

**SUBJECT:** Relative child care providers and waste, fraud, and abuse prevention

**COMMITTEE:** Human Services — committee substitute recommended

**VOTE:** 7 ayes — Raymond, Morrison, Gonzalez, Hopson, Hughes, Laubenberg, Naishtat

0 nays

2 absent — Hunter, V. Taylor

**SENATE VOTE:** On final passage, April 4 — 31-0

**WITNESSES:** For — (*Registered, but did not testify:* Ashley Harris, Texans Care for Children; Diana Martinez, TexProtects, The Texas Association for the Protection of Children; Emily Pyeatt, Texas Early Childhood Education Coalition (TECEC))

Against — None

On — Michele Adams, Department of Family and Protective Services; Reagan Miller, Texas Workforce Commission

**DIGEST:** **Relative Child Care.** CSSB 76 would require that relative child care — defined as certain subsidized child care provided by a family member for less than 24 hours a day — be in a provider’s home unless the child was disabled, under 18 months of age, had a teen parent, or had a parent that worked nights or weekends, or if other arrangements were not available in the community. In these cases, relative child care could be provided in the child’s home.

A relative child care provider would have to be listed with the Department of Child and Protective Services (DFPS) as a family home, unless the provider provided only relative child care. DFPS and the Texas Workforce Commission would adopt a memorandum of understanding by October 1, 2011, on the administration and costs of listing the provider.

DFPS would be required to conduct a criminal background check and look

through the sex offender registration for any relative child care provider listed as a family home. The Workforce Commission would have to notify parents who sent their children to a relative day care that the provider had gone through this criminal background check. The Workforce Commission would have to ensure that any payments to relative child care providers on or after November 1, 2011, were made only to providers who had undergone a criminal background check.

CSSB 76 would give relative child care providers a federally allowed exemption from required child immunizations. Additionally, a relative child care provider listed as a family home would be exempt from certain child care provider licensing fees.

**Waste, fraud, and abuse prevention and correction.** CSSB 76 would require the Workforce Commission to develop methods to identify and assess waste, fraud, and abuse in child care programs. These methods would include looking at parents whose income precluded them from participating, who were receiving services at multiple locations, or who did not have the proper work history. The Workforce Commission also would look at providers who worked outside child care services.

CSSB 76 would require the Workforce Commission to take corrective action in the event of fraud, including: withholding payments from providers, recovering money from providers or parents, prohibiting child care services at a provider's facility, or preventing or limiting parents from enrolling their child into child care services. The bill would allow a parent or provider an opportunity to appeal any corrective action taken by the Workforce Commission.

When possible, the bill also would require the Workforce Commission to use an electronic verification system to ensure a relative child care provider was providing services while being compensated for their services.

**Implementation.** If DFPS or the Workforce Commission determined that a federal waiver was necessary to implement any part of the bill, they would have to request it and could delay the bill's implementation until they received the waiver.

Unless otherwise noted, the bill would take effect on September 1, 2011.

**SUPPORTERS  
SAY:**

Relative day care provides essential services for parents and children, yet certain day care is unaddressed in current law. Relative day care providers allow parents to obtain child care that keeps their children and siblings together, with responsible family members, and does so at a lower cost to the state. Yet, current law does not fully regulate these providers.

CSSB 76 would properly define the role of relative day care providers and offer basic guidelines and background checks to ensure the safety of children enrolled in these programs. Accumulating research shows that family members, not strangers, often pose the greatest risk for the safety of children. CSSB 76 simply would give parents the peace of mind that the people caring for their children had undergone a background check and were not registered sex offenders.

CSSB 76 also would strengthen the Workforce Commission's ability to prevent and recover funds lost as a result of waste, fraud, and abuse. The commission would be able to set up some basic methods to detect possible waste, fraud, and abuse. It also would have the ability to recover funds and prevent those who took advantage of child care services from doing so again. Parents and providers still would have the ability to appeal any of these corrective measures to protect against any overreach by the commission.

**OPPONENTS  
SAY:**

DFPS already has the ability to regulate and perform background checks on relative child care facilities that provide services at the provider's home. Requiring these background checks for relatives that provide child care in the child's home is unnecessary – these child care providers are trusted members of the family and should be allowed to provide care without government intrusion.