than one hour  
20 during the hours before or after the customary school day, and that  
21 is a member of an organization that promulgates, publishes, and  
22 requires compliance with health, safety, fire, and sanitation  
23 standards equal to standards required by state, municipal, and  
24 county codes;

25 (9) a kindergarten or preschool educational program  
26 that is operated as part of a public school or a private school  
27 accredited by the Texas Education Agency, that offers educational

1 programs through grade six, and that does not provide custodial  
2 care during the hours before or after the customary school day;

3 (10) a family home, whether registered or listed;

4 (11) an educational facility that is integral to and  
5 inseparable from its sponsoring religious organization or an  
6 educational facility both of which do not provide custodial care  
7 for more than two hours maximum per day, and that offers an  
8 educational program in one or more of the following:  
9 prekindergarten through at least grade three, elementary grades, or  
10 secondary grades;

11 (12) an emergency shelter facility providing shelter  
12 to minor mothers who are the sole support of their natural children  
13 under Section 32.201, Family Code, unless the facility would  
14 otherwise require a license as a child-care facility under this  
15 section;

16 (13) a juvenile detention facility certified under  
17 Section 51.12, Family Code, a juvenile correctional facility  
18 certified under Section 51.125, Family Code, a juvenile facility  
19 providing services solely for the Texas Youth Commission, or any  
20 other correctional facility for children operated or regulated by  
21 another state agency or by a political subdivision of the state;

22 (14) an elementary-age (ages 5-13) recreation program  
23 operated by a municipality provided the governing body of the  
24 municipality annually adopts standards of care by ordinance after a  
25 public hearing for such programs, that such standards are provided  
26 to the parents of each program participant, and that the ordinances  
27 shall include, at a minimum, staffing ratios, minimum staff

1 qualifications, minimum facility, health, and safety standards,  
2 and mechanisms for monitoring and enforcing the adopted local  
3 standards; and further provided that parents be informed that the  
4 program is not licensed by the state and the program may not be  
5 advertised as a child-care facility;

6 (15) an annual youth camp held in a municipality with a  
7 population of more than 1.5 million that operates for not more than  
8 three months and that has been operated for at least 10 years by a  
9 nonprofit organization that provides care for the homeless;

10 (16) a food distribution program that:

11 (A) serves an evening meal to children two years  
12 of age or older; and

13 (B) is operated by a nonprofit food bank in a  
14 nonprofit, religious, or educational facility for not more than two  
15 hours a day on regular business days;

16 (17) a child-care facility that operates for less than  
17 three consecutive weeks and less than 40 days in a period of 12  
18 months;

19 (18) a program:

20 (A) in which a child receives direct instruction  
21 in a single skill, talent, ability, expertise, or proficiency;

22 (B) that does not provide services or offerings  
23 that are not directly related to the single talent, ability,  
24 expertise, or proficiency;

25 (C) that does not advertise or otherwise  
26 represent that the program is a child-care facility, day-care  
27 center, or licensed before-school or after-school program or that



1 the program offers child-care services;

2 (D) that informs the parent or guardian:

3 (i) that the program is not licensed by the  
4 state; and

5 (ii) about the physical risks a child may  
6 face while participating in the program; and

7 (E) that conducts background checks for all  
8 program employees and volunteers who work with children in the  
9 program using information that is obtained from the Department of  
10 Public Safety;

11 (19) an elementary-age (ages 5-13) recreation program  
12 that:

13 (A) adopts standards of care, including  
14 standards relating to staff ratios, staff training, health, and  
15 safety;

16 (B) provides a mechanism for monitoring and  
17 enforcing the standards and receiving complaints from parents of  
18 enrolled children;

19 (C) does not advertise as or otherwise represent  
20 the program as a child-care facility, day-care center, or licensed  
21 before-school or after-school program or that the program offers  
22 child-care services;

23 (D) informs parents that the program is not  
24 licensed by the state;

25 (E) is organized as a nonprofit organization or  
26 is located on the premises of a participant's residence;

27 (F) does not accept any remuneration other than a

1 nominal annual membership fee;

2 (G) does not solicit donations as compensation or  
3 payment for any good or service provided as part of the program; and

4 (H) conducts background checks for all program  
5 employees and volunteers who work with children in the program  
6 using information that is obtained from the Department of Public  
7 Safety;

8 (20) a living arrangement in a caretaker's home  
9 involving one or more children or a sibling group, excluding  
10 children who are related to the caretaker, in which the caretaker:

11 (A) had a prior relationship with the child or  
12 sibling group or other family members of the child or sibling group;

13 (B) does not care for more than one unrelated  
14 child or sibling group;

15 (C) does not receive compensation or solicit  
16 donations for the care of the child or sibling group; and

17 (D) has a written agreement with the parent to  
18 care for the child or sibling group;

19 (21) a living arrangement in a caretaker's home  
20 involving one or more children or a sibling group, excluding  
21 children who are related to the caretaker, in which:

22 (A) the department is the managing conservator of  
23 the child or sibling group;

24 (B) the department placed the child or sibling  
25 group in the caretaker's home; and

26 (C) the caretaker had a long-standing and  
27 significant relationship with the child or sibling group before the

1 child or sibling group was placed with the caretaker; or

2           (22) a living arrangement in a caretaker's home  
3 involving one or more children or a sibling group, excluding  
4 children who are related to the caretaker, in which the child is in  
5 the United States on a time-limited visa under the sponsorship of  
6 the caretaker or of a sponsoring organization.

7           SECTION 4. This Act takes effect September 1, 2011.