

BILL ANALYSIS

Senate Research Center

H.B. 2482
By: Smithee (Sibley)
Health & Human Services
5-16-97
Committee Report (Amended)

DIGEST

Currently, certain child-care facilities and child-placing agencies are required to obtain a license under Chapter 42C, Human Resources Code, from the Department of Protective and Regulatory Services (DPRS) in order to legally operate a facility or agency in the State of Texas. Many religious social ministries operate child-care facilities and child-placing agencies. These include day-care centers, maternity homes, foster homes, emergency shelters, family homes, halfway houses, and other facilities. Some of these ministries complain that state licensing standards are injurious to the religious independence and character of their services and are meddlesome. Some non-religious groups believe that the state regulations are burdensome and intrusive to their mission and goals. Many would-be social providers who, as a matter of principle, oppose the idea of state licensure, stay uninvolved in the social services arena. This bill would require DPRS to establish a streamlined procedure by which DPRS authorizes a child-care facility or child-placing agency, that is otherwise required to obtain a license, to operate a facility or agency without a license if the facility or agency is accredited by an accreditation organization approved by DPRS. Additionally, this bill would clarify and expand existing statutory language protecting the religious freedom of schools or child-care facilities sponsored by a religious organization.

PURPOSE

As proposed, H.B. 2482 requires the Department of Protective and Regulatory Services to establish a streamlined procedure by which DPRS authorizes a child-care facility or child-placing agency, that is otherwise required to obtain a license, to operate the facility or agency without a license if the facility or agency is accredited by an accreditation organization approved by DPRS. Additionally, this bill clarifies and expands existing statutory language protecting the religious freedom of schools or child-care facilities sponsored by a religious organization.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Department of Regulatory and Protective Services under SECTION 1 (Sections 42.101, 42.105(b), and 42.109(b), Human Resources Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 42, Human Resources Code, by adding Subchapter E, as follows:

SUBCHAPTER E. ACCREDITATION OF CHILD-CARE FACILITIES AND CHILD-PLACING AGENCIES

Sec. 42.101. ALTERNATIVE ACCREDITATION PROGRAM. Requires the Department of Protective and Regulatory Services (DPRS) to establish a streamlined procedure by which DPRS authorizes a child-care facility or child-placing agency that is otherwise required to obtain a license under Subchapter C to operate the facility or agency without a license if the facility or agency is accredited by an accreditation organization approved by DPRS.

Sec. 42.102. ACCREDITATION ORGANIZATION. Requires an accreditation organization, to qualify for approval by DPRS under Section 42.101, to meet certain criteria. Requires an accreditation organization to file a copy of its minimum standards for child-care facilities or child-placing agencies with DPRS to enable DPRS to make its determination

under Subsection (a).

Sec. 42.103. **APPROVED ACCREDITATION ORGANIZATION.** Requires DPRS to approve an accreditation organization under this subchapter if DPRS determines that the accreditation organization has satisfied the requirements prescribed by this subchapter. Provides that an approval granted by DPRS under this section is valid for one year. Requires DPRS to prescribe an annual renewal procedure for an approved accreditation organization that ensures continued compliance with this subchapter. Authorizes DPRS to use the remedies specified in Subchapter D to address exigent situations in which an approved accreditation organizations does not timely correct an action that endangers the health and safety of children.

Sec. 42.104. **REGISTRATION TO OPERATE UNDER ACCREDITATION.** Authorizes a child-care facility or child-placing agency that is accredited by an approved accreditation organization to apply with DPRS for approval to operate under that accreditation by filing certain items. Authorizes DPRS to charge a registrant a single administration fee in a reasonable amount that is sufficient to cover the costs of DPRS in processing and acting on the application. Requires DPRS to process and act on a registration not later than the 30th day after the date on which DPRS receives all of the required information.

Sec. 42.105. **BACKGROUND AND CRIMINAL HISTORY CHECKS.** Requires an approved accreditation organization to conduct background and criminal history checks on certain persons. Authorizes DPRS, by rule, to provide for not issuing or not renewing a certificate to operate under accreditation or to revoke the certificate based on the results of a background or criminal history check conducted by DPRS.

Sec. 42.106. **ACCEPTANCE OF ACCREDITATION INSTEAD OF LICENSE.** Requires DPRS to issue a certificate of approval to operate under accreditation to an applicant under certain conditions. Provides that a certificate issued under this section is not transferrable and applies only to the operator stated in the application. Provides that a certificate is valid for one year.

Sec. 42.107. **RENEWAL OF CERTIFICATE.** Requires DPRS to provide for an annual renewal of a certificate issued to an operator of a child-care facility or child-placing agency under Section 42.106. Requires DPRS to renew the certificate if the child-care facility or child-placing agency maintains accreditation from the approved accreditation organization.

Sec. 42.108. **NOTIFICATION OF REVOCATION OR WITHDRAWAL OF ACCREDITATION.** Requires the approved accreditation organization to notify DPRS of the revocation or withdrawal of an accreditation of a child-care facility or child-placing agency within a certain time period.

Sec. 42.109. **REVOCATION OR WITHDRAWAL OF APPROVAL TO OPERATE UNDER ACCREDITATION.** Prohibits a holder of a certificate issued under Section 42.106 from operating a child-care facility or child-care placing agency if an accreditation organization has revoked or withdrawn the accreditation of the facility or agency, unless DPRS grants the holder a license under Subchapter C or a provisional license. Authorizes DPRS to adopt rules as necessary to implement this section.

Sec. 42.110. **AUTHORITY TO CONDUCT LIMITED INSPECTIONS.** Sets forth regulations regarding DPRS' authority to conduct limited inspections of a child-care facility or child-placing agency.

Sec. 42.111. **EMERGENCY SUSPENSION OF CHILD-CARE FACILITY OR CHILD-PLACING AGENCY.** Sets forth regulations regarding the emergency suspension of a certificate of a child-care facility or child-placing agency.

SECTION 2. Amends Section 42.001, Human Resources Code, to provide that the purpose of this chapter is to protect the health, safety, and well-being of the children of the state who reside in child-

care facilities by, among other items, requiring child-care facilities to be regulated by alternative accreditation bodies. Provides that with respect to a school or child-care facility sponsored by a religious organization, nothing in this chapter gives a governmental agency authority to regulate, control, supervise, or in any way be involved in the form, manner, or content of religious instruction, ministry, teaching, or the curriculum offered by the school or facility; the ability of the school or facility to select and supervise qualified personnel, and otherwise control the terms of employment, including the right to employ individuals who share the religious views of the school or facility; the internal self-governance and autonomy of the school or facility; or the religious environment of the school or facility, such as a symbols, art, icons, and scripture. Makes conforming changes.

SECTION 3. Amends the heading of Section 42.041, Human Resources Code, as follows:

Sec. 42.041. New heading: REQUIRED LICENSE OR ACCREDITATION.

SECTION 4. Amends Sections 42.041(a) and (d), Human Resources Code, to provide that no person may person to operate a child-care facility or child-placing agency without a license issued by the division or a certificate to operate under accreditation issued by DPRS under Subchapter E. Makes a conforming change.

SECTION 5. Amends Section 42.076(a), Human Resources Code, to provide that a person commits a Class B misdemeanor if the person operates a day-care facility or child-placing agency without a license or certificate to operate under accreditation under Subchapter E.

SECTION 6. Amends Section 43.003, Human Resources Code, as follows:

Sec. 43.003. New heading: LICENSE OR ACCREDITATION REQUIRED. Authorizes a person to serve as the child-care administrator of a child-care facility if the person is accredited by a private organization that has qualifications that apply to the child-care administrators and that meet or exceed the state's minimum standards, as determined by DPRS, with the exception of those qualifications relating to the internal self-governance of the child-care institution and to the curriculum, teaching, or instruction of the institution. Provides that this subsection applies only to a child-care institution that operates under a certificate to operate under accreditation issued by DPRS under Chapter 42E. Makes conforming and nonsubstantive changes.

SECTION 7. Amends Section 411.114(a)(2), Government Code, to entitle DPRS to obtain from the Department of Public Safety criminal history record information maintained by DPRS that relates to a person who, among other options, registers with or has been issued a certificate to operate under accreditation by DPRS under Chapter 42E, Human Resources Code; a child-care facility or child-placing agency that is seeking to register with or has been issued a certificate to operate under accreditation by DPRS under Chapter 42E, Human Resources Code; an operator of a child-care facility or child-placing agency that is seeking to register with or has been issued a certificate to operate under accreditation by DPRS under Chapter 42E, Human Resources Code, subject to Section 42.105, Human Resources Code; or a child-care administrator seeking accreditation as provided by Section 43.003, Human Resources Code.

SECTION 8. (a) Effective date: September 1, 1997.

(b) Requires DPRS to adopt rules under this Act not later than March 1, 1998.

SECTION 9. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

Amendment 1.

(1) On page 2, line 4, strike "and".

(2) On page 2, line 5, insert the following between "(2)" and "demonstrate":

not have any person serve as a member of the governing body of the accrediting organization who has a proprietary or financial interest in a child care facility or child-placing agency that is accredited by the accrediting organization; and

(3)