

AN ACT

1
2 relating to certain providers of subsidized child care, the use of
3 certain personal information to prevent fraud in child-care
4 programs, and the disclosure of certain personal information for
5 the purpose of investigation and enforcement of unemployment
6 compensation violations.

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

8 SECTION 1. Subtitle B, Title 4, Labor Code, is amended by
9 adding Chapter 313 to read as follows:

10 CHAPTER 313. REQUIREMENTS FOR PROVIDERS OF RELATIVE CHILD CARE

11 Sec. 313.001. DEFINITIONS. In this chapter:

12 (1) "Department" means the Department of Family and
13 Protective Services.

14 (2) "Relative child care" means child care that is:

15 (A) funded wholly or partly from money received
16 under the Child Care and Development Block Grant Act of 1990 (42
17 U.S.C. Section 9858 et seq.); and

18 (B) provided by a provider who:

19 (i) is at least 18 years of age;

20 (ii) complies with any federal or state
21 requirements regarding subsidized child care that apply to the
22 provider;

23 (iii) provides child-care services for less
24 than 24 hours a day to a child who is, by marriage, blood

1 relationship, or court decree:

2 (a) the grandchild of the provider;

3 (b) the great-grandchild of the
4 provider;

5 (c) the sibling of the provider, and
6 the child resides in a separate residence from the provider; or

7 (d) the niece or nephew of the
8 provider; and

9 (iv) operates a listed family home under
10 Chapter 42, Human Resources Code, that provides care for one or more
11 children related to the provider and does not hold any other license
12 or permit to provide child care under Chapter 42, Human Resources
13 Code.

14 (3) "Teen parent" means an individual 18 years of age
15 or younger, or 19 years of age and fully enrolled in a secondary
16 school in a program leading toward a high school diploma, who is the
17 parent of a child.

18 Sec. 313.002. LOCATION OF CARE. (a) Except as provided by
19 Subsections (b) and (c), relative child care must be provided in the
20 child-care provider's home.

21 (b) The commission shall allow relative child care in the
22 child's home:

23 (1) for a disabled child and the child's siblings;

24 (2) for a child under 18 months of age and the child's
25 siblings;

26 (3) for a child of a teen parent; and

27 (4) when the parent's work schedule necessitates

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1 child-care services during the evening, overnight, or on the
2 weekend and taking the child outside of the child's home would be
3 disruptive to the child.

4 (c) The commission may allow relative child care in the
5 child's home if the commission determines that other child-care
6 provider arrangements are not available in the community.

7 Sec. 313.003. LISTING AS FAMILY HOME. A relative
8 child-care provider must list the provider's home with the
9 department as a family home.

10 Sec. 313.004. NOTICE OF BACKGROUND AND CRIMINAL HISTORY
11 CHECKS. The commission must provide notice of the background and
12 criminal history check requirement to the parent or guardian of the
13 child who will receive care through a relative child-care provider
14 before the parent or guardian selects the provider.

15 Sec. 313.005. MEMORANDUM OF UNDERSTANDING. The commission
16 and the department shall adopt a memorandum of understanding
17 regarding the administration and payment of costs of listing a
18 relative child-care provider as required by this chapter.

19 SECTION 2. Chapter 301, Labor Code, is amended by adding
20 Subchapter K to read as follows:

21 SUBCHAPTER K. DETECTION AND PREVENTION OF CHILD-CARE FRAUD, WASTE,
22 AND ABUSE

23 Sec. 301.191. PREVENTION AND DETECTION OF CHILD-CARE FRAUD,
24 WASTE, AND ABUSE. (a) The commission shall develop risk
25 assessment protocols to identify and assess possible instances of
26 fraud, waste, and abuse in child-care programs, including:

- 27 (1) the use of unemployment insurance wage records to

1 identify:

2 (A) potential ineligible parents due to a change
3 in income or underreporting of income;

4 (B) relative child-care providers who are
5 engaged in other employment; and

6 (C) parents who do not have the required work
7 history; and

8 (2) the identification of parents who apply for or
9 receive child-care services in multiple workforce areas
10 simultaneously.

11 (b) The commission shall ensure that local workforce
12 development boards implement procedures to prevent and detect
13 fraud, waste, and abuse in child-care programs.

14 (c) The commission may use a motor vehicle record, including
15 a photographic image and signature, to prevent and detect fraud,
16 waste, and abuse in child-care programs.

17 (d) The commission may use the information under Subsection
18 (c) otherwise for enforcement under this title.

19 Sec. 301.192. CORRECTION OF CHILD-CARE FRAUD, WASTE, AND
20 ABUSE. (a) The commission shall ensure that corrective action is
21 initiated against a child-care provider who commits fraud,
22 including:

23 (1) temporarily or permanently withholding payments
24 to the provider for child-care services already delivered;

25 (2) recovering money paid for child care from the
26 child-care provider;

27 (3) stopping the provision of authorized child care at

1 the provider's facility or location; or

2 (4) taking any other action consistent with the intent
3 of the governing statutes or rules to investigate, prevent, or stop
4 suspected fraud.

5 (b) The commission shall ensure that corrective action is
6 initiated against a parent who commits fraud, including:

7 (1) recovering money paid for child care from the
8 parent;

9 (2) declaring the parent ineligible for future child
10 care under a commission program;

11 (3) limiting the enrollment of the parent's child to a
12 regulated child-care provider; or

13 (4) taking any other action consistent with the intent
14 of the governing statutes or rules to investigate, prevent, or stop
15 suspected fraud.

16 (c) If the commission proposes to take a corrective action
17 under Subsection (a) or (b), the provider or parent is entitled to
18 appeal the proposed corrective action in accordance with procedures
19 adopted by the commission by rule.

20 SECTION 3. Subchapter C, Chapter 42, Human Resources Code,
21 is amended by adding Section 42.0523 to read as follows:

22 Sec. 42.0523. LISTING OF RELATIVE CHILD-CARE PROVIDERS.

23 (a) A child-care provider who only provides child care under
24 Chapter 313, Labor Code, to children related to the provider may
25 list the provider's home as a family home.

26 (b) Before the department may list a child-care provider's
27 home under this section, in addition to conducting any other

1 background or criminal history check required for a family home
2 listing, the department must search the central database of sex
3 offender registration records maintained by the Department of
4 Public Safety under Chapter 62, Code of Criminal Procedure, to
5 determine whether the provider is listed in the registry as a sex
6 offender.

7 (c) The address of a family home listed under this section
8 is the address of the child-care provider's home, regardless of
9 whether the child care is provided in the provider's home or in the
10 child's home.

11 (d) A relative child-care provider's home listed as a family
12 home under this section is exempt from the health and safety
13 requirements of 45 C.F.R. Section 98.41(a).

14 SECTION 4. Subchapter A, Chapter 302, Labor Code, is
15 amended by adding Section 302.0047 to read as follows:

16 Sec. 302.0047. ELECTRONIC VALIDATION OF CHILD-CARE
17 SERVICES AND ATTENDANCE. If feasible, the commission shall use an
18 electronic validation system to ensure that parents verify that a
19 provider of relative child care is providing care and that the child
20 for whom the care is provided is in attendance during the period for
21 which the child-care provider is being reimbursed for services.

22 SECTION 5. Subsection (g), Section 42.054, Human Resources
23 Code, is amended to read as follows:

24 (g) The provisions of Subsections (b) through (f) of this
25 section do not apply to:

26 (1) licensed foster homes and licensed foster group
27 homes;

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1 (2) nonprofit facilities regulated under this chapter
2 that provided 24-hour care for children in the managing
3 conservatorship of the department during the 12-month period
4 immediately preceding the anniversary date of the facility's
5 license; [~~or~~]

6 (3) facilities operated by a nonprofit corporation or
7 foundation that provides 24-hour residential care and does not
8 charge for the care provided; or

9 (4) a family home listed under Section 42.0523 in
10 which the relative child-care provider cares for the child in the
11 child's own home.

12 SECTION 6. Section 730.005, Transportation Code, is amended
13 to read as follows:

14 Sec. 730.005. REQUIRED DISCLOSURE. Personal information
15 obtained by an agency in connection with a motor vehicle record
16 shall be disclosed for use in connection with any matter of:

- 17 (1) motor vehicle or motor vehicle operator safety;
- 18 (2) motor vehicle theft;
- 19 (3) motor vehicle emissions;
- 20 (4) motor vehicle product alterations, recalls, or
21 advisories;

22 (5) performance monitoring of motor vehicles or motor
23 vehicle dealers by a motor vehicle manufacturer;

24 (6) removal of nonowner records from the original
25 owner records of a motor vehicle manufacturer to carry out the
26 purposes of:

- 27 (A) the Automobile Information Disclosure Act,

1 15 U.S.C. Section 1231 et seq.;

2 (B) 49 U.S.C. Chapters 301, 305, 323, 325, 327,
3 329, and 331;

4 (C) the Anti Car Theft Act of 1992, 18 U.S.C.
5 Sections 553, 981, 982, 2119, 2312, 2313, and 2322, 19 U.S.C.
6 Sections 1646b and 1646c, and 42 U.S.C. Section 3750a et seq., all
7 as amended;

8 (D) the Clean Air Act, 42 U.S.C. Section 7401 et
9 seq., as amended; and

10 (E) any other statute or regulation enacted or
11 adopted under or in relation to a law included in Paragraphs
12 (A)-(D); [~~or~~]

13 (7) child support enforcement under Chapter 231,
14 Family Code; or

15 (8) enforcement by the Texas Workforce Commission
16 under Title 4, Labor Code.

17 SECTION 7. Subsection (c), Section 730.007, Transportation
18 Code, is amended to read as follows:

19 (c) This section does not:

20 (1) prohibit the disclosure of a person's photographic
21 image to:

22 (A) a law enforcement agency or a criminal
23 justice agency for an official purpose; [~~or~~]

24 (B) an agency of this state investigating an
25 alleged violation of a state or federal law relating to the
26 obtaining, selling, or purchasing of a benefit authorized by
27 Chapter 31 or 33, Human Resources Code; or

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1 (C) an agency of this state investigating an
2 alleged violation of a state or federal law under authority
3 provided by Title 4, Labor Code; or

4 (2) prevent a court from compelling by subpoena the
5 production of a person's photographic image.

6 SECTION 8. The Texas Workforce Commission and the
7 Department of Family and Protective Services shall adopt the
8 memorandum of understanding required by Section 313.005, Labor
9 Code, as added by this Act, not later than October 1, 2011.

10 SECTION 9. If before implementing any provision of this Act
11 a state agency determines that a waiver or authorization from a
12 federal agency is necessary for implementation of that provision,
13 the agency affected by the provision shall request the waiver or
14 authorization and may delay implementing that provision until the
15 waiver or authorization is granted.

16 SECTION 10. Notwithstanding Chapter 313, Labor Code, as
17 added by this Act, the Texas Workforce Commission shall ensure that
18 payments made on or after November 1, 2011, to providers of relative
19 child care, as defined by Section 313.001, Labor Code, as added by
20 this Act, are made only to providers with respect to whom a
21 background and criminal history check has been conducted as
22 required by that chapter.

23 SECTION 11. This Act takes effect September 1, 2011.

S.B. No. 76

David Newkum
President of the Senate

Joe Straus
Speaker of the House

I hereby certify that S.B. No. 76 passed the Senate on April 4, 2011, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 27, 2011, by the following vote: Yeas 31, Nays 0.

Patry Spaw
Secretary of the Senate

I hereby certify that S.B. No. 76 passed the House, with amendments, on May 25, 2011, by the following vote: Yeas 149, Nays 0, one present not voting.

Robert Haney
Chief Clerk of the House

Approved:

17 JUN '11
Date

RICK PERRY
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
1 pm O'CLOCK

JUN 17 2011
Boyer Roberts
Secretary of State