

By: Nelson
(Morrison)

S.B. No. 76

Substitute the following for S.B. No. 76:

By: Morrison

C.S.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) operates a listed family home under
6 Chapter 42, Human Resources Code, that provides care for one or more
7 children related to the provider and does not hold any other license
8 or permit to provide child care under Chapter 42, Human Resources
9 Code.

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

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

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

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

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

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

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

27 (c) The commission may allow relative child care in the

1 child's home if the commission determines that other child-care
2 provider arrangements are not available in the community.

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

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

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

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

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

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

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

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

27 (B) relative child-care providers who are

1 engaged in other employment; and

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

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

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

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

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

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

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

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

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

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

27 (2) declaring the parent ineligible for future child

1 care under a commission program;

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

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

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

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

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

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

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

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

1 child's home.

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

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

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

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

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

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

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

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

27 (4) a family home listed under Section 42.0523 in

1 which the relative child-care provider cares for the child in the
2 child's own home.

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

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

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

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