

SUBJECT: Criminal background checks for family home child caregivers

COMMITTEE: Human Services — committee substitute recommended

VOTE: 6 ayes — Hilderbran, Naishtat, Christian, Davila, Maxey, McReynolds
0 nays
1 present, not voting — Wohlgemuth
2 absent — Chavez, Krusee

WITNESSES: For — Jack Heeny, Texas Licensed Child Care; Charlotte LaGrone, Texas Home Child Care Association; Laverne Redwine, Child Care Providers of Texas; Loretta Robertson and Ed Bloom, Texas Association for the Education of Young Children; Tonya Hiland, Jeannette Watson, Robin Jafulka, Andrea Johnson

Against — Pat Carlson, Texas Eagle Forum

On — Karen Eells; Robert Morris; Kingsberry Otto

BACKGROUND : Operators of “family homes” who care for four or more children *must* register with the Department of Protective and Regulatory Services (DPRS). Family homes providing care for fewer children *may* register with DPRS. DPRS also conducts criminal history and child abuse background checks upon application for operators of registered family homes and levies an annual registration fee of \$35.

Family home operators provide regular care in their own residences to not more than six children under 14, excluding children related to the caretaker, and afterschool care for up to six additional elementary school children.

DIGEST: CSHB 155 would require family homes providing care for three or fewer unrelated children for compensation to be listed with DPRS. This requirement would only apply to family homes providing child care for at least four hours a day, three or more days a week, for more than nine consecutive weeks. Family homes providing care exclusively for any

number of children related to the caretaker would not be required to be listed or registered with DPRS.

The provider would be required to pay a \$20 yearly listing fee. At the time of listing and every two years after, the operator would have to submit to DPRS information on residents and employees for use in conducting child abuse background and criminal history checks. DPRS would deny or revoke a listing if the criminal history check produced evidence of a serious offense, including rape, murder, kidnapping, assault, incest, sexual abuse of a child, prostitution or a felony drug offense.

DPRS would have to investigate a family home if it received a complaint of child abuse or neglect. The agency would only be able to deny or revoke a listing in the event of a substantiated child abuse or neglect complaint. If DPRS revoked a listing, it would have to publish notice and charge the facility for publication costs. The revoked home would have to notify the parents of the revocation by certified mail. All required notices would have to be printed in both English and Spanish in areas where more than half of the population was Hispanic or Spanish-speaking.

A listed family home would be provided a copy of the listing that included a statement that the home was listed but not licensed or registered and had not been inspected or would be inspected. The operator would not have to display the listing but would have to make it available for examination. The operator could advertise that it was listed, but would have to include the same caveat in the ads.

DPRS would be able to assess penalties for homes that were not properly listed and could enjoin homes from operating. A person operating a home without a required listing or registration would commit a Class B misdemeanor, punishable by a maximum penalty of 180 days in jail and a \$2,000 fine; a person who placed an advertisement for an unlisted or unregistered family home would commit a Class C misdemeanor, punishable by up to \$500 in fines.

CSHB 155 would take effect on September 1, 1997.

SUPPORTERS
SAY:

CSHB 155 would build another layer of protection for the most vulnerable of us — our children. Most parents work outside the home now, making child care a fact of life. Many parents see the small family home setting as a better alternative to a more institutional setting, but in turning to family homes as a child-care option, they find an unregulated nightmare. There are no standards of care and no way to find out about the backgrounds of people living in the home.

CSHB 155 would fill some of these gaps. The bill would allow parents to access information about any serious criminal convictions or substantiated child abuse complaints regarding their child care providers. Currently, only persons operating registered family homes are required to undergo criminal history and child abuse background checks. Law enforcement officials lack the legal authority to charge family home operators with criminal penalties while DPRS lacks authority to assess civil penalties against bad providers or enjoin them from operating. This bill would enhance the ability of DPRS and law enforcement to enforce the laws and rules governing family homes.

This bill is not about regulating child care providers; it would not require periodic inspections or compliance with any standards. It would not impose burdensome requirements on child care providers, but simply require a minimal \$20 annual fee and periodic criminal history checks. DPRS would only be able to investigate after receiving a complaint of child abuse or neglect.

Furthermore, listed providers would be able to better market their services because they could advertise that they were listed with DPRS and had a clean record. Parents would also be able to make better informed decisions about their child-care options. And allowing unfettered access to criminal background information would help weed out the dangerous child care operators. This would be a much more protective approach than allowing “free market” forces to shut down child abusers when their offenses finally catch up with them.

CSHB 155 would have no effect on those good neighbors who watch a child for free a few hours a week. Listing would be required only when a caregiver provided care on a regular basis for compensation for three or fewer unrelated children.

OPPONENTS
SAY:

CSHB 155 would disadvantage the homemaker who is trying to make a few extra dollars and help out a neighbor at the same time by watching some children. The bill attempts to use children as an excuse for government overregulation and intrusiveness. Parents are in a better position than the state to oversee child care in the family home setting and to select appropriate child care providers. The government should avoid the temptation to begin overregulating in this area. The state is not doing such a good job with registered child care providers, as evidenced by the many child abuse and neglect cases. The free market can take care of the bad child care providers.

NOTES:

The committee substitute would require DPRS to deny a listing if a background check showed that a person had been convicted of certain serious offenses, investigate listed family homes after receiving a complaint of abuse or neglect, and issue listing, registration or revocation notices in both English and Spanish where appropriate.

A related bill, SB 65 by Moncrief, which would require providers caring for one or more unrelated children to register with DPRS, is pending in the Senate Health and Human Services Committee.