

BILL ANALYSIS

C.S.H.B. 2837
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Juvenile Justice & Family Issues
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Previously enacted legislation permitted a parent or both parents of a child to enter into an agreement with a relative to authorize the relative to make parental decisions regarding the child. Interested parties believe that these authorization agreements should be extended to nonrelatives as well to provide additional temporary placement options for parents in need and to provide a viable alternative to foster care. C.S.H.B. 2837 seeks to allow a parent to enter into an authorization agreement with a nonrelative for the temporary placement of a child under certain conditions.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 4 and to the Department of Public Safety in SECTION 10 of this bill.

ANALYSIS

C.S.H.B. 2837 amends the Family Code, including provisions amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to authorize a parent, other than a parent whose child is the subject of an ongoing investigation of child abuse or neglect by the Department of Family and Protective Services (DFPS) or to whom DFPS is providing services, to enter into an authorization agreement with a person who is not a relative of the parent's child if the agreement is entered into with the assistance of a qualified nonprofit organization. The bill defines "qualified nonprofit organization" as a charitable or religious institution that is exempt from federal income tax under the federal Internal Revenue Code of 1986 that assists a parent or legal guardian of a child with the process of entering into an authorization agreement and makes statutory provisions governing an authorization agreement for a nonparent relative applicable to an agreement entered into with such assistance. The bill establishes that an authorization agreement executed under the bill's provisions expires on the first anniversary of the date the agreement is executed, unless an earlier date is specified in the agreement, and authorizes the parties to the agreement to execute a subsequent authorization agreement if necessary. The bill authorizes a parent or other legal guardian of a child to revoke or withdraw an authorization agreement at any time. The bill establishes that a parent's execution of an authorization agreement does not, without other evidence, constitute abandonment or child abuse or neglect.

C.S.H.B. 2837 requires a qualified nonprofit organization, for each request received by the organization to assist a parent and a person who is not related to the parent's child with entering into an authorization agreement and placement of a child, to do the following:

- for each person to whom powers are delegated under the agreement and for each person 14 years of age or older who resides in the home, ensure that a criminal history background check is conducted through the Department of Public Safety (DPS) as authorized under the bill's provisions, ensure that a fingerprint-based criminal history check is conducted through DPS and the FBI, and ensure that an abuse or neglect registry check is conducted by DFPS for the in-state registry and by the organization for any applicable out-of-state registry;
- ensure that each person providing care for a child under an authorization agreement is trained in the rights, duties, and limitations regarding providing care for a child under an authorization agreement; and
- notify DFPS of the request and verify that DFPS does not have an open investigation of child abuse or neglect involving the child or parent or is not otherwise providing services to the parent.

C.S.H.B. 2837 requires DFPS, if it has an open investigation of abuse and neglect related to the child or is providing services to the parent, to approve the authorization agreement before the agreement may take effect. The bill prohibits DFPS from opening an investigation based solely on receiving the required notification from a qualified nonprofit organization regarding a parent's request to enter into an authorization agreement with a nonrelative if DFPS does not have an open investigation involving the child or parent or is not otherwise providing services to the parent. The bill establishes that DFPS approval of the agreement is not required under such circumstances and that such prohibition does not prohibit DFPS from opening an investigation under statutory provisions relating to investigations of reports of child abuse or neglect. The bill requires the executive commissioner of the Health and Human Services Commission to establish by rule a fee for DFPS to charge for each abuse or neglect registry check conducted by DFPS for a qualified nonprofit organization under the bill's provisions and requires the fee to be in an amount sufficient for DFPS to recover the costs it incurs in conducting the registry check.

C.S.H.B. 2837 includes qualified nonprofit organizations among the local child service agencies with which DFPS is required by executive commissioner rule to cooperate for purposes of DFPS's central registry of reported cases of child abuse or neglect.

C.S.H.B. 2837 requires an authorization agreement executed with the assistance of a qualified nonprofit organization to be signed and sworn to before a notary public by a representative of the organization; to contain the organization's name, tax identification number, and current physical address and telephone number; and to contain the name and signature of the individual authorized to act on behalf of the organization. The bill clarifies that an authorization agreement between a parent and a person who is not a relative of the parent's child must be signed and sworn to before a notary public by the person who is granted the authority to care for the child.

C.S.H.B. 2837 specifies that an authorization agreement for a nonparent relative or other person does not confer the right to consent to the marriage or adoption of the child or the right to consent to the termination of parental rights to the child.

C.S.H.B. 2837 amends the Government Code to entitle a qualified nonprofit organization to obtain from DPS criminal history record information maintained by DPS that relates to a person who is an employee, employment applicant, volunteer, or volunteer applicant of the organization. The bill limits the use of such criminal history record information obtained by a qualified nonprofit organization to the determination of the suitability of a person for a position as an employee of or volunteer with the organization and prohibits the release or disclosure of such information to any person except in a criminal proceeding, on court order, or with the consent of the person who is the subject of the information. The bill authorizes DPS to adopt rules governing the administration of the bill's Government Code provisions.

C.S.H.B. 2837 amends the Human Resources Code to exempt from certain child-care facility or child-placing agency licensing requirements 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 is a volunteer host family for a qualified nonprofit organization, has a written authorization agreement with the parent of the child or sibling group to care for each child or sibling group, does not care for more than six children, and does not receive compensation for the care of a child or sibling group.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2837 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill and does not indicate differences relating to changes made by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, which became effective April 2, 2015.

INTRODUCED

SECTION 1. Section 34.001, Family Code, is amended.

SECTION 2. Section 34.0015, Family Code, is amended.

SECTION 3. Sections 34.002(a) and (c), Family Code, are amended.

SECTION 4. Chapter 34, Family Code, is amended by adding Sections 34.0022, 34.0023, and 34.0024 to read as follows:

Sec. 34.0022. AUTHORIZATION AGREEMENT BETWEEN PARENT AND NONRELATIVE. (a) A parent may enter into an authorization agreement with a person who is not a relative of the parent's child only if the authorization agreement is entered into with the assistance of a qualified nonprofit organization in accordance with this chapter.

This subsection does not apply to a parent whose child is the subject of an ongoing investigation by the department of child abuse or neglect or to whom the department is providing services.

(b) A child placed through an authorization agreement under this section is not in foster care and is not considered in the conservatorship of the department.

(c) A person with whom a child is placed under an authorization agreement entered

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as introduced version.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.

SECTION 4. Chapter 34, Family Code, is amended by adding Sections 34.0022, 34.0023, and 34.0024 to read as follows:

Sec. 34.0022. AUTHORIZATION AGREEMENT BETWEEN PARENT AND NONRELATIVE. (a) A parent may enter into an authorization agreement with a person who is not a relative of the parent's child only if the authorization agreement is entered into with the assistance of a qualified nonprofit organization in accordance with this chapter. Except as provided by Section 34.0024(b),

this subsection does not apply to a parent whose child is the subject of an ongoing department investigation of child abuse or neglect or to whom the department is providing services.

into under this chapter is not a foster home and is not subject to state foster care regulations.

Sec. 34.0023. PARENTAL RIGHTS NOT ADVERSELY AFFECTED.

A parent's execution of an authorization agreement under this chapter does not constitute abandonment or child abuse or neglect and may not independently adversely affect the parent's rights with respect to the parent's child.

Sec. 34.0024. SERVICES OF QUALIFIED NONPROFIT ORGANIZATION. (a) For each request received by a qualified nonprofit organization to assist a parent and a person who is not related to the parent's child with entering into an authorization agreement and placement of a child under this chapter, the qualified nonprofit organization shall:

(1) complete a criminal history background check and child abuse and neglect background check on each adult in the person's household;

(2) ensure that each person providing care for a child under an authorization agreement authorized by this chapter is trained in the rights, duties, and limitations regarding providing care for a child under an authorization agreement as provided in this chapter; and

(3) notify the department of the request and verify that the department does not have an

(b) An authorization agreement executed under this section expires on the first anniversary of the date the agreement is executed unless an earlier date is specified in the agreement. The parties to the agreement may execute a subsequent authorization agreement if necessary.

(c) A parent or other legal guardian of a child may revoke or withdraw an authorization agreement at any time.

Sec. 34.0023. EFFECT ON PARENTAL RIGHTS.

A parent's execution of an authorization agreement under this chapter does not, without other evidence, constitute abandonment or child abuse or neglect.

Sec. 34.0024. SERVICES OF QUALIFIED NONPROFIT ORGANIZATION. (a) For each request received by a qualified nonprofit organization to assist a parent and a person who is not related to the parent's child with entering into an authorization agreement and placement of a child under this chapter, the qualified nonprofit organization shall:

(1) for each person to whom powers are delegated under the agreement and for each person age 14 or older who resides in the home, ensure that:

(A) a criminal history background check is conducted through the Department of Public Safety as authorized under Section 411.1411, Government Code;

(B) a fingerprint-based criminal history check is conducted through the Department of Public Safety and the Federal Bureau of Investigation; and

(C) an abuse or neglect registry check is conducted by the department for the in-state registry and by the organization for any applicable out-of-state registry;

(2) ensure that each person providing care for a child under an authorization agreement authorized by this chapter is trained in the rights, duties, and limitations regarding providing care for a child under an authorization agreement as provided in this chapter; and

(3) notify the department of the request and verify that the department does not have an

open investigation of child abuse or neglect involving the child or parent or is not otherwise providing services to the parent.

(b) If the department has an open investigation of abuse and neglect related to the child or is providing services to the parent, the department must approve the authorization agreement.

(c) If the department does not have an open investigation involving the child or parent or is not otherwise providing services to the parent,

the department may not open an investigation based solely on receiving the notification required by Subsection (a)(3).

open investigation of child abuse or neglect involving the child or parent or is not otherwise providing services to the parent.

(b) If the department has an open investigation of abuse and neglect related to the child or is providing services to the parent, the department must approve the authorization agreement before the agreement may take effect.

(c) If the department does not have an open investigation involving the child or parent or is not otherwise providing services to the parent, department approval of the agreement is not required and

the department may not open an investigation based solely on receiving the notification required by Subsection (a)(3). This subsection does not prohibit the department from opening an investigation under Chapter 261.

(d) The executive commissioner of the Health and Human Services Commission by rule shall establish a fee for the department to charge for each abuse or neglect registry check conducted by the department for a qualified nonprofit organization under this section. The fee must be in an amount sufficient for the department to recover the costs to the department of conducting the registry check under this section.

SECTION 5. Section 34.003, Family Code, is amended to read as follows:

Sec. 34.003. CONTENTS OF AUTHORIZATION AGREEMENT. (a)

The authorization agreement must contain:

(1) the following information from the relative of the child or other person to whom the parent is giving authorization:

(A) the name and signature of the relative or other person;

(B) the relative's or other person's relationship to the child; and

(C) the relative's or other person's current physical address and telephone number or the best way to contact the relative or other person;

(2) the following information from the parent:

(A) the name and signature of the parent; and

(B) the parent's current address and telephone number or the best way to contact the parent;

(3) the information in Subdivision (2) with

SECTION 5. Section 34.003, Family Code, is amended to read as follows:

Sec. 34.003. CONTENTS OF AUTHORIZATION AGREEMENT. (a)

The authorization agreement must contain:

(1) the following information from the relative of the child or other person to whom the parent is giving authorization:

(A) the name and signature of the relative or other person;

(B) the relative's or other person's relationship to the child; and

(C) the relative's or other person's current physical address and telephone number or the best way to contact the relative or other person;

(2) the following information from the parent:

(A) the name and signature of the parent; and

(B) the parent's current address and telephone number or the best way to contact the parent;

(3) the information in Subdivision (2) with

respect to the other parent, if applicable;

(4) a statement that the relative or other person has been given authorization to perform the functions listed in Section 34.002(a) as a result of a voluntary action of the parent and that the relative or other person has voluntarily assumed the responsibility of performing those functions;

(5) statements that neither the parent nor the relative or other person has knowledge that a parent, guardian, custodian, licensed child-placing agency, or other authorized agency asserts any claim or authority inconsistent with the authorization agreement under this chapter with regard to actual physical possession or care, custody, or control of the child;

(6) statements that:

(A) to the best of the parent's and relative's or other person's knowledge:

(i) there is no court order or pending suit affecting the parent-child relationship concerning the child;

(ii) there is no pending litigation in any court concerning:

(a) custody, possession, or placement of the child; or

(b) access to or visitation with the child; and

(iii) the court does not have continuing jurisdiction concerning the child; or

(B) the court with continuing jurisdiction concerning the child has given written approval for the execution of the authorization agreement accompanied by the following information:

(i) the county in which the court is located;

(ii) the number of the court; and

(iii) the cause number in which the order was issued or the litigation is pending;

(7) a statement that to the best of the parent's and relative's or other person's knowledge there is no current, valid authorization agreement regarding the child;

(8) a statement that the authorization is made in conformance with this chapter;

(9) a statement that the parent and the relative or other person understand that each party to the authorization agreement is required by law to immediately provide to each other party information regarding any change in the party's address or contact information;

(10) a statement by the parent that establishes the circumstances under which the authorization agreement expires,

respect to the other parent, if applicable;

(4) a statement that the relative or other person has been given authorization to perform the functions listed in Section 34.002(a) as a result of a voluntary action of the parent and that the relative or other person has voluntarily assumed the responsibility of performing those functions;

(5) statements that neither the parent nor the relative or other person has knowledge that a parent, guardian, custodian, licensed child-placing agency, or other authorized agency asserts any claim or authority inconsistent with the authorization agreement under this chapter with regard to actual physical possession or care, custody, or control of the child;

(6) statements that:

(A) to the best of the parent's and relative's or other person's knowledge:

(i) there is no court order or pending suit affecting the parent-child relationship concerning the child;

(ii) there is no pending litigation in any court concerning:

(a) custody, possession, or placement of the child; or

(b) access to or visitation with the child; and

(iii) the court does not have continuing jurisdiction concerning the child; or

(B) the court with continuing jurisdiction concerning the child has given written approval for the execution of the authorization agreement accompanied by the following information:

(i) the county in which the court is located;

(ii) the number of the court; and

(iii) the cause number in which the order was issued or the litigation is pending;

(7) a statement that to the best of the parent's and relative's or other person's knowledge there is no current, valid authorization agreement regarding the child;

(8) a statement that the authorization is made in conformance with this chapter;

(9) a statement that the parent and the relative or other person understand that each party to the authorization agreement is required by law to immediately provide to each other party information regarding any change in the party's address or contact information;

(10) a statement by the parent that establishes the circumstances under which the authorization agreement expires,

including that the authorization agreement:

- (A) is valid until revoked;
- (B) continues in effect after the death or during any incapacity of the parent; or
- (C) expires on a date stated in the authorization agreement; ~~and~~

(11) if the authorization agreement is executed with the assistance of a qualified nonprofit organization, the following information:

- (A) the organization's name, tax identification number, and current physical address and telephone number; and
- (B) the name and signature of the individual authorized to act on behalf of the organization; and

(12) space for the signature and seal of a notary public.

(b) The authorization agreement must contain the following warnings and disclosures:

- (1) that the authorization agreement is an important legal document;
- (2) that the parent and the relative or other person must read all of the warnings and disclosures before signing the authorization agreement;
- (3) that the persons signing the authorization agreement are not required to consult an attorney but are advised to do so;
- (4) ~~that the parent's rights as a parent may be adversely affected by placing or leaving the parent's child with another person;~~
- ~~(5)~~ that the authorization agreement does not confer on the relative or other person the rights of a managing or possessory conservator or legal guardian;
- (5) ~~(6)~~ that a parent who is a party to the authorization agreement may terminate the authorization agreement and resume custody, possession, care, and control of the child on demand and that at any time the parent may request the return of the child;
- (6) ~~(7)~~ that failure by the relative or other person to return the child to the parent immediately on request may have criminal and civil consequences;
- (7) ~~(8)~~ that, under other applicable law, the relative or other person may be liable for certain expenses relating to the child in the relative's or other person's care but that the parent still retains the parental obligation to support the child;
- (8) ~~(9)~~ that, in certain circumstances, the authorization agreement may not be entered

including that the authorization agreement:

- (A) is valid until revoked;
- (B) continues in effect after the death or during any incapacity of the parent; or
- (C) expires on a date stated in the authorization agreement; ~~and~~

(11) if the authorization agreement is executed with the assistance of a qualified nonprofit organization, the following information:

- (A) the organization's name, tax identification number, and current physical address and telephone number; and
- (B) the name and signature of the individual authorized to act on behalf of the organization; and

(12) space for the signature and seal of a notary public.

(b) The authorization agreement must contain the following warnings and disclosures:

- (1) that the authorization agreement is an important legal document;
- (2) that the parent and the relative or other person must read all of the warnings and disclosures before signing the authorization agreement;
- (3) that the persons signing the authorization agreement are not required to consult an attorney but are advised to do so;
- (4) that the parent's rights as a parent may be adversely affected by placing or leaving the parent's child with another person;
- (5) that the authorization agreement does not confer on the relative or other person the rights of a managing or possessory conservator or legal guardian;
- (6) that a parent who is a party to the authorization agreement may terminate the authorization agreement and resume custody, possession, care, and control of the child on demand and that at any time the parent may request the return of the child;
- (7) that failure by the relative or other person to return the child to the parent immediately on request may have criminal and civil consequences;
- (8) that, under other applicable law, the relative or other person may be liable for certain expenses relating to the child in the relative's or other person's care but that the parent still retains the parental obligation to support the child;
- (9) that, in certain circumstances, the authorization agreement may not be entered

into without written permission of the court;
(9) ~~[(10)]~~ that the authorization agreement may be terminated by certain court orders affecting the child;

(10) ~~[(11)]~~ that the authorization agreement does not supersede, invalidate, or terminate any prior authorization agreement regarding the child;

(11) ~~[(12)]~~ that the authorization agreement is void if a prior authorization agreement regarding the child is in effect and has not expired or been terminated;

(12) ~~[(13)]~~ that, except as provided by Section 34.005(a-1), the authorization agreement is void unless:

(A) the parties mail a copy of the authorization agreement by certified mail, return receipt requested, or international registered mail, return receipt requested, as applicable, to a parent who was not a party to the authorization agreement, if the parent is living and the parent's parental rights have not been terminated, not later than the 10th day after the date the authorization agreement is signed; and

(B) if the parties do not receive a response from the parent who is not a party to the authorization agreement before the 20th day after the date the copy of the authorization agreement is mailed under Paragraph (A), the parties mail a second copy of the authorization agreement by first class mail or international first class mail, as applicable, to the parent not later than the 45th day after the date the authorization agreement is signed; and

(13) ~~[(14)]~~ that the authorization agreement does not confer on a relative of the child or other person the right to consent to the marriage or adoption of the child, consent to termination of the parental rights of the child, or authorize the performance of an abortion on the child or the administration of emergency contraception to the child.

SECTION 6. Section 34.004(a), Family Code, is amended.

SECTION 7. Section 34.007(b), Family Code, is amended.

SECTION 8. Section 34.008(c), Family Code, is amended.

No equivalent provision.

into without written permission of the court;
(10) that the authorization agreement may be terminated by certain court orders affecting the child;

(11) that the authorization agreement does not supersede, invalidate, or terminate any prior authorization agreement regarding the child;

(12) that the authorization agreement is void if a prior authorization agreement regarding the child is in effect and has not expired or been terminated;

(13) that, except as provided by Section 34.005(a-1), the authorization agreement is void unless:

(A) the parties mail a copy of the authorization agreement by certified mail, return receipt requested, or international registered mail, return receipt requested, as applicable, to a parent who was not a party to the authorization agreement, if the parent is living and the parent's parental rights have not been terminated, not later than the 10th day after the date the authorization agreement is signed; and

(B) if the parties do not receive a response from the parent who is not a party to the authorization agreement before the 20th day after the date the copy of the authorization agreement is mailed under Paragraph (A), the parties mail a second copy of the authorization agreement by first class mail or international first class mail, as applicable, to the parent not later than the 45th day after the date the authorization agreement is signed; and

(14) that the authorization agreement does not confer on a relative of the child or other person the right to consent to the marriage or adoption of the child, consent to termination of the parental rights of the child, or authorize the performance of an abortion on the child or the administration of emergency contraception to the child.

SECTION 6. Same as introduced version.

SECTION 7. Same as introduced version.

SECTION 8. Same as introduced version.

SECTION 9. Section 261.002(b), Family

Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, is amended to read as follows:

(b) The executive commissioner may adopt rules necessary to carry out this section. The rules shall provide for cooperation with local child service agencies, including hospitals, clinics, ~~and~~ schools, and qualified nonprofit organizations as defined by Section 34.0015, and cooperation with other states in exchanging reports to effect a national registration system.

No equivalent provision.

SECTION 10. Subchapter F, Chapter 411, Government Code, is amended by adding Section 411.1411 to read as follows:

Sec. 411.1411. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: QUALIFIED NONPROFIT ORGANIZATIONS PROVIDING ASSISTANCE WITH AUTHORIZATION AGREEMENTS. (a) In this section, "qualified nonprofit organization" has the meaning assigned by Section 34.0015, Family Code.

(b) A qualified nonprofit organization is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is an employee, employment applicant, volunteer, or volunteer applicant of the organization.

(c) The department may adopt rules governing the administration of this section.

(d) A qualified nonprofit organization may use the criminal history record information obtained under this section only to determine the suitability of a person for a position as an employee of or volunteer with the organization.

(e) Criminal history record information obtained under this section may not be released or disclosed to any person except in a criminal proceeding, on court order, or with the consent of the person who is the subject of the criminal history record information.

No equivalent provision.

SECTION 11. 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 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, other than a facility that would otherwise require a license as a child-care facility under this section, that provides shelter or care to a minor and the minor's child or children, if any, under Section 32.201, Family Code, if the facility:

(A) is currently under a contract with a state or federal agency; or

(B) meets the requirements listed under Section 51.005(b)(3);

(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, 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 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 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;

(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; [ø]

(23) a facility operated by a nonprofit organization that:

(A) does not otherwise operate as a child-care facility that is required to be licensed under this section;

(B) provides emergency shelter and care for not more than 15 days to children 13 years of age or older but younger than 18 years of age who are victims of human trafficking

alleged under Section 20A.02, Penal Code;
(C) is located in a municipality with a population of at least 600,000 that is in a county on an international border; and
(D) meets one of the following criteria:
(i) is licensed by, or operates under an agreement with, a state or federal agency to provide shelter and care to children; or
(ii) meets the eligibility requirements for a contract under Section 51.005(b)(3); or
(24) 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) is a volunteer host family for a qualified nonprofit organization, as defined by Section 34.0015, Family Code;
(B) has a written authorization agreement with the parent of the child or sibling group to care for each child or sibling group;
(C) does not care for more than six children;
and
(D) does not receive compensation for the care of a child or sibling group.

SECTION 9. This Act takes effect September 1, 2015.

SECTION 12. Same as introduced version.