

## **BILL ANALYSIS**

C.S.H.B. 743  
By: Miller, Rick  
Human Services  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Under current law, certain educational entities that operate on-premise, after-school child-care programs are exempt from licensing regulations administered by the Department of Family and Protective Services (DFPS). Interested parties contend that certain revisions to the law are necessary to ensure the proper regulation of these entities and to protect the children attending certain child-care programs. C.S.H.B. 743 seeks to amend current law relating to an exemption from child-care facility licensing requirements and certain fees charged to each licensed child-care facility by DFPS.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 743 amends the Human Resources Code to exempt a before-school or after-school program, child care, or other extended day activity that is provided directly by a public school without charging tuition or an enrollment fee from the requirement to obtain a license issued by the Department of Family and Protective Services (DFPS) in order to operate a child-care facility or child-placing agency. The bill removes such an exemption for a before-school or after-school program operated by an entity other than an accredited educational facility under contract with the educational facility, if the Texas Education Agency (TEA), the Southern Association of Colleges and Schools, or an accreditation body that is a member of the Texas Private School Accreditation Commission, as applicable, has approved the curriculum content of the program operated under the contract. The bill makes the exemption for a before-school or after-school program operated directly by an accredited educational facility applicable only to a nonpublic educational facility. The bill requires DFPS to inspect only as necessary a licensed before-school or after-school program operated directly by an educational facility accredited by TEA and that operates primarily for educational purposes for prekindergarten and above. The bill increases from \$1 to \$2 the surcharge added to the annual license fee of a child-care facility for each child the facility is permitted to serve.

### **EFFECTIVE DATE**

September 1, 2013.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 743 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 42.041(b), Human Resources Code, is amended to read as follows:

- (b) This section does not apply to:
  - (1) a state-operated facility;
  - (2) an agency foster home or agency foster group home;
  - (3) a facility that is operated in connection with a shopping center, business, religious organization, or establishment where children are cared for during short periods while parents or persons responsible for the children are attending religious services, shopping, or engaging in other activities, including retreats or classes for religious instruction, on or near the premises, that does not advertise as a child-care facility or day-care center, and that informs parents that it is not licensed by the state;
  - (4) a school or class for religious instruction that does not last longer than two weeks and is conducted by a religious organization during the summer months;
  - (5) a youth camp licensed by the Department of State Health Services;
  - (6) a facility licensed, operated, certified, or registered by another state agency;
  - (7) an educational facility that is accredited by the Texas Education Agency, the Southern Association of Colleges and Schools, or an accreditation body that is a member of the Texas Private School Accreditation Commission and that operates primarily for educational purposes for prekindergarten and above ~~[, a before-school or after-school program operated directly by an accredited educational facility, or a before-school or after-school program operated by another entity under contract with the educational facility, if the Texas Education Agency, the Southern Association of Colleges and Schools, or the other accreditation body, as applicable, has approved the curriculum content of the before-school or after-school program operated under the contract];~~
  - (8) an educational facility that operates solely for educational purposes for prekindergarten through at least grade two, that does not provide custodial care for more than one hour during the hours before or after the customary school day, and that is a member of an organization that

HOUSE COMMITTEE SUBSTITUTE

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  - (4) a school or class for religious instruction that does not last longer than two weeks and is conducted by a religious organization during the summer months;
  - (5) a youth camp licensed by the Department of State Health Services;
  - (6) a facility licensed, operated, certified, or registered by another state agency;
  - (7) an educational facility that is accredited by the Texas Education Agency, the Southern Association of Colleges and Schools, or an accreditation body that is a member of the Texas Private School Accreditation Commission and that operates primarily for educational purposes for prekindergarten and above, or a before-school or after-school program operated directly by an accredited nonpublic educational facility ~~[, or a before-school or after-school program operated by another entity under contract with the educational facility, if the Texas Education Agency, the Southern Association of Colleges and Schools, or the other accreditation body, as applicable, has approved the curriculum content of the before-school or after-school program operated under the contract];~~
  - (8) an educational facility that operates solely for educational purposes for prekindergarten through at least grade two, that does not provide custodial care for more than one hour during the hours before or after the customary school day, and that is a member of an organization that

promulgates, publishes, and requires compliance with health, safety, fire, and sanitation standards equal to standards required by state, municipal, and county codes;

(9) a kindergarten or preschool educational program that is operated as part of a public school or a private school accredited by the Texas Education Agency, that offers educational programs through grade six, and that does not provide custodial care during the hours before or after the customary school day;

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

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

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

(13) a juvenile detention facility certified under Section 51.12, Family Code, a juvenile correctional facility certified under Section 51.125, Family Code, a juvenile facility providing services solely for the Texas Juvenile Justice Department [~~Youth Commission~~], or any other correctional facility for children operated or regulated by another state agency or by a political subdivision of the state;

(14) an elementary-age (ages 5-13) recreation program operated by a municipality provided the governing body of the municipality annually adopts standards of care by ordinance after a public hearing for such programs, that such standards are provided to the parents of each program participant, and that the ordinances shall include, at a minimum, staffing ratios, minimum staff qualifications, minimum facility, health, and safety standards, and mechanisms for monitoring and enforcing the adopted local standards; and further provided that parents be informed that the

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program is not licensed by the state and the program may not be advertised as a child-care facility;

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

(16) a food distribution program that:

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

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

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

(18) a program:

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

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

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

(D) that informs the parent or guardian:

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

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

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

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

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

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

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

program is not licensed by the state and the program may not be advertised as a child-care facility;

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

program offers child-care services;

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

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

(F) does not accept any remuneration other than a nominal annual membership fee;

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

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

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

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

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

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

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

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

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

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

(C) the caretaker had a long-standing and significant relationship with the child or sibling group before the child or sibling group was placed with the caretaker; ~~or~~

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

(23) a before-school or after-school program, child care, or other extended day activity that is provided directly by a public school without charging tuition or an enrollment fee.

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(C) the caretaker had a long-standing and significant relationship with the child or sibling group before the child or sibling group was placed with the caretaker; ~~or~~

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

(23) a before-school or after-school program, child care, or other extended day activity that is provided directly by a public school without charging tuition or an enrollment fee.

SECTION 2. Section 42.044, Human Resources Code, is amended by adding Subsection (b-3) to read as follows:

(b-3) Notwithstanding Subsection (b), the department is required to inspect only as necessary a licensed before-school or after-school program operated directly by an educational facility accredited by the Texas Education Agency, the Southern Association of Colleges and Schools, or an accreditation body that is a member of the Texas Private School Accreditation Commission and that operates primarily for educational purposes for prekindergarten and above.

SECTION 3. Section 42.054(c), Human Resources Code, is amended to read as follows:

(c) The department shall charge each licensed child-care facility an annual license fee in the amount of \$35 plus \$2 [~~\$1~~] for each child the child-care facility is permitted to serve. The fee is due on the date on which the department issues the child-care facility's initial license and on the anniversary of that date.

SECTION 4. This Act takes effect September 1, 2013.

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(b-3) Notwithstanding Subsection (b), the department is required to inspect only as necessary a licensed before-school or after-school program operated directly by an educational facility accredited by the Texas Education Agency and that operates primarily for educational purposes for prekindergarten and above.

SECTION 3. Same as introduced version.

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