

BILL ANALYSIS

C.S.H.B. 3788
By: Koop
Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

According to interested parties, the current child-to-caregiver ratio and group size standards for Texas licensed day-care centers do not adequately safeguard the children in care, potentially exposing these children to serious risk of harm. C.S.H.B. 3788 seeks to provide the Department of Family and Protective Services with the necessary data to ensure children are in safe early-learning environments.

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 this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3788 amends the Human Resources Code to require the Department of Family and Protective Services (DFPS), during each monitoring inspection of a licensed day-care center DFPS conducts between March 1, 2018, and May 31, 2018, and using existing resources, to collect the following data for each group of children four years of age and younger occupying an individual classroom or well-defined physical space within a larger room at the day-care center: the specified age of the children in the group as determined by the formula provided in the DFPS minimum standards for child-care centers, the number of children in the group, and the number of caregivers supervising the children in the group. The bill requires DFPS to make that collected data available to community agencies and institutions of higher education on request not later than June 30, 2018. The bill requires DFPS to collect the following information for each licensed day-care center from which DFPS collected data during a monitoring inspection conducted between March 1, 2018, and May 31, 2018, and requires DFPS to provide the information to community agencies and institutions of higher education on request: the licensed day-care center's program capacity; the number of confirmed serious injuries and fatalities for children four years of age and younger that occurred at the day-care center between September 1, 2017, and August 31, 2018, aggregated by the age of the injured or deceased child; the number of investigations DFPS conducted at the day-care center between September 1, 2017, and August 31, 2018, that involve a child who is four years of age or younger and that were assigned the highest priority or second-highest priority, aggregated by the age of the youngest affected child; and the total number of violations that DFPS found at the day-care center during those investigations. The bill includes a temporary provision set to expire September 1, 2019, setting these provisions to expire on that date.

C.S.H.B. 3788 requires DFPS, using existing resources, to provide an annual report to the

legislature that includes the number of confirmed serious injuries and fatalities for children four years of age and younger that occurred at each licensed day-care center, aggregated by the age of the injured or deceased child; the priority assigned to the DFPS investigation conducted in response to an incident that resulted in a serious injury or a child fatality; the number of investigations conducted by DFPS at each licensed day-care center that involve a child four years of age or younger and that were assigned the highest priority or second-highest priority, aggregated by the age of the youngest affected child; and the number of violations DFPS found at each licensed day-care center during those investigations.

C.S.H.B. 3788 requires the executive commissioner of the Health and Human Services Commission, not later than January 1, 2019, to use the data collected under the bill's provisions to determine whether to modify the standards related to child-to-caregiver ratios and group sizes. The bill requires the executive commissioner, in determining whether to modify the standards, to compare licensed day-care centers that meet the child-to-caregiver ratios and group size requirements with licensed day-care centers that have lower child-to-caregiver ratios. The bill requires the executive commissioner to recommend appropriate adjustments to any standards related to child-to-caregiver ratios or group sizes if the data shows that day-care centers that meet the minimum child-to-caregiver ratios and group size requirements have a rate that is 10 percent or higher than day-care centers with lower child-to-caregiver ratios of confirmed serious injuries, confirmed child fatalities, or investigations conducted by DFPS that are assigned the highest priority or the second-highest priority.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3788 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.

INTRODUCED

SECTION 1. Subchapter C, Chapter 42, Human Resources Code, is amended by adding Section 42.0412 to read as follows:

Sec. 42.0412. COLLECTION OF LICENSED DAY-CARE CENTER DATA.

(a) In this section, "group of children" means the number of children assigned to a specific caregiver or group of caregivers, occupying an individual classroom or well-defined physical space within a larger room at a day-care center.

(b) During each monitoring inspection of a licensed day-care center the department conducts between March 1, 2018, and May 31, 2018, the department, using existing resources, shall collect the following data for each group of children 4 years of age and younger in the day-care center:

(1) the ages of the children in the group;

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter C, Chapter 42, Human Resources Code, is amended by adding Section 42.0412 to read as follows:

Sec. 42.0412. COLLECTION OF LICENSED DAY-CARE CENTER DATA.

(a) In this section, "group of children" means the number of children assigned to a specific caregiver or group of caregivers, occupying an individual classroom or well-defined physical space within a larger room at a day-care center.

(b) During each monitoring inspection of a licensed day-care center the department conducts between March 1, 2018, and May 31, 2018, the department, using existing resources, shall collect the following data for each group of children four years of age and younger in the day-care center:

(1) the specified age of the children in the group as determined by the formula provided in the department's minimum

(2) the number of children in the group; and
(3) the number of caregivers supervising the children in the group.

(c) Not later than June 30, 2018, the department shall make the data collected under Subsection (b) available to community agencies and institutions of higher education on request.

(d) The department shall collect the following information for each licensed day-care center and on request shall provide the information to community agencies and institutions of higher education:

(1) the licensed day-care center's program capacity;

(2) the number of confirmed serious injuries and fatalities for children 4 years of age and younger that occurred at the day-care center between September 1, 2017, and August 31, 2018, aggregated by the age of the injured or deceased child;

(3) the number of investigations the department conducted at the day-care center between September 1, 2017, and August 31, 2018, that were assigned the highest priority or second-highest priority, aggregated by the age of the affected child; and

(4) the number of violations that the department found at the day-care center between September 1, 2017, and August 31, 2018, that were assigned the highest priority or second-highest priority, aggregated by the age of the child involved in the violation.

(e) The department, using existing resources, shall provide an annual report to the legislature that includes:

(1) the number of confirmed serious injuries and fatalities for children 4 years of age and younger that occurred at each licensed day-care center, aggregated by the age of the injured or deceased child;

(See subsection(e)(4) below.)

(2) the number of investigations conducted by the department at each licensed day-care

standards for child-care centers;

(2) the number of children in the group; and
(3) the number of caregivers supervising the children in the group.

(c) Not later than June 30, 2018, the department shall make the data collected under Subsection (b) available to community agencies and institutions of higher education on request.

(d) The department shall collect the following information for each licensed day-care center from which the department collected data under Subsection (b) and on request shall provide the information to community agencies and institutions of higher education:

(1) the licensed day-care center's program capacity;

(2) the number of confirmed serious injuries and fatalities for children four years of age and younger that occurred at the day-care center between September 1, 2017, and August 31, 2018, aggregated by the age of the injured or deceased child;

(3) the number of investigations the department conducted at the day-care center between September 1, 2017, and August 31, 2018, involving a child who is four years of age or younger that were assigned the highest priority or second-highest priority, aggregated by the age of the youngest affected child; and

(4) the total number of violations that the department found at the day-care center during investigations described by Subdivision (3).

(e) The department, using existing resources, shall provide an annual report to the legislature that includes:

(1) the number of confirmed serious injuries and fatalities for children four years of age and younger that occurred at each licensed day-care center, aggregated by the age of the injured or deceased child;

(2) the priority assigned to the investigation conducted by the department in response to an incident that resulted in a serious injury or child fatality;

(3) the number of investigations conducted by the department at each licensed day-care

center that were assigned the highest priority or second-highest priority, aggregated by the age of the affected child;

(3) the number of violations the department found at each licensed day-care center, aggregated by the age of the child involved in the violation; and

(4) the investigation priority the department assigned to an initial intake report for an incident that resulted in a serious injury to a child or a child fatality.

(f) This subsection and Subsections (a), (b), (c), and (d) expire on September 1, 2019.

SECTION 2. Section 42.042, Human Resources Code, is amended by adding Subsection (m-1) to read as follows:

(m-1) Not later than January 1, 2019, the executive commissioner shall use the data collected under Section 42.0412 to determine whether to modify the standards related to staff-to-child ratios and group sizes. In determining whether to modify the standards, the executive commissioner shall compare licensed day-care centers that do not comply with the staff-to-child ratios and group size requirements with licensed day-care centers that comply with the staff-to-child ratios and group size requirements

to ascertain whether day-care centers that do not comply with the staff-to-child ratios and group size requirements have a rate that is 10 percent or higher of:

- (1) confirmed serious injuries;
- (2) confirmed child fatalities; or

center involving a child four years of age or younger that were assigned the highest priority or second-highest priority, aggregated by the age of the youngest affected child; and

(4) the number of violations the department found at each licensed day-care center during investigations described by Subdivision (3).

(See subsection(e)(2) above.)

(f) This subsection and Subsections (a), (b), (c), and (d) expire on September 1, 2019.

SECTION 2. Section 42.042, Human Resources Code, is amended by amending Subsection (m) and adding Subsection (m-1) to read as follows:

(m) In determining minimum standards relating to child-to-caregiver [~~staff-to-child~~] ratios, group sizes, or square footage requirements applicable to nonresidential child-care facilities that provide care for less than 24 hours a day, the department shall, within available appropriations, conduct a comprehensive cost-benefit analysis and economic impact study that includes families and licensed child-care providers.

(m-1) Not later than January 1, 2019, the executive commissioner shall use the data collected under Section 42.0412 to determine whether to modify the standards related to child-to-caregiver ratios and group sizes. In determining whether to modify the standards, the executive commissioner shall compare licensed day-care centers that meet the child-to-caregiver ratios and group size requirements with licensed day-care centers that have lower child-to-caregiver ratios.

The executive commissioner shall recommend appropriate adjustments to any standards related to child-to-caregiver ratios or group sizes if the data shows that day-care centers that meet the minimum child-to-caregiver ratios and group size requirements have a rate that is 10 percent or higher than day-care centers with lower child-to-caregiver ratios of:

- (1) confirmed serious injuries;
- (2) confirmed child fatalities; or

(3) initial intake reports that are assigned the highest priority or the second-highest priority.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.

(3) investigations conducted by the department that are assigned the highest priority or the second-highest priority.

SECTION 3. Same as introduced version.