

1-1 By: West S.B. No. 353
 1-2 (In the Senate - Filed February 4, 2013; February 11, 2013,
 1-3 read first time and referred to Committee on Jurisprudence;
 1-4 March 4, 2013, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 5, Nays 0; March 4, 2013,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12			X	
1-13	X			
1-14	X			

1-15 COMMITTEE SUBSTITUTE FOR S.B. No. 353 By: Paxton

1-16 A BILL TO BE ENTITLED
 1-17 AN ACT

1-18 relating to the ability of an emergency shelter facility to provide
 1-19 shelter or care for an unaccompanied minor without a license.

1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-21 SECTION 1. Subsection (b), Section 42.041, Human Resources
 1-22 Code, is amended to read as follows:

1-23 (b) This section does not apply to:

1-24 (1) a state-operated facility;

1-25 (2) an agency foster home or agency foster group home;

1-26 (3) a facility that is operated in connection with a
 1-27 shopping center, business, religious organization, or
 1-28 establishment where children are cared for during short periods
 1-29 while parents or persons responsible for the children are attending
 1-30 religious services, shopping, or engaging in other activities,
 1-31 including retreats or classes for religious instruction, on or near
 1-32 the premises, that does not advertise as a child-care facility or
 1-33 day-care center, and that informs parents that it is not licensed by
 1-34 the state;

1-35 (4) a school or class for religious instruction that
 1-36 does not last longer than two weeks and is conducted by a religious
 1-37 organization during the summer months;

1-38 (5) a youth camp licensed by the Department of State
 1-39 Health Services;

1-40 (6) a facility licensed, operated, certified, or
 1-41 registered by another state agency;

1-42 (7) an educational facility that is accredited by the
 1-43 Texas Education Agency, the Southern Association of Colleges and
 1-44 Schools, or an accreditation body that is a member of the Texas
 1-45 Private School Accreditation Commission and that operates
 1-46 primarily for educational purposes for prekindergarten and above, a
 1-47 before-school or after-school program operated directly by an
 1-48 accredited educational facility, or a before-school or
 1-49 after-school program operated by another entity under contract with
 1-50 the educational facility, if the Texas Education Agency, the
 1-51 Southern Association of Colleges and Schools, or the other
 1-52 accreditation body, as applicable, has approved the curriculum
 1-53 content of the before-school or after-school program operated under
 1-54 the contract;

1-55 (8) an educational facility that operates solely for
 1-56 educational purposes for prekindergarten through at least grade
 1-57 two, that does not provide custodial care for more than one hour
 1-58 during the hours before or after the customary school day, and that
 1-59 is a member of an organization that promulgates, publishes, and
 1-60 requires compliance with health, safety, fire, and sanitation

- 2-1 standards equal to standards required by state, municipal, and
 2-2 county codes;
- 2-3 (9) a kindergarten or preschool educational program
 2-4 that is operated as part of a public school or a private school
 2-5 accredited by the Texas Education Agency, that offers educational
 2-6 programs through grade six, and that does not provide custodial
 2-7 care during the hours before or after the customary school day;
- 2-8 (10) a family home, whether registered or listed;
- 2-9 (11) an educational facility that is integral to and
 2-10 inseparable from its sponsoring religious organization or an
 2-11 educational facility both of which do not provide custodial care
 2-12 for more than two hours maximum per day, and that offers an
 2-13 educational program in one or more of the
 2-14 following: prekindergarten through at least grade three,
 2-15 elementary grades, or secondary grades;
- 2-16 (12) an emergency shelter facility, other than a
 2-17 facility that would otherwise require a license as a child-care
 2-18 facility under this section, that provides [providing] shelter or
 2-19 care to a minor and the minor's child or [mothers who are the sole
 2-20 support of their natural] children, if any, under Section 32.201,
 2-21 Family Code, if the facility:
- 2-22 (A) is currently under a contract with a state or
 2-23 federal agency; or
- 2-24 (B) meets the requirements listed under Section
 2-25 51.005(b)(3) [unless the facility would otherwise require a license
 2-26 as a child-care facility under this section];
- 2-27 (13) a juvenile detention facility certified under
 2-28 Section 51.12, Family Code, a juvenile correctional facility
 2-29 certified under Section 51.125, Family Code, a juvenile facility
 2-30 providing services solely for the Texas Juvenile Justice Department
 2-31 [Youth Commission], or any other correctional facility for children
 2-32 operated or regulated by another state agency or by a political
 2-33 subdivision of the state;
- 2-34 (14) an elementary-age (ages 5-13) recreation program
 2-35 operated by a municipality provided the governing body of the
 2-36 municipality annually adopts standards of care by ordinance after a
 2-37 public hearing for such programs, that such standards are provided
 2-38 to the parents of each program participant, and that the ordinances
 2-39 shall include, at a minimum, staffing ratios, minimum staff
 2-40 qualifications, minimum facility, health, and safety standards,
 2-41 and mechanisms for monitoring and enforcing the adopted local
 2-42 standards; and further provided that parents be informed that the
 2-43 program is not licensed by the state and the program may not be
 2-44 advertised as a child-care facility;
- 2-45 (15) an annual youth camp held in a municipality with a
 2-46 population of more than 1.5 million that operates for not more than
 2-47 three months and that has been operated for at least 10 years by a
 2-48 nonprofit organization that provides care for the homeless;
- 2-49 (16) a food distribution program that:
- 2-50 (A) serves an evening meal to children two years
 2-51 of age or older; and
- 2-52 (B) is operated by a nonprofit food bank in a
 2-53 nonprofit, religious, or educational facility for not more than two
 2-54 hours a day on regular business days;
- 2-55 (17) a child-care facility that operates for less than
 2-56 three consecutive weeks and less than 40 days in a period of 12
 2-57 months;
- 2-58 (18) a program:
- 2-59 (A) in which a child receives direct instruction
 2-60 in a single skill, talent, ability, expertise, or proficiency;
- 2-61 (B) that does not provide services or offerings
 2-62 that are not directly related to the single talent, ability,
 2-63 expertise, or proficiency;
- 2-64 (C) that does not advertise or otherwise
 2-65 represent that the program is a child-care facility, day-care
 2-66 center, or licensed before-school or after-school program or that
 2-67 the program offers child-care services;
- 2-68 (D) that informs the parent or guardian:
- 2-69 (i) that the program is not licensed by the

3-1 state; and
3-2 (ii) about the physical risks a child may
3-3 face while participating in the program; and
3-4 (E) that conducts background checks for all
3-5 program employees and volunteers who work with children in the
3-6 program using information that is obtained from the Department of
3-7 Public Safety;
3-8 (19) an elementary-age (ages 5-13) recreation program
3-9 that:
3-10 (A) adopts standards of care, including
3-11 standards relating to staff ratios, staff training, health, and
3-12 safety;
3-13 (B) provides a mechanism for monitoring and
3-14 enforcing the standards and receiving complaints from parents of
3-15 enrolled children;
3-16 (C) does not advertise as or otherwise represent
3-17 the program as a child-care facility, day-care center, or licensed
3-18 before-school or after-school program or that the program offers
3-19 child-care services;
3-20 (D) informs parents that the program is not
3-21 licensed by the state;
3-22 (E) is organized as a nonprofit organization or
3-23 is located on the premises of a participant's residence;
3-24 (F) does not accept any remuneration other than a
3-25 nominal annual membership fee;
3-26 (G) does not solicit donations as compensation or
3-27 payment for any good or service provided as part of the program; and
3-28 (H) conducts background checks for all program
3-29 employees and volunteers who work with children in the program
3-30 using information that is obtained from the Department of Public
3-31 Safety;
3-32 (20) a living arrangement in a caretaker's home
3-33 involving one or more children or a sibling group, excluding
3-34 children who are related to the caretaker, in which the caretaker:
3-35 (A) had a prior relationship with the child or
3-36 sibling group or other family members of the child or sibling group;
3-37 (B) does not care for more than one unrelated
3-38 child or sibling group;
3-39 (C) does not receive compensation or solicit
3-40 donations for the care of the child or sibling group; and
3-41 (D) has a written agreement with the parent to
3-42 care for the child or sibling group;
3-43 (21) a living arrangement in a caretaker's home
3-44 involving one or more children or a sibling group, excluding
3-45 children who are related to the caretaker, in which:
3-46 (A) the department is the managing conservator of
3-47 the child or sibling group;
3-48 (B) the department placed the child or sibling
3-49 group in the caretaker's home; and
3-50 (C) the caretaker had a long-standing and
3-51 significant relationship with the child or sibling group before the
3-52 child or sibling group was placed with the caretaker; or
3-53 (22) a living arrangement in a caretaker's home
3-54 involving one or more children or a sibling group, excluding
3-55 children who are related to the caretaker, in which the child is in
3-56 the United States on a time-limited visa under the sponsorship of
3-57 the caretaker or of a sponsoring organization.
3-58 SECTION 2. This Act takes effect immediately if it receives
3-59 a vote of two-thirds of all the members elected to each house, as
3-60 provided by Section 39, Article III, Texas Constitution. If this
3-61 Act does not receive the vote necessary for immediate effect, this
3-62 Act takes effect September 1, 2013.

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