88R441 MLH-D

By:  González of El Paso H.B. No. 211

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of child-care facilities and registered family homes providing services to children with disabilities or special needs.

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

SECTION 1.  Section 42.042, Human Resources Code, is amended by amending Subsection (e) and adding Subsection (e-6) to read as follows:

(e)  The executive commissioner shall promulgate minimum standards that apply to licensed child-care facilities and to registered family homes covered by this chapter and that will:

(1)  promote the health, safety, and welfare of children attending a facility or registered family home;

(2)  promote safe, comfortable, and healthy physical facilities and registered family homes for children;

(3)  ensure adequate supervision of children by capable, qualified, and healthy personnel;

(4)  ensure adequate and healthy food service where food service is offered;

(5)  except as provided by Subsection (e-6), prohibit [~~racial~~] discrimination based on race or disability status by child-care facilities and registered family homes;

(6)  require procedures for parental and guardian consultation in the formulation of children's educational and therapeutic programs;

(7)  prevent the breakdown of foster care and adoptive placement;

(8)  ensure that a child-care facility or registered family home:

(A)  follows the directions of a child's physician or other health care provider in providing specialized medical assistance required by the child; and

(B)  maintains for a reasonable time a copy of any directions from the physician or provider that the parent provides to the facility or home; and

(9)  ensure that:

(A)  a child's health, safety, and welfare are adequately protected on the grounds of a child-care facility or registered family home;

(B)  the child-care facility or registered family home promotes inclusive practices and integrates children with special needs into the general activities of the facility or home;

(C)  the activities of the child-care facility or registered family home are tailored to the strengths and needs of each child attending the facility or home based on the child's developmental age and competencies; and

(D)  early childhood intervention service providers have access to children who are clients attending the child-care facility or registered family home to provide services in accordance with an individualized family service plan while the child is with other children in the child's peer group in an educational or instructional area of the facility or home.

(e-6)  A child-care facility or registered family home may deny services to a child with a disability only if the facility or home determines under the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.) that accommodating the child would:

(1)  pose an undue burden on the facility or home as defined by 28 C.F.R. Section 36.104;

(2)  pose a direct threat to the health or safety of other people at the facility or home as provided by 28 C.F.R. Section 36.208;

(3)  require modifications in policies, practices, or procedures that would fundamentally alter the nature of the facility or home as provided by 28 C.F.R. Section 36.302; or

(4)  pose a difficulty on or expense to the facility or home to remove architectural barriers to accommodate the child as provided by 28 C.F.R. Section 36.304.

SECTION 2.  Section 42.0421, Human Resources Code, is amended by amending Subsections (a) and (f) and adding Subsections (a-1), (a-2), and (a-3) to read as follows:

(a)  The minimum training standards prescribed by the executive commissioner under Section 42.042(p) for an employee, director, or operator of a day-care center, group day-care home, or registered family home must include:

(1)  24 hours of initial training that must be completed not later than the 90th day after the employee's first day of employment for an employee of a day-care center who has no previous training or less than two years of employment experience in a regulated child-care facility, eight hours of which must be completed before the employee may be counted as a caregiver for purposes of determining the caregiver-to-child ratio for a facility provided:

(A)  the employee is not the sole caregiver for a child or group of children; and

(B)  another employee of the facility who is a qualified caregiver is in the same room with the employee [~~is given responsibility for a group of children~~];

(2)  24 hours of annual training for each employee of a day-care center or group day-care home, excluding the director, which must include at least six hours of training in one or more of the following areas:

(A)  child growth and development;

(B)  guidance and discipline;

(C)  age-appropriate curriculum; [~~and~~]

(D)  teacher-child interaction; and

(E)  care of children with special needs; and

(3)  30 hours of annual training for each director of a day-care center or group day-care home, or operator of a registered family home, which must include at least six hours of training in one or more of the following areas:

(A)  child growth and development;

(B)  guidance and discipline;

(C)  age-appropriate curriculum; [~~and~~]

(D)  teacher-child interaction; and

(E)  care of children with special needs.

(a-1)  The minimum training standards prescribed in accordance with Subsection (a)(1) for initial training must include:

(1)  child mental health training that addresses one or more of the following subjects:

(A)  child mental health;

(B)  child mental health screening;

(C)  social and emotional learning;

(D)  positive behavior interventions and supports;

(E)  trauma-informed care; or

(F)  another similar subject; and

(2)  training on providing care to children with special needs.

(a-2)  The minimum training standards prescribed in accordance with Subsection (a)(2) or (3) for an employee, director, or operator of a day-care center, group day-care home, or registered family home must include at least one hour of training that addresses one or more of the following subjects:

(1)  child mental health;

(2)  child mental health screening;

(3)  social and emotional learning;

(4)  positive behavior interventions and supports;

(5)  trauma-informed care; or

(6)  another similar subject.

(a-3)  The training under Subsection (a-2):

(1)  may be completed through an in-person training or a distance learning course;

(2)  must include at least one hour of training on identification of potential developmental delays, methods for referring children with special needs for specialized services, or information on early childhood intervention; and

(3)  must be made available to the facility without cost.

(f)  The training required by this section must be appropriately targeted and relevant to the age of the children who will receive care from the individual receiving training and must be provided by a person who:

(1)  is a training provider registered with the Texas Early Childhood Professional Development System's Texas Trainer Registry that is maintained by the Texas Head Start State Collaboration Office;

(2)  is an instructor at a public or private secondary school, an institution of higher education, as defined by Section 61.003, Education Code, or a private college or university accredited by a recognized accrediting agency who teaches early childhood development or another relevant course, as determined by rules adopted by the commissioner of education and the commissioner of higher education;

(3)  is an employee of a state agency with relevant expertise;

(4)  is a physician, psychologist, licensed professional counselor, social worker, or registered nurse;

(5)  holds a generally recognized credential or possesses documented knowledge relevant to the training the person will provide;

(6)  is a registered family home care provider or director of a day-care center or group day-care home in good standing with the department, if applicable, and who:

(A)  has demonstrated core knowledge in child development and caregiving; and

(B)  is only providing training at the home or center in which the provider or director and the person receiving training are employed; [~~or~~]

(7)  has at least two years of experience working in child development, a child development program, early childhood education, a childhood education program, or a Head Start or Early Head Start program and:

(A)  has been awarded a Child Development Associate (CDA) credential; or

(B)  holds at least an associate's degree in child development, early childhood education, or a related field;

(8)  is an accredited early intervention specialist;

(9)  is an accredited early childhood intervention service provider; or

(10)  is a licensed behavior analyst.

SECTION 3.  Section 42.045(a), Human Resources Code, is amended to read as follows:

(a)  A person who operates a licensed or certified facility shall maintain individual child development records, individual health records, records provided by parents for children with special needs, statistical records, and complete financial records.

SECTION 4.  Subchapter C, Chapter 42, Human Resources Code, is amended by adding Section 42.069 to read as follows:

Sec. 42.069.  REQUIRED INFORMATION FOR PARENTS. A day-care center, group day-care home, or registered family home shall provide written disclosure to a parent or guardian of each child attending the facility that includes:

(1)  a form developed by the commission that describes developmental milestones and potential indicators of developmental delay and provides information on accessing early childhood intervention in the area served by the day-care center, group day-care home, or registered family home under Part C, Individuals with Disabilities Education Act (20 U.S.C. Section 1431 et seq.); and

(2)  the facility's policies on providing care to children with disabilities.

SECTION 5.  As soon as practicable after the effective date of this Act, the executive commissioner of the Health and Human Services Commission shall adopt the rules necessary to implement the changes in law made by this Act.

SECTION 6.  This Act takes effect September 1, 2023.