

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 206
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Health & Human Services
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, eligible low-income parents are authorized to apply to receive federally subsidized childcare administered by the Texas Workforce Commission (TWC). Federal law allows states to use regulated child care centers and homes and unregulated relatives to provide child care services. As a result, criminals may provide child care to relatives on an unregulated basis.

C.S.S.B. 206 requires the relative caregiver of a child to submit to certain background checks every five years before being allowed to care for a child.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Workforce Commission in SECTION 1 (Section 312.005, Labor Code) and to the executive commissioner of the Health and Human Services Commission in SECTION 1 (Section 312.004, Labor Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle B, Title 4, Labor Code, by adding Chapter 312, as follows:

CHAPTER 312. REQUIREMENTS FOR PROVIDERS OF UNREGULATED SELF-ARRANGED CHILD CARE

Sec. 312.001. DEFINITIONS. Defines "department" and "unregulated self-arranged child-care."

Sec. 312.002. MEMORANDUM OF UNDERSTANDING. Requires the Texas Workforce Commission (TWC) and the Department of Family and Protective Services (DFPS) to adopt a memorandum of understanding regarding the administration and payment of costs of background and criminal history checks (checks) required under this chapter.

Sec. 312.003. REQUIREMENTS FOR UNREGULATED SELF-ARRANGED CHILD CARE. Requires TWC to ensure that money appropriated and used by TWC or a workforce development board to pay for child-care services provided by an unregulated self-arranged child-care (care) provider (provider) is used only to pay a provider who, after completion of a check required by this chapter, is not precluded from providing that care.

Sec. 312.004. REQUIRED BACKGROUND AND CRIMINAL HISTORY CHECK. (a) Requires an individual who seeks to provide care, before beginning to provide that care, to submit his or her name to DFPS and a complete set of acceptable fingerprints for use in conducting a check to the Department of Public Safety (DPS).

(b) Requires DFPS to conduct checks using the information provided by the individual, information made available by certain federal, state, and local entities after DFPS submits fingerprints provided by the individual under this section to DPS for the purpose of conducting a state and federal criminal history check, and DFPS registry of reported abuse and neglect.

(c) Requires DFPS to use the standards that apply in conducting checks under Section 42.056 (Required Background and Criminal History Checks), Human Resources Code, for employees of licensed day-care centers, in determining whether to preclude an individual from providing care.

(d) Requires a provider of care who has continuously received payments for providing that care to submit the information described by Subsection (a) in the manner provided by that subsection no later than three years after the date the previous check was completed, and requires DFPS to use that information to conduct a check in the manner prescribed by Subsections (b) and (c). Requires a care provider for whom a check was conducted who ceases and then seeks to resume providing care to give the information described by Subsection (a) in the manner provided by that subsection and undergo another check, unless DFPS determines that it is unnecessary.

(e) Requires TWC to provide notice of the check requirements to the parent or guardian of the child who will receive care through an unregulated self-arranged child-care provider before the parent or guardian selects the provider.

(f) Authorizes the executive commissioner of the Health and Human Services Commission to adopt rules to implement this section.

Sec. 312.005. COSTS. Requires TWC to pay DFPS the costs incurred in conducting checks using funds available for that purpose under the federal Child Care and Development Block Grant Act, in accordance with the memorandum of understanding. Requires TWC by rule to mandate a local workforce development board to reimburse TWC for costs paid under Subsection (a) for an individual who, after a check is conducted, is not precluded from providing care and begins receiving payments for care, and requires the board to withhold the amount of the costs for the individual from the first child-care payment made to the individual to reimburse TWC and remit that amount to TWC.

Sec. 312.006. NOTICE AND OPPORTUNITY TO BE HEARD CONCERNING ACCURACY OF INFORMATION. (a) Requires DFPS to notify a provider or prospective provider of care if it is determined that the individual is precluded from providing that care because of a check under Section 312.004.

(b) Requires DFPS to include certain information regarding the process to dispute the accuracy of a check with DPS.

Sec. 312.007. AFFIDAVITS. (a) Requires a provider and the parent or guardian of the child who receives care through the provider to each submit an affidavit to TWC not later than the 15th day of the month following the end of each calendar quarter during which the provider provided the care. Requires the affidavit to contain certain information.

(b) Authorizes the affidavit in Subsection (a) to be on a form provided by TWC.

(c) Requires TWC to provide notice to each individual required to submit an affidavit under this section that knowingly making, presenting, or using a false governmental record is a criminal offense under Section 37.10 (Tampering With Governmental Record), Penal Code.

Sec. 312.008. AUDITS. Requires TWC to audit a random sample of providers on a regular basis to determine whether submitted affidavits are accurate and to ensure that TWC and local workforce development boards are paying providers only for care that is actually provided.

SECTION 2. Amends Section 411.114(a)(2), Government Code, to add a provider or prospective provider of unregulated self-arranged child care, as defined by Section 312.001, Labor Code, to the list of individuals for whom DFPS is required to obtain criminal history record information maintained by DPS.

SECTION 3. Authorizes delay of implementation until any necessary federal waivers or authorizations are obtained.

SECTION 4. Requires TWC and DFPS to adopt the memorandum of understanding mandated by Section 312.002, Labor Code, as added by this Act, by October 1, 2007.

SECTION 5. Requires TWC to ensure that payments made on or after November 1, 2007, to providers of unregulated self-arranged child care are made to providers for whom a background and criminal history check has been conducted.

SECTION 6. Effective date: September 1, 2007.