

SUBJECT: Criminal history check for child care facility owners and operators

COMMITTEE: Human Services — favorable, without amendment

VOTE: 9 ayes — Hilderbran, Naishtat, Chavez, Christian, Davila, Krusee, Maxey, McReynolds, Wohlgemuth
0 nays

SENATE VOTE: On final passage, May 2 — voice vote

WITNESSES: On — Howard Baldwin, Texas Department of Protective and Regulatory Services

BACKGROUND : The Department of Protective and Regulatory Services (DPRS) is responsible for protecting the health and safety of children residing in child care facilities by establishing minimum standards and by regulating facilities through a licensing program. DPRS is allowed to charge and collect fees; issue, suspend and revoke licenses; inspect facilities and sue for civil penalties and injunctive relief.

DIGEST: SB 1539 would require DPRS to conduct criminal history checks upon directors, owners, and operators of child care facilities or family homes and each person 14 years of age and older who regularly stayed or worked at the facility or home. DPRS would be able to charge facilities and homes a fee to cover the administrative costs of these background checks and could deny application or renewal of a license based on the results of background checks.

The bill also would delete provisions relating to the appeals process for license denials, suspensions and revocations. It would instead provide that a person would be entitled to a hearing by the State Office of Administrative Hearings and that the proceedings would be governed by the Administrative Procedure Act.

The bill would make other substantive changes, including to:

- require persons providing adoption services to furnish information to DPRS to determine whether income and disbursements were reasonable, appropriate, and in compliance with minimum standards;
- allow nonrenewable provisional licenses to be renewed for an additional six months;
- provide definitions of children related to the caretaker and regular care and exclude from the definition of family homes those providing exclusive care for any number of children related to the caregiver; and
- exempt from licensing requirements correctional facilities for children operated or regulated by another state agency or political subdivision in addition to juvenile detention facilities providing services solely for the Texas Youth Commission.

The bill also would make numerous technical and conforming corrections.

SB 1539 would take effect September 1, 1997.

**SUPPORTERS
SAY:**

SB 1539 would clean up and update many regulatory provisions to reflect precise wording used in the definition sections of the law. The bill would also make several necessary clarifications and delete outdated or unnecessary provisions.

By making explicit the authority of DPRS to conduct criminal history checks, the bill would position the department to better protect children from abuse, exploitation and abduction. It is an unfortunate fact that many child abuse and neglect victims are hurt by those in a position of trust and authority over them. Although criminal history checks will never be a complete or thorough solution to the problems of child abuse, they are important first steps that should be required for personnel who provide child care services to children.

**OPPONENTS
SAY:**

The costs and delays of criminal history checks would not be justified; it is unlikely that many convicted child abusers would be found through this screening process.

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NOTES: Rep. Swinford plans to offer several floor amendments that would conform this bill to HB 155 by Greenberg and the DPRS sunset bill, SB 359 by Brown. HB 155, requiring listings and criminal history checks of family homes caring for three or fewer unrelated children, awaits action by the governor; SB 359 is pending in conference committee.