

1-1 By: Nelson S.B. No. 76
1-2 (In the Senate - Filed November 8, 2010; January 31, 2011,
1-3 read first time and referred to Committee on Health and Human
1-4 Services; March 7, 2011, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 7, Nays 0;
1-6 March 7, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 76 By: Nelson
1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to certain providers of subsidized child care.
1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-12 SECTION 1. Subtitle B, Title 4, Labor Code, is amended by
1-13 adding Chapter 313 to read as follows:
1-14 CHAPTER 313. REQUIREMENTS FOR PROVIDERS OF RELATIVE CHILD CARE
1-15 Sec. 313.001. DEFINITIONS. In this chapter:
1-16 (1) "Department" means the Department of Family and
1-17 Protective Services.
1-18 (2) "Relative child care" means child care that is:
1-19 (A) funded wholly or partly from money received
1-20 under the Child Care and Development Block Grant Act of 1990 (42
1-21 U.S.C. Section 9858 et seq.); and
1-22 (B) provided by a provider who:
1-23 (i) is at least 18 years of age;
1-24 (ii) complies with any federal or state
1-25 requirements regarding subsidized child care that apply to the
1-26 provider;
1-27 (iii) provides child-care services for less
1-28 than 24 hours a day to a child who is, by marriage, blood
1-29 relationship, or court decree:
1-30 (a) the grandchild of the provider;
1-31 (b) the great-grandchild of the
1-32 provider;
1-33 (c) the sibling of the provider, and
1-34 the child resides in a separate residence from the provider; or
1-35 (d) the niece or nephew of the
1-36 provider; and
1-37 (iv) does not hold a license, listing, or
1-38 registration issued under Chapter 42, Human Resources Code, to
1-39 provide care for children not related to the provider for less than
1-40 24 hours a day.
1-41 (3) "Teen parent" means an individual 18 years of age
1-42 or younger, or 19 years of age and fully enrolled in a secondary
1-43 school in a program leading toward a high school diploma, who is the
1-44 parent of a child.
1-45 Sec. 313.002. LOCATION OF CARE. (a) Except as provided by
1-46 Subsections (b) and (c), relative child care must be provided in the
1-47 child-care provider's home.
1-48 (b) The commission shall allow relative child care in the
1-49 child's home:
1-50 (1) for a disabled child and the child's siblings;
1-51 (2) for a child under 18 months of age and the child's
1-52 siblings;
1-53 (3) for a child of a teen parent; and
1-54 (4) when the parent's work schedule necessitates
1-55 child-care services during the evening, overnight, or on the
1-56 weekend and taking the child outside of the child's home would be
1-57 disruptive to the child.
1-58 (c) The commission may allow relative child care in the
1-59 child's home if the commission determines that other child-care
1-60 provider arrangements are not available in the community.
1-61 Sec. 313.003. LISTING AS FAMILY HOME. A relative
1-62 child-care provider must list the provider's home with the
1-63 department as a family home.

2-1 Sec. 313.004. NOTICE OF BACKGROUND AND CRIMINAL HISTORY
2-2 CHECKS. The commission must provide notice of the background and
2-3 criminal history check requirement to the parent or guardian of the
2-4 child who will receive care through a relative child-care provider
2-5 before the parent or guardian selects the provider.

2-6 Sec. 313.005. MEMORANDUM OF UNDERSTANDING. The commission
2-7 and the department shall adopt a memorandum of understanding
2-8 regarding the administration and payment of costs of listing a
2-9 relative child-care provider as required by this chapter.

2-10 SECTION 2. Chapter 301, Labor Code, is amended by adding
2-11 Subchapter K to read as follows:

2-12 SUBCHAPTER K. DETECTION AND PREVENTION OF CHILD-CARE FRAUD, WASTE,
2-13 AND ABUSE

2-14 Sec. 301.191. PREVENTION AND DETECTION OF CHILD-CARE FRAUD,
2-15 WASTE, AND ABUSE. (a) The commission shall develop risk
2-16 assessment protocols to identify and assess possible instances of
2-17 fraud, waste, and abuse in child-care programs, including:

2-18 (1) the use of unemployment insurance wage records to
2-19 identify:

2-20 (A) potential ineligible parents due to a change
2-21 in income or underreporting of income;

2-22 (B) relative child-care providers who are
2-23 engaged in other employment; and

2-24 (C) parents who do not have the required work
2-25 history; and

2-26 (2) the identification of parents who apply for or
2-27 receive child-care services in multiple workforce areas
2-28 simultaneously.

2-29 (b) The commission shall ensure that local workforce
2-30 development boards implement procedures to prevent and detect
2-31 fraud, waste, and abuse in child-care programs.

2-32 Sec. 301.192. CORRECTION OF CHILD-CARE FRAUD, WASTE, AND
2-33 ABUSE. (a) The commission shall ensure that corrective action is
2-34 initiated against a child-care provider who commits fraud,
2-35 including:

2-36 (1) temporarily or permanently withholding payments
2-37 to the provider for child-care services already delivered;

2-38 (2) recovering money paid for child care from the
2-39 child-care provider;

2-40 (3) stopping the provision of authorized child care at
2-41 the provider's facility or location; or

2-42 (4) taking any other action consistent with the intent
2-43 of the governing statutes or rules to investigate, prevent, or stop
2-44 suspected fraud.

2-45 (b) The commission shall ensure that corrective action is
2-46 initiated against a parent who commits fraud, including:

2-47 (1) recovering money paid for child care from the
2-48 parent;

2-49 (2) declaring the parent ineligible for future child
2-50 care under a commission program;

2-51 (3) limiting the enrollment of the parent's child to a
2-52 regulated child-care provider; or

2-53 (4) taking any other action consistent with the intent
2-54 of the governing statutes or rules to investigate, prevent, or stop
2-55 suspected fraud.

2-56 (c) If the commission proposes to take a corrective action
2-57 under Subsection (a) or (b), the provider or parent is entitled to a
2-58 hearing in accordance with procedures adopted by the commission by
2-59 rule.

2-60 SECTION 3. Subchapter C, Chapter 42, Human Resources Code,
2-61 is amended by adding Section 42.0523 to read as follows:

2-62 Sec. 42.0523. LISTING OF RELATIVE CHILD-CARE PROVIDERS.

2-63 (a) A child-care provider who only provides child care under
2-64 Chapter 313, Labor Code, to children related to the provider may
2-65 list the provider's home as a family home.

2-66 (b) Before the department may list a child-care provider's
2-67 home under this section, in addition to conducting any other
2-68 background or criminal history check required for a family home
2-69 listing, the department must search the central database of sex

3-1 offender registration records maintained by the Department of
3-2 Public Safety under Chapter 62, Code of Criminal Procedure, to
3-3 determine whether the provider is listed in the registry as a sex
3-4 offender.

3-5 (c) The address of a family home listed under this section
3-6 is the address of the child-care provider's home, regardless of
3-7 whether the child care is provided in the provider's home or in the
3-8 child's home.

3-9 (d) A relative child-care provider's home listed as a family
3-10 home under this section is exempt from the health and safety
3-11 requirements of 45 C.F.R. Section 98.41(a).

3-12 SECTION 4. Subchapter A, Chapter 302, Labor Code, is
3-13 amended by adding Section 302.0047 to read as follows:

3-14 Sec. 302.0047. ELECTRONIC VALIDATION OF CHILD-CARE
3-15 SERVICES AND ATTENDANCE. If feasible, the commission shall use an
3-16 electronic validation system to ensure that parents verify that a
3-17 provider of relative child care is providing care and that the child
3-18 for whom the care is provided is in attendance during the period for
3-19 which the child-care provider is being reimbursed for services.

3-20 SECTION 5. Subsection (g), Section 42.054, Human Resources
3-21 Code, is amended to read as follows:

3-22 (g) The provisions of Subsections (b) through (f) of this
3-23 section do not apply to:

3-24 (1) licensed foster homes and licensed foster group
3-25 homes;

3-26 (2) nonprofit facilities regulated under this chapter
3-27 that provided 24-hour care for children in the managing
3-28 conservatorship of the department during the 12-month period
3-29 immediately preceding the anniversary date of the facility's
3-30 license; ~~or~~

3-31 (3) facilities operated by a nonprofit corporation or
3-32 foundation that provides 24-hour residential care and does not
3-33 charge for the care provided; or

3-34 (4) a family home listed under Section 42.0523.

3-35 SECTION 6. The Texas Workforce Commission and the
3-36 Department of Family and Protective Services shall adopt the
3-37 memorandum of understanding required by Section 313.005, Labor
3-38 Code, as added by this Act, not later than October 1, 2011.

3-39 SECTION 7. If before implementing any provision of this Act
3-40 a state agency determines that a waiver or authorization from a
3-41 federal agency is necessary for implementation of that provision,
3-42 the agency affected by the provision shall request the waiver or
3-43 authorization and may delay implementing that provision until the
3-44 waiver or authorization is granted.

3-45 SECTION 8. Notwithstanding Chapter 313, Labor Code, as
3-46 added by this Act, the Texas Workforce Commission shall ensure that
3-47 payments made on or after November 1, 2011, to providers of relative
3-48 child care, as defined by Section 313.001, Labor Code, as added by
3-49 this Act, are made only to providers with respect to whom a
3-50 background and criminal history check has been conducted as
3-51 required by that chapter.

3-52 SECTION 9. This Act takes effect September 1, 2011.

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