

AN ACT

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

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

SECTION 1. Subsection (b), Section 42.041, 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

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 following:  
7 prekindergarten through at least grade three, elementary grades, or  
8 secondary grades;
- 9           (12) an emergency shelter facility, other than a  
10 facility that would otherwise require a license as a child-care  
11 facility under this section, that provides ~~[providing]~~ shelter or  
12 care to a minor and the minor's child or ~~[mothers who are the sole~~  
13 ~~support of their natural]~~ children, if any, under Section 32.201,  
14 Family Code, if the facility:
- 15                   (A) is currently under a contract with a state or  
16 federal agency; or
- 17                   (B) meets the requirements listed under Section  
18 51.005(b)(3) ~~[unless the facility would otherwise require a license~~  
19 ~~as a child-care facility under this section];~~
- 20           (13) a juvenile detention facility certified under  
21 Section 51.12, Family Code, a juvenile correctional facility  
22 certified under Section 51.125, Family Code, a juvenile facility  
23 providing services solely for the Texas Juvenile Justice Department  
24 ~~[Youth Commission]~~, or any other correctional facility for children  
25 operated or regulated by another state agency or by a political  
26 subdivision of the state;
- 27           (14) an elementary-age (ages 5-13) recreation program

1 operated by a municipality provided the governing body of the  
2 municipality annually adopts standards of care by ordinance after a  
3 public hearing for such programs, that such standards are provided  
4 to the parents of each program participant, and that the ordinances  
5 shall include, at a minimum, staffing ratios, minimum staff  
6 qualifications, minimum facility, health, and safety standards,  
7 and mechanisms for monitoring and enforcing the adopted local  
8 standards; and further provided that parents be informed that the  
9 program is not licensed by the state and the program may not be  
10 advertised as a child-care facility;

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

15           (16) a food distribution program that:

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

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

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

24           (18) a program:

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

27                   (B) that does not provide services or offerings

1 that are not directly related to the single talent, ability,  
2 expertise, or proficiency;

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

7 (D) that informs the parent or guardian:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (A) the department is the managing conservator of

1 the child or sibling group;

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

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

7 (22) 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 child is in  
10 the United States on a time-limited visa under the sponsorship of  
11 the caretaker or of a sponsoring organization.

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

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 353 passed the Senate on March 13, 2013, by the following vote: Yeas 31, Nays 0.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 353 passed the House on May 10, 2013, by the following vote: Yeas 143, Nays 0, two present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor