

CHAPTER 717

H.B. No. 500

AN ACT

relating to state day-care centers for certain children.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Chapter 44, Human Resources Code, is amended to read as follows:

CHAPTER 44. ADMINISTRATION OF *FEDERAL AND STATE*
~~[FEDERALLY ESTABLISHED]~~ DAY-CARE PROGRAMS

SUBCHAPTER A. FEDERALLY ESTABLISHED DAY-CARE PROGRAMS

Sec. 44.001. DESIGNATED AGENCY. The department is the state agency designated to administer a day-care program established by federal law and financed partially or totally by federal funds.

Sec. 44.002. ADMINISTRATIVE RULES. (a) The commissioner shall promulgate rules to carry out the administrative provisions of the program consistent with federal law and regulations.

(b) The rules must include procedures to allow operators of day-care centers to review and comment on proposed rules and policies.

(c) The rules must establish procedures for input by the parents of the children in a day-care center into the operation of the center. *Where programs have more than 30 percent of their licensed capacity purchased by the department, these procedures must include the establishment of ongoing parent advisory committees that regularly meet and review day-care center operations.*

(d) The commissioner may promulgate eligibility standards for admittance into the program, but the standards must allow for exceptions where necessary to maintain family self-sufficiency and integrity. *The exceptions must be reviewed biannually by the department with opportunity provided for public input. The initial exceptions and any revisions must be published in the Texas Register.*

Sec. 44.003. ADMINISTRATION OF FEDERAL-LOCAL PROGRAM. (a) If the program is to be funded through political subdivisions of the state or local agencies approved by the department matching federal grants, the department shall promulgate procedures for effective delivery of services consistent with this section and with federal law and regulations.

(b) If the services are provided through contracting with operators of day-care programs ~~[centers]~~ on request from political subdivisions or local agencies, the department may not promulgate standards for selection of the type of programs ~~[centers]~~ more restrictive than required by federal law or regulations.

(c) The department shall establish an accounting system consistent with federal law and regulations which will provide that an operator of a day-care program ~~[center]~~ contracting with the department:

(1) shall receive prepayment in accordance with policies and procedures mutually agreed on by the state comptroller of public accounts and the department; and

(2) shall be paid on the basis of legitimate and reasonable expenses, insofar as possible, given federal regulations and department policy, instead of being paid on the basis of the number of children attending *or the number of children enrolled in the program [the center]*, provided that on being monitored by the department, the contracting operator can substantiate that there were sufficient preparations in the development of the services offered.

(d) *The department shall establish procedures for hearing complaints by operators of day-care programs contracting with the department relating to the failure of the department to comply with Subsection (c) of this section.*

[Sections 44.004–44.030 reserved for expansion]

SUBCHAPTER B. DAY-CARE CENTERS

Sec. 44.031. ESTABLISHMENT. (a) *The department may establish day-care centers for all children who qualify for services under Section 44.032 of this code. Where in the opinion of the department it appears feasible for the furtherance of the objectives of this legislation, the department may establish cooperative agreements with other state agencies.*

(b) *The department is not required to establish a day-care center or to provide services under this subchapter unless funds are appropriated for that purpose.*

Sec. 44.032. ELIGIBILITY. (a) *Except as provided by Subsection (b) of this section, to be eligible for admission to a day-care center authorized under this subchapter, a child must be at least six weeks of age and:*

(1) *the child must be eligible for state assistance under the aid to families with dependent children program and the child's caretaker must be employed, enrolled in a department-authorized job training program, registered to work by the Texas Employment Commission, or permanently and totally disabled; or*

(2) *the child must be from a family eligible under federal law or regulations to participate in a partially or totally federally funded welfare or social services program.*

(b) *Additional children of the same age group may also be admitted to a center under additional standards established by the commissioner.*

(c) *To reduce rapid turnover of children in care and to ensure maximum stability for the child to the extent possible within federal guidelines, once a child meets the initial eligibility standards and is enrolled in a child-care program, the child remains eligible for not less than one year after the date of enrollment.*

Sec. 44.033. FEES. (a) *A fee for services rendered by the day-care center may not be charged for a child who is eligible for state assistance under the aid to families with dependent children program.*

(b) *A fee that is scaled to family income for services rendered by the day-care program may be charged for a child who is not eligible for state assistance under the aid to families with dependent children program.*

Sec. 44.034. STANDARDS; RECOMMENDATIONS. (a) *If the department establishes day-care centers under this subchapter, the department shall prescribe standards of operation and performance for the centers that will ensure proper nutrition, social adjustment, health services, and appropriate growth and development for children admitted.*

(b) *The department shall also prescribe procedures for receiving recommendations relating to the operation of the centers from parents, guardians, or custodians of children admitted to the centers, operators of the centers, and other interested persons.*

Sec. 44.035. CONTRACTS. (a) *The department may contract for services authorized under this subchapter with an individual, organization, association, or corporation meeting the standards established under Section 44.034 of this code and the standards for child-care facilities licensed by the department.*

(b) *The fees paid to the center under the contract may not exceed the amount it would cost the state to provide the same services.*

(c) *The department shall terminate a contract with a day-care center that fails to maintain the department's standards.*

(d) *When the department intends to cancel its contract with a day-care center, the department shall give the center reasonable notice and an opportunity for a hearing if one is requested. The department shall adopt rules consistent with the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) to implement this section. Hearings under this section are contested cases under that Act.*

Sec. 44.036. ANNUAL EVALUATION OF DAY-CARE CENTERS. If the department establishes day-care centers or provides services under this subchapter, the department shall evaluate the performance of the centers each state fiscal year. This evaluation shall be sent to the governor and to the Legislative Budget Board not later than the 100th day after the last day of the state fiscal year covered by the evaluation.

SECTION 2. The department and the Texas Education Agency shall design a pilot day-care/prekindergarten program in consultation with an administrator of a local Project Head Start program. This day-care/prekindergarten project should be designed to provide comprehensive education and day-care for four-year-old children by drawing on the resources available in all three programs. The pilot program should maximize efficiency by combining certain staff of federal and state day-care programs and the prekindergarten program administered by the Texas Education Agency. The pilot program should be designed to eliminate duplication of facilities, transportation, and other services such as nutrition; contain a plan for training teachers and day-care workers to work cooperatively in a day-care/prekindergarten combination setting; and achieve maximum cost savings to the state by combining certain elements of both state programs and coordinating them with the full-day program provided by Project Head Start. The details of the proposed pilot program should be presented to the 71st Legislature for implementation during the school year beginning September 1990.

SECTION 3. This Act takes effect September 1, 1987.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on May 11, 1987, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 500 on May 30, 1987, by a non-record vote. Passed by the Senate, with amendments, on May 29, 1987, by the following vote: Yeas 30, Nays 0.

Approved June 19, 1987.

Effective Sept. 1, 1987.