

By: Dukes

H.B. No. 817

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the ability of an emergency shelter facility to provide
3 shelter or care for an unaccompanied minor without a license.

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

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

7 (b) This section does not apply to:

8 (1) a state-operated facility;

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

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

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

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

24 (6) a facility licensed, operated, certified, or

1 registered by another state agency;

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

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

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

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

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

9 (12) an emergency shelter facility providing shelter
10 or care to a minor and the minor's child or ~~[mothers who are the sole~~
11 ~~support of their natural]~~ children, if any, under Section 32.201,
12 Family Code, unless the facility would otherwise require a license
13 as a child-care facility under this section;

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

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

1 and mechanisms for monitoring and enforcing the adopted local
2 standards; and further provided that parents be informed that the
3 program is not licensed by the state and the program may not be
4 advertised as a child-care facility;

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

9 (16) a food distribution program that:

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

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

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

18 (18) a program:

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

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

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

1 (D) that informs the parent or guardian:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 SECTION 2. This Act takes effect immediately if it receives
7 a vote of two-thirds of all the members elected to each house, as
8 provided by Section 39, Article III, Texas Constitution. If this
9 Act does not receive the vote necessary for immediate effect, this
10 Act takes effect September 1, 2013.