

By: Miller of Fort Bend

H.B. No. 743

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the regulation of certain child-care facilities.

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

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

6 (b) This section does not apply to:

7 (1) a state-operated facility;

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

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

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

21 (5) a youth camp licensed by the Department of State
22 Health Services;

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

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

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

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

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

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

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

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

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

1 standards; and further provided that parents be informed that the
2 program is not licensed by the state and the program may not be
3 advertised as a child-care facility;

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

8 (16) a food distribution program that:

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

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

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

17 (18) a program:

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

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

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

27 (D) that informs the parent or guardian:

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

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

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

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

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

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

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

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

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

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

27 (G) does not solicit donations as compensation or

1 payment for any good or service provided as part of the program; and

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

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

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

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

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

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

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

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

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

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

27 (22) a living arrangement in a caretaker's home

1 involving one or more children or a sibling group, excluding
2 children who are related to the caretaker, in which the child is in
3 the United States on a time-limited visa under the sponsorship of
4 the caretaker or of a sponsoring organization; or

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

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

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

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

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

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