

By: Nelson

S.B. No. 76

A BILL TO BE ENTITLED

AN ACT

relating to certain providers of subsidized child care.

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

SECTION 1. Subtitle B, Title 4, Labor Code, is amended by adding Chapter 313 to read as follows:

CHAPTER 313. REQUIREMENTS FOR PROVIDERS OF RELATIVE CHILD CARE

Sec. 313.001. DEFINITIONS. In this chapter:

(1) "Department" means the Department of Family and Protective Services.

(2) "Relative child care" means child care that is:

(A) funded wholly or partly from money received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. Section 9858 et seq.); and

(B) provided by a provider who:

(i) is at least 18 years of age;

(ii) complies with any federal or state requirements regarding subsidized child care that apply to the provider;

(iii) provides child-care services for less than 24 hours a day to a child who is, by marriage, blood relationship, or court decree:

(a) the grandchild of the provider;

(b) the great-grandchild of the provider;

1 (c) the sibling of the provider, and
2 the child resides in a separate residence from the provider; or

3 (d) the niece or nephew of the
4 provider; and

5 (iv) does not hold a license, listing, or
6 registration issued under Chapter 42, Human Resources Code, to
7 provide care for children not related to the provider for less than
8 24 hours a day.

9 (3) "Teen parent" means an individual 18 years of age
10 or younger, or 19 years of age and fully enrolled in a secondary
11 school in a program leading toward a high school diploma, who is the
12 parent of a child.

13 Sec. 313.002. LOCATION OF CARE. (a) Except as provided by
14 Subsections (b) and (c), relative child care must be provided in the
15 child-care provider's home.

16 (b) The commission shall allow relative child care in the
17 child's home:

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

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

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

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

26 (c) The commission may allow relative child care in the
27 child's home if the commission determines that other child-care

1 provider arrangements are not available in the community.

2 Sec. 313.003. LISTING AS FAMILY HOME. A relative
3 child-care provider must list the provider's home with the
4 department as a family home.

5 Sec. 313.004. NOTICE OF BACKGROUND AND CRIMINAL HISTORY
6 CHECKS. The commission must provide notice of the background and
7 criminal history check requirement to the parent or guardian of the
8 child who will receive care through a relative child-care provider
9 before the parent or guardian selects the provider.

10 Sec. 313.005. MEMORANDUM OF UNDERSTANDING. The commission
11 and the department shall adopt a memorandum of understanding
12 regarding the administration and payment of costs of listing a
13 relative child-care provider as required by this chapter.

14 SECTION 2. Chapter 301, Labor Code, is amended by adding
15 Subchapter K to read as follows:

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

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

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

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

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

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

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

6 (b) The commission shall ensure that local workforce
7 development boards implement procedures to prevent and detect
8 fraud, waste, and abuse in child-care programs.

9 Sec. 301.192. CORRECTION OF CHILD-CARE FRAUD, WASTE, AND
10 ABUSE. (a) The commission shall ensure that corrective action is
11 initiated against a child-care provider who commits fraud,
12 including:

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

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

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

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

22 (b) The commission shall ensure that corrective action is
23 initiated against a parent who commits fraud, including:

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

26 (2) declaring the parent ineligible for future child
27 care under a commission program;

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

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

6 (c) If the commission proposes to take a corrective action
7 under Subsection (a) or (b), the provider or parent is entitled to
8 appeal the proposed corrective action in accordance with procedures
9 adopted by the commission by rule.

10 SECTION 3. Subchapter C, Chapter 42, Human Resources Code,
11 is amended by adding Section 42.0523 to read as follows:

12 Sec. 42.0523. LISTING OF RELATIVE CHILD-CARE PROVIDERS.

13 (a) A child-care provider who only provides child care under
14 Chapter 313, Labor Code, to children related to the provider may
15 list the provider's home as a family home.

16 (b) Before the department may list a child-care provider's
17 home under this section, in addition to conducting any other
18 background or criminal history check required for a family home
19 listing, the department must search the central database of sex
20 offender registration records maintained by the Department of
21 Public Safety under Chapter 62, Code of Criminal Procedure, to
22 determine whether the provider is listed in the registry as a sex
23 offender.

24 (c) The address of a family home listed under this section
25 is the address of the child-care provider's home, regardless of
26 whether the child care is provided in the provider's home or in the
27 child's home.

1 (d) A relative child-care provider's home listed as a family
2 home under this section is exempt from the health and safety
3 requirements of 45 C.F.R. Section 98.41(a).

4 SECTION 4. Subchapter A, Chapter 302, Labor Code, is
5 amended by adding Section 302.0047 to read as follows:

6 Sec. 302.0047. ELECTRONIC VALIDATION OF CHILD-CARE
7 SERVICES AND ATTENDANCE. If feasible, the commission shall use an
8 electronic validation system to ensure that parents verify that a
9 provider of relative child care is providing care and that the child
10 for whom the care is provided is in attendance during the period for
11 which the child-care provider is being reimbursed for services.

12 SECTION 5. Subsection (g), Section 42.054, Human Resources
13 Code, is amended to read as follows:

14 (g) The provisions of Subsections (b) through (f) of this
15 section do not apply to:

16 (1) licensed foster homes and licensed foster group
17 homes;

18 (2) nonprofit facilities regulated under this chapter
19 that provided 24-hour care for children in the managing
20 conservatorship of the department during the 12-month period
21 immediately preceding the anniversary date of the facility's
22 license; ~~or~~

23 (3) facilities operated by a nonprofit corporation or
24 foundation that provides 24-hour residential care and does not
25 charge for the care provided; or

26 (4) a family home listed under Section 42.0523 in
27 which the relative child-care provider cares for the child in the

1 child's own home.

2 SECTION 6. The Texas Workforce Commission and the
3 Department of Family and Protective Services shall adopt the
4 memorandum of understanding required by Section 313.005, Labor
5 Code, as added by this Act, not later than October 1, 2011.

6 SECTION 7. If before implementing any provision of this Act
7 a state agency determines that a waiver or authorization from a
8 federal agency is necessary for implementation of that provision,
9 the agency affected by the provision shall request the waiver or
10 authorization and may delay implementing that provision until the
11 waiver or authorization is granted.

12 SECTION 8. Notwithstanding Chapter 313, Labor Code, as
13 added by this Act, the Texas Workforce Commission shall ensure that
14 payments made on or after November 1, 2011, to providers of relative
15 child care, as defined by Section 313.001, Labor Code, as added by
16 this Act, are made only to providers with respect to whom a
17 background and criminal history check has been conducted as
18 required by that chapter.

19 SECTION 9. This Act takes effect September 1, 2011.