

By: Miller of Fort Bend

H.B. No. 788

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the regulation of certain child-care facilities;
3 increasing a fee.

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,
7 or a before-school or after-school program operated directly by an
8 accredited nonpublic 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 shelter or care to a
12 minor and the minor's child or children, if any, under Section
13 [32.201](#), Family Code, if the facility:

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

16 (B) meets the requirements listed under Section
17 [51.005\(b\)\(3\)](#);

18 (13) a juvenile detention facility certified under
19 Section [51.12](#), Family Code, a juvenile correctional facility
20 certified under Section [51.125](#), Family Code, a juvenile facility
21 providing services solely for the Texas Juvenile Justice
22 Department, or any other correctional facility for children
23 operated or regulated by another state agency or by a political
24 subdivision of the state;

25 (14) an elementary-age (ages 5-13) recreation program
26 operated by a municipality provided the governing body of the
27 municipality annually adopts standards of care by ordinance after a

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

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

13 (16) a food distribution program that:

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

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

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

22 (18) a program:

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

25 (B) that does not provide services or offerings
26 that are not directly related to the single talent, ability,
27 expertise, or proficiency;

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

5 (D) that informs the parent or guardian:

6 (i) that the program is not licensed by the
7 state; and

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

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

14 (19) an elementary-age (ages 5-13) recreation program
15 that:

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

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

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

26 (D) informs parents that the program is not
27 licensed by the state;

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

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

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

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

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

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

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

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

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

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

25 (A) the department is the managing conservator of
26 the child or sibling group;

27 (B) the department placed the child or sibling

1 group in the caretaker's home; and

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

5 (22) a living arrangement in a caretaker's home
6 involving one or more children or a sibling group, excluding
7 children who are related to the caretaker, in which the child is in
8 the United States on a time-limited visa under the sponsorship of
9 the caretaker or of a sponsoring organization; ~~or~~

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

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

14 (B) provides emergency shelter and care for not
15 more than 15 days to children 13 years of age or older but younger
16 than 18 years of age who are victims of human trafficking alleged
17 under Section 20A.02, Penal Code;

18 (C) is located in a municipality with a
19 population of at least 600,000 that is in a county on an
20 international border; and

21 (D) meets one of the following criteria:

22 (i) is licensed by, or operates under an
23 agreement with, a state or federal agency to provide shelter and
24 care to children; or

25 (ii) meets the eligibility requirements for
26 a contract under Section 51.005(b)(3); or

27 (24) a before-school or after-school program, child

1 care, or other extended day activity that is provided directly by a
2 public school without charging tuition or an enrollment fee.

3 SECTION 2. Section 42.044, Human Resources Code, is amended
4 by adding Subsection (b-4) to read as follows:

5 (b-4) Notwithstanding Subsection (b), the department is
6 required to inspect only as necessary a licensed before-school or
7 after-school program operated directly by an educational facility
8 accredited by the Texas Education Agency and that operates
9 primarily for educational purposes for prekindergarten and above.

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

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

17 SECTION 4. This Act takes effect September 1, 2015.