

PART XX. Texas Workforce Commission
CHAPTER 809. Child Care and Development
SUBCHAPTER D. Client Eligibility Requirements
40 TAC §809.79

The Texas Workforce Commission (Commission) proposes new §809.79, concerning penalties and sanctions regarding violation of the Parent Responsibility Agreement executed pursuant to §809.78 relating to the Parent Responsibility Agreement, as well as the exceptions to the requirement of a Parent Responsibility Agreement.

Proposed §809.79(a), provides certain sanctions for failure of the "parent or caretaker" of a child to comply with the requirements of §809.78. Failure to comply with §809.78(b) (1) results in a sanction of an additional monthly fee of \$25 for the noncomplying parent or caretaker until the parent or caretaker achieves compliance with the subsection. Failure to comply with §809.78(b) (2) results in a fine of an additional monthly fee of \$25 for up to six months. Failure to comply with §809.78(b) (3) results in an additional monthly fee of \$25 until the first month following the first full month in which the child in question has no unexcused school absences.

The proposed rule provides in §809.79(b) that a Parent Responsibility Agreement is not required pursuant to §809.78 if the paternity of the child in question cannot be established, if the child is the product of an incestuous relationship, or if the parent of the child has been the subject of domestic violence. In addition the terms in question are defined in the new section. Randy Townsend, Director of Finance, has determined that for the first five-year period the rule is in effect, there will be no fiscal implications for state or local government as a result of enforcing or administering the proposed rule. Mr. Townsend has certified that there will be no foreseeable impact on local economies or overall employment as a result of enforcing or administering the proposed rule.

Charlotte Brantley, Director of Child Care/Work & Family Clearinghouse, has determined that for each of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be a more positive and effective implementation of House Bill 1863, 74th Legislature, Regular Session. Specifically, it is anticipated that the proposed rule will encourage parents and caretakers to comply with §809.78, while at the same time protecting parents or caretakers who might be at risk for such compliance. There is no anticipated adverse impact on small business as a result of enforcing or administering the proposed rule. Ms. Brantley has also determined that there are no anticipated economic costs to persons who are required to comply with the rule other than the sanctions as set out above. Since these sanctions will be assessed only upon noncompliance, it is anticipated they will not be of a significant amount in the aggregate. The exact amount of the impact is, at this time, incalculable and unknown.

All official comments submitted to Charlotte Brantley will be considered before the final rule is adopted. Comments on the proposed rule may be submitted to Charlotte Brantley, Director of Child Care/Work & Family Clearinghouse, Texas Workforce Commission Building, 101 East 15th Street, Room 416T, Austin, Texas 78778, (512) 936-3227. Comments may also be submitted via fax to Ms. Brantley at (512) 936-3223 or e-mailed to: cbrantle@twc.state.tx.us. Comments must be received by the Commission by 5:00 p.m. on January 20, 1998 for consideration. The new rule is proposed under Texas Labor Code §301.061, which provides that the Commission has the authority to adopt, amend, or rescind such rules as it deems necessary for the effective administration of the Act. The proposed new rule affects the Texas Labor Code, Title 4.

§809.79. Parent Responsibility Agreement, Sanctions and Exceptions.

(a) The following shall apply to sanctions for non-compliance with the Parent

Responsibility Agreement.

(1) Definitions. For purposes of this subsection, the following words and terms used in this subsection shall have the following meanings unless the context clearly indicates otherwise.

(A) Sufficient documentation of current participation in, or completion of, a drug or alcohol abuse treatment program -- Verifiable, written documentation from a person licensed by the State of Texas and thereby permitted to furnish drug or alcohol treatment services independently, that the parent or caretaker is currently enrolled in a medically supervised and approved drug or alcohol abuse program and is participating in said program as directed; or that said parent or caretaker has participated in and acceptably completed such a program, post noncompliance.

(B) Documentation of the parent's or caretaker's cooperation -- The written documentation signed by a judge, sheriff, sheriff's deputy, constable, or other sworn and licensed peace officer of the State of Texas; or a school principal or assistant principal that such parent or caretaker is cooperating with appropriate authorities concerning the child's failure to attend school regularly.

(C) Appropriate authorities -- The school principals, assistant principals, or school district counselors, of the school district or system in which the child is enrolled, as well as the other officials cited in subparagraph (B) of this paragraph.

(2) Sanctions. Failure by the parent or caretaker to comply with any of the provisions of §809.78 of this chapter may result in the sanctions provided as follows.

(A) Failure to comply with §809.78(b) (1) of this chapter relating to the Parent Responsibility Agreement may result in a sanction of an additional parent fee of \$25 per month until the parent or caretaker provides documentation of compliance.

(B) Failure to comply with §809.78(b) (2) of this chapter relating to the Parent Responsibility Agreement may result in a sanction of an additional parent fee of \$25 per month for a period of up to six months.

(C) Failure to comply with §809.78(b) (3) of this chapter relating to the Parent Responsibility Agreement may result in a sanction of an additional parent fee of \$25 per month until the first month following the next full month in which the child has no unexcused absences at the school the child attends.

(3) Exceptions from Sanctions. The penalties set out in paragraph (2) of this subsection shall not apply under the following circumstances.

(A) The sanction provided for under §809.79(a) (2) (B) of this section shall not be applied if the parent or caretaker provides sufficient documentation of current participation in, or completion of, a drug or alcohol abuse treatment program.

(B) The sanction provided for under §809.79(a) (2) (C) of this section shall not be applied if the parent provides documentation of the parent's or caretaker's cooperation with appropriate authorities concerning the child's failure to attend school.

(b) Exceptions From Parent Responsibility Agreement Requirements. (1)

For purposes of this subsection, the following words and terms shall have the following meanings unless the context clearly indicates otherwise.

(A) Reasonable -- Those efforts which a willing, committed person would make to establish paternity, including but not limited to, appropriate lawsuit in a court of competent jurisdiction to establish paternity.

(B) Incestuous -- Sexual intercourse between persons as described in Texas Penal Code §25.02(a).

(C) Domestic Violence -- Such mental or physical abuse committed against a person as would reasonably cause and did cause the injured person grievous bodily, emotional, or mental harm.

(2) Notwithstanding the requirements set forth in §809.78(b) of this chapter, the parent or caretaker is not required to comply with those requirements if one or more of the below situations exist.

(A) the paternity of the child cannot be established after a reasonable effort to do so;

(B) the child is the product of an incestuous relationship; or

(C) the parent of the child is a victim of domestic violence.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Issued in Austin, Texas, on December 8, 1997.

TRD-9716440

J. Randel (Jerry) Hill

General Counsel

Texas Workforce Commission

Earliest possible date of adoption: January 20, 1998

For further information, please call: (512) 463-8812