



# **Child Safety Data for Licensed Day-care Centers**

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**As Required by**

**Human Resources Code**

**Section 42.0412**

**Health and Human Services**

**Commission**

**December 2020**



**TEXAS**  
Health and Human  
Services

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# 1. Executive Summary

Texas Human Resources Code Section 42.0412 added by Senate Bill (S.B.) 708, 86th Legislature, Regular Session, 2019, requires the Health and Human Services Commission (HHSC), in collaboration with the Department of Family and Protective Services (DFPS) and using existing resources, to collect, compile, and publish on HHSC's website certain data aggregated on reported incidents in licensed day-care centers<sup>1</sup> that threatened or impaired the basic health, safety, or welfare of a child. The data is aggregated by child age and include:

- the number of incidents investigated by HHSC or DFPS and assigned the commission's or the department's highest priority;
- the number of incidents investigated by HHSC or DFPS and assigned the commission's or the department's second-highest priority;
- the number of violations;
- the number of confirmed serious injuries to children; and
- the number of child fatalities.

SB 708 requires HHSC, during each monitoring inspection of a licensed day-care center<sup>1</sup> and using existing resources, to collect the following data for each group of children<sup>2</sup> four years of age and younger:

- the specified age<sup>3</sup> of the children in the group;
- the number of children in the group; and
- the number of caregivers supervising the children in the group.

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1 Licensed day-care centers are also referred to as licensed child-care centers and are referred to as such in HHSC's data.

2 HRC §42.0412(a) determines "group of children" by the formula provided in HHSC's Minimum Standards for Licensed Child Care Centers.

3 HRC §42.0412(a) determines "specified age" by the formula provided in HHSC's Minimum Standards for Licensed Child Care Centers.

The bill also requires HHSC, in collaboration with DFPS and using existing resources, to research, collect, compile, and publish on HHSC's website, in a way that allows meaningful comparison on a pro-rata basis of the relative frequency of serious injuries and fatalities occurring in licensed day-care centers to serious injuries and fatalities occurring at locations other than licensed day-care centers. However, HHSC is unable to make meaningful comparisons of injuries and fatalities at licensed day-care centers versus incidents at locations other than licensed day-care centers.

This report provides an overview of HHSC's efforts to collect, compile, and publish certain data on serious incidents occurring in licensed day-care centers, including HHSC's collaboration with DFPS.

Specifically, the required annual report includes the following:

1. the number of confirmed serious injuries and fatalities for children four years of age and younger, aggregated by the age of the injured or deceased child, including information collected by DFPS, that occurred at each licensed day-care center;
2. the priority assigned to the investigation conducted by HHSC or DFPS in response to an incident that resulted in a serious injury or child fatality;
3. the number of investigations conducted by HHSC or DFPS at each licensed day-care center involving a child four years of age or younger that were assigned the highest priority or second-highest priority, aggregated by the age of the youngest affected child;
4. the number of violations HHSC found at each licensed day-care center during investigations described by (3); and
5. an explanation of HHSC's analysis on whether children under the supervision of a licensed day-care center are more likely than children outside the supervision of a licensed day-care center to suffer a serious injury or death, including the data sources used, the methodologies considered for conducting the comparison, the barriers to making the comparison, and the analysis HHSC was able to complete in lieu of the comparison.

While HHSC and DFPS successfully collaborated to collect, compile, and post the newly required information in the first quarter of 2020, HHSC's collection of classroom data was interrupted in response to COVID-19 and Child Care Regulation(CCR) staff being on restricted duties from March 20, 2020 to August 24, 2020, which limited the types of onsite activities CCR staff could conduct. Because HHSC was unable to collect classroom data, including ratio and group size data, for all licensed day-care centers serving children four years of age or younger during this timeframe, HHSC is unable to make a reliable correlation between serious injury data and ratio and group size data. Accordingly, HHSC has insufficient information to make legislative and regulatory recommendations by age group to enhance child safety. Although portions of the bill were not able to be implemented, HHSC will use the new data for the intended purpose and will continue to work toward protecting the health, safety, and welfare of children in regulated settings.

## 2. Introduction

Hundreds of thousands of parents across the state of Texas entrust their children to a child care operation, including licensed day-care centers, as they go to work each day. Children often sustain injuries as part of play, exploration, and curiosity even in safe settings and while under appropriate supervision. To minimize the risk to children of getting hurt, licensed day-care centers are required to maintain a healthy and safe environment and follow the rules governing these operations.

As with the diversity of children, there are any number of choices for licensed day-care centers that offer a variety of environments, curriculum, and early learning methods. HHSC's public website, [TxChildCareSearch.org](http://TxChildCareSearch.org), provides parents with resources, services and regulatory information on each type of child care operation, including licensed day-care centers. This resource, enables parents to make an informed decision about the licensed day-care center that best meets their family's needs.

Additionally, HHSC collects many types of information regarding licensed day-care centers and publishes an annual Data Book that is a descriptive statistical resource. The annual HHSC Data Book is posted on the HHSC internet website. Data for abuse and neglect allegations in licensed day-care centers can be found in the DFPS Data Book.

Key Points from the report:

- There is no direct comparison between injury data involving children between the ages of 0 and 4 years under the supervision of licensed day-care centers and children not under the supervision of licensed day-care centers statewide.
- Since 2017 HHSC has made incremental improvements to collecting and documenting injury data elements that may be used to conduct further analysis of injuries occurring in licensed day-care centers.
- HHSC will continue to improve and analyze injury data to recommend informed child care policies that will enhance child safety.

## 3. Background

### Regulatory Services-Child Care Regulation

Beginning with the enactment of S.B. 200<sup>4</sup> of the 84<sup>th</sup> Legislature, the health and human service agencies began a transformation to improve the delivery of services to the citizens of Texas. On September 2017, during the second phase of transformation, Child Care Regulation (CCR), which protects the health, safety, and well-being of children in out of home care settings through licensing and regulatory functions, transferred from DFPS to HHSC.

CCR has two major field operations to carry out its regulatory role of child care operations: Day-Care Regulation (DCR), which includes the Unregulated Operations Unit (UOU), and Residential Child Care Regulation (RCCR), which also includes the newly created Heightened Monitoring (HM) unit. DCR regulates child care operations that provide care for children under 14 years of age for part of the day (i.e., licensed day-care centers). RCCR regulates residential child care operations that provide 24-hour care and supervision for children from birth through age 17 who reside at the operation.

The child day-care operations that CCR regulates include:

- Licensed Child Care Centers
- Licensed Before or After School Programs
- Licensed School Age Programs
- Licensed Child Care Homes
- Registered Child Care Homes
- Listed Family Homes
- Small Employer Based Child Care Operations
- Temporary Shelter Programs

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<sup>4</sup> <https://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=84R&Bill=SB200#>

A licensed day-care center receives a permit to operate as a Licensed Child Care Center and is defined in the Texas Human Resources Code (HRC), Chapter 42 as a child care facility that provides care at a location other than the residence of the owner, director, or operator for seven or more children under 14 years of age for less than 24 hours a day, but at least two hours a day, three or more days a week. As of August 31, 2019, there were 8,058 licensed day-care centers in Texas with a total capacity of 938,765<sup>5</sup>.

Texas HRC, Chapter 42, establishes requirements for HHSC to create and enforce minimum standards through regulation, technical assistance and enforcement activities of licensed day-care centers. The minimum standards seek to minimize risk for children in out of home care settings by outlining basic requirements for all licensed day-care centers. HHSC also performs background checks to determine whether a person regularly or frequently present at a licensed day-care center poses a risk to the health and safety of children in care.

Licensed day-care centers must adhere to the requirements set forth in 26 Texas Administrative Code (TAC), Chapter 746, Minimum Standards for Child-Care Centers<sup>6</sup>. Minimum standards cover a broad spectrum of health and safety topics, including but not limited to:

- Director and caregiver responsibilities
- Child/Caregiver ratios and group sizes
- Basic care requirements
- Discipline and guidance
- Nutrition and food service
- Health and safety practices
- Indoor and outdoor equipment
- Fire safety

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5 Fiscal Year 2019 Child Day Care Data Book - <https://hhs.texas.gov/sites/default/files/documents/about-hhs/records-statistics/research-statistics/ccl/ccr-data-book-child-day-care-2019.pdf>

6 <https://hhs.texas.gov/sites/default/files/documents/doing-business-with-hhs/provider-portal/protective-services/ccl/min-standards/chapter-746-centers.pdf>

In addition to conducting routine inspections at licensed day-care centers to ensure compliance with minimum standards, both HHSC and DFPS conduct investigations at licensed day-care centers. HHSC conducts an investigation when HHSC receives a report that includes an allegation of a violation of minimum standards that does not include abuse, neglect, or exploitation. DFPS conducts an investigation when DFPS receives a report that a child was abused, neglected, or exploited while in care of the licensed day-care centers. The two types of investigations are further explained in the following sections.

The Unregulated Operations Unit, created by the addition of Texas Government Code §531.0084 added by S.B. 706, 86th Legislature, is a unit dedicated to identifying unregulated child care operations and taking appropriate enforcement action, when necessary. Community engagement and outreach is an integral part of the unit's objective to spread awareness of the benefits of parents choosing regulated child care and expanding the provider community by highlighting the benefits of becoming a regulated child care provider.

## **Required Investigations**

### **HHSC Investigations of Minimum Standards Violations**

HHSC investigates reports that allege statute, administrative rules, or minimum standards have been or are in violation. HHSC does not investigate allegations of abuse, neglect, or exploitation<sup>7</sup>. HHSC classifies the priority of a report based on:

- information available at the time of intake;
- the presence of current threats to the child's immediate safety;
- degree of harm the child has sustained or may sustain in the next 12 months; and
- the allegation that presents the greatest risk to the child, if multiple allegations are reported<sup>8</sup>.

HHSC has five classifications of priorities. S.B. 708 focuses on investigations with the highest two priorities. The chart below explains when HHSC assigns an investigation the highest priority or the second highest priority<sup>9</sup>.

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7 Child Care Licensing Policy and Procedures Handbook (CCLPPH), 6110

8 CCLPPH 6240

9 CCLPPH 6241

**Table 1. HHSC Investigations of Minimum Standard Violations: Priorities**

Priority	Explanation
Priority 1: Violation of the law or minimum standards that pose an immediate risk to children	A report of a violation of a law or minimum standard places children in care at immediate risk of serious or substantial harm.
Priority 2: Injury or serious mistreatment of a child	A report that a child in care is disciplined, punished, or physically restrained in a manner that is prohibited by minimum standards, including a report that a child in care sustained a serious injury as a result of discipline, punishment, physical restraint, or other type of mistreatment prohibited by minimum standards.
Priority 2: Serious Accidental Injury	A report that a child suffered a serious accidental injury (i.e., a serious injury that is the result of an accident) and the injury may be a result of a violation of minimum standards.
Priority 2: Serious safety or health hazards	<p>A report of a violation of the minimum standards related to safety or health that may pose a risk of substantial harm to children in care.</p> <p>OR</p> <p>A report that a person who is present at the operation has criminal or Central Registry history that may expose children in care to risk of harm. This includes:</p> <ul style="list-style-type: none"> <li>a person who has recent arrest history that poses a risk of harm to children and whose arrest has not gone through the justice system;</li> <li>a person who has recent Central Registry history and the person has not gone through due process; and</li> <li>a person on the sexual offender registry whose address is an exact match to the operation’s address.</li> </ul>
Priority 2: Serious supervision problems	A report of a violation of the minimum standards related to supervision that may pose a risk of substantial harm to children in care.

By the conclusion of the investigation, HHSC indicates whether each child involved in the report has sustained an injury. If the child sustained an injury, the investigator also documents:

- the type of injury;
- the cause of injury, if known;
- what the injury was related to, if known;
- the incident location (whether the child was in care at or away from operation);
- whether the injury was determined to be non-serious, serious<sup>10</sup>, near fatal<sup>11</sup>, or fatal; and
- whether the injury was related to a minimum standard violation<sup>12</sup>.

If HHSC determines that the licensed day-care center violated statute, administrative rules, or minimum standards, HHSC also documents the violation<sup>13</sup>. HHSC documents all information in the Child Care Licensing Automated Support System (CLASS).

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10 CCLPPH defines "serious injury" as any physical injury to a child that requires medical treatment and resulted or may result in impairment to the child's overall health or well-being.

11 CCLPPH defines "near fatal" as a subset of serious injuries in which the child would likely have died as a result of the injury or medical condition if the child did not get medical attention. In most circumstances, medical intervention includes admittance to an intensive care unit. Prior to April 26, 2020 near-fatal injuries were included in the count of serious injuries.

12 This indicator was added to CLASS on April 26, 2020.

13 CCLPPH 6710

## **DFPS Investigations of Abuse, Neglect, or Exploitation of a Child**

DFPS investigates reports of abuse or neglect that allege a child in care of a licensed day-care center was or may be harmed because of an act or omission by a person working under the supervision of a licensed day-care center. Such harm must meet the definitions of abuse or neglect, as described in the Texas Family Code and TAC. DFPS also investigates reports of exploitation that allege a person working under the auspices of a licensed day-care center engaged in illegal or improper use of a child or used a child's resources for monetary or personal benefit, profit, or gain. The licensed day-care center where the alleged abuse, neglect, or exploitation occurred may also be violating statutes, administrative rules, or minimum standards.

DFPS assigns priorities based on the following factors:

- the information available at the time of intake.
- the presence of current threats to the child's immediate safety.
- the degree of harm the child has sustained or may sustain in the foreseeable future.
- the allegation that presents the greatest risk to the child, if multiple allegations are reported<sup>14</sup>.

DFPS has two classifications of priorities. S.B. 708 refers to these priorities as investigations with the highest two priorities. The chart below explains when DFPS assigns an investigation the highest priority or the second highest priority<sup>15</sup>.

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14 Child Care Investigations Handbook (CCIH) 6222

15 CCIH 6222.3

**Table 2. DFPS Investigations of Abuse, Neglect or Exploitation: Priorities**

<b>Priority</b>	<b>Explanation</b>
Priority 1: Death of a child	A child dies while in the care of an operation that is subject to regulation.
Priority 1: Immediate danger of death	A child has been abused or neglected, and the abuse or neglect places the child or other children at immediate risk of death or substantial harm.
Priority 2: Abuse, neglect, or exploitation that does not indicate an immediate danger of death or serious injury	A child has been abused, neglected, or exploited while in the care of an operation that is subject to regulation, but the child and other children are currently safe from risk of death or substantial harm.

By the conclusion of the investigation, DFPS indicates whether each child involved in the report has sustained an injury and documents this information in CLASS in the same manner as described above in HHSC investigations<sup>16</sup>. DFPS documents their investigations in both the Information Management Protecting Adults and Children in Texas (IMPACT) and CLASS systems.

After DFPS completes the investigation, HHSC evaluates information collected during the DFPS investigation and documents any violations of statute, administrative rules, or minimum standards in CLASS, as appropriate<sup>17</sup>.

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16 CCIH 6711

17 CCLPPH 6940

## 4. Data Collection

HHSC seeks to provide parents with key information and resources to make informed decisions about licensed day-care centers in Texas. To that end, HHSC collects, organizes, and posts injury data on each licensed day-care center's information page on the TxChildCareSearch.org website. In addition, HHSC posts an annual, aggregated serious injury and investigation report on the HHSC website.

### Reported Incidents

As described above, HHSC and DFPS investigations occur routinely. Incidents leading to serious injuries are self-reported by the operation, or reported by another individual, including a child's parent. The data collected during an investigation includes the type and cause of the injury. These data elements are documented in HHSC's CLASS system.

In Fall 2019, HHSC began working with the DFPS Data and Decision Support (DDS)<sup>18</sup> team to define the requirements for the investigation information to be posted on the HHSC website according to §42.0412(b). All of the data elements already existed in the IMPACT or CLASS system; therefore, no automation changes were required.

In March 2020, HHSC posted on the HHSC's website<sup>19</sup> two reports fulfilling the requirements in HRC §42.0412(b):

- Child Care Licensing Non-Abuse/Neglect Investigations Information by Age Group (FY19)
- Child Care Investigations Abuse/Neglect Investigations Information by Age Group (FY19)

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<sup>18</sup> Following CCR's transfer from DFPS to HHSC in 2017, the DFPS DDS team continued to support CCR's reporting functions through May 2020.

<sup>19</sup> Reports located under the Child Safety Data for Licensed Day-Care Centers tab on the Child Care Licensing Statistics page - <https://hhs.texas.gov/about-hhs/records-statistics/data-statistics/child-care-licensing-statistics>

## **Child/Caregiver Ratio and Group Size**

Licensed day-care centers must adhere to child to caregiver ratio and group size requirements outlined in TAC, Chapter 746, Minimum Standards for Child-Care Centers.

HHSC policy requires CCR inspectors to evaluate that the licensed day-care center is in compliance with ratio and group size requirements at each inspection<sup>20</sup>. Prior to S.B. 708, HHSC did not document the specific ratio and group size in each classroom at a licensed day-care center; however, HHSC did and continues to document when a licensed day-care center violates ratio and group size minimum standards.

In response to S.B. 708, HHSC implemented a requirement for CCR inspectors to complete a survey to document certain information obtained from each monitoring inspection at a licensed day-care center. The survey collects classroom data on the number of children and caregivers present at the time of inspection for each classroom serving children four years of age and younger based off the specified age group. Classroom data collection began on September 1, 2019. On March 19, 2020, classroom data collection was interrupted when CCR inspectors temporarily ceased inspections due to COVID-19. At that point 5,754 surveys, representing 5,243 operations and 27,886 classrooms had been completed. While CCR inspectors resumed a limited number of inspections beginning in June 2020, CCR inspectors did not resume all inspections until August 24, 2020.

HHSC is in the process of working with Information Technology to automate the collection of the classroom data in CLASS. HHSC anticipates the automation changes will become effective in December 2020.

### **Request for Information**

Upon request, HHSC will make the classroom and injury data collected available to persons researching the factors related to child injury, maltreatment, and death in licensed day-care centers.

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<sup>20</sup> CCLPPH 4151

## **Total Number of Employees who left Employment**

HHSC amended 26 TAC §746.303 to require licensed day-care centers to report the total number of employees who ceased working at the licensed day-care center the previous calendar year to HHSC through their online Provider account. This rule change will become effective on December 15, 2020 and will require providers to report the numbers of employees who left employment in the preceding calendar year for the first time in January 2021. Technology changes will be made in March 2021 to publish this information on the TxChildCareSearch.org website.

## **Impact of COVID 19**

The COVID-19 pandemic interrupted the collection of classroom data. CCR inspectors suspended monitoring inspections from March 20, 2020, through August 24, 2020. HHSC has classroom data available for inspections conducted at licensed day-care centers between September 1, 2019, and March 19, 2020. In addition, approximately 41% of licensed day-care centers temporarily closed during the early months of the pandemic due to COVID-19. As of August 31, 2020, there were 8,039 open licensed day-care centers, but more than 2,000 of the licensed day-care centers continue to be temporarily closed.

## 5. Injuries in Licensed Day-Care Centers and among Children in Texas

The purpose of this section is to describe the incidence of injuries that occurred in licensed day-care centers in comparison to the incidence of injury among children in Texas. It is assumed that the child care population is a subset of the general population.

### Review of Child Injury Data at Licensed Day-Care Centers

HHSC conducted an analysis of serious injury data stored in CLASS for HHSC and DFPS investigations assigned any priority during FY18 and FY19. On April 26, 2020, HHSC added functionality to CLASS to indicate whether a child's serious injury was caused by a violation of minimum standards. Prior to this date, HHSC had been able to analyze the data available prior to April 26, 2020, but had limited ability to examine any causal relationship between serious injury data, cause of injury data, and violations of minimum standards.

#### Table 3: Confirmed Serious Injuries<sup>21</sup> and Fatalities

The number of confirmed serious injuries and fatalities for children four years of age or younger includes information collected by HHSC and DFPS, aggregated by the age of the child at each licensed day-care center are presented in Table 3.

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<sup>21</sup> A serious injury is confirmed when the investigation is complete and the provider is notified of the findings.

**Table 3. Counts of Confirmed Serious Injuries, in Licensed Day-Care Centers, by Age Fiscal Years 2018 and 2019<sup>22</sup>**

<b>Ages (Years)</b>	<b>FY 2018</b>	<b>FY 2019</b>	<b>Total</b>
<b>Age 0</b>	26	40	<b>66</b>
<b>Age 1</b>	91	117	<b>208</b>
<b>Age 2</b>	111	136	<b>247</b>
<b>Age 3</b>	134	144	<b>278</b>
<b>Age 4</b>	132	129	<b>261</b>
<b>Subtotal, age(s) 0 - 4</b>	494	566	<b>1,060</b>
<b>Ages 5-13</b>	149	164	<b>313</b>
<b>Age &gt; 13<sup>23</sup></b>	1	1	<b>2</b>
<b>Unknown Age<sup>24</sup></b>	15	25	<b>40</b>
<b>Total (All ages)</b>	<b>659</b>	<b>756</b>	<b>1,415</b>

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22 Counts for DFPS Abuse/Neglect and HHSC Non-Abuse/Neglect related serious injuries are combined.

23 Ages > 13 years old may be a result of a data error entry as licensed day care centers care for children younger than 14 years old.

24 When Date of birth not entered or entered incorrectly for child, Age Group is "Unknown."

### Table 4: Cause of Injury by Age

When conducting an investigation involving a serious injury of a child four years of age or younger, HHSC and DFPS determine and document the cause of injury in CLASS. The CCR inspector or DFPS investigator select one of the cause of injury selections that are available in CLASS that most reflects how the child became injured. If one of the available selections does not apply to the circumstance, staff select "Other" as the cause of injury and document the actual cause of injury in a text field.

**Table 4. Cause of Injury by Age 0-4 FY18-FY19**

Cause of Injury	< 1	1	2	3	4	Total
<b>Other</b>	47	96	93	92	82	<b>410</b>
<b>Outdoor Equipment/Structure</b>	2	30	60	93	104	<b>289</b>
<b>Indoor Equipment/Structure</b>	12	63	81	67	50	<b>273</b>
<b>Discipline</b>	2	7	6	8	10	<b>33</b>
<b>Self-Inflicted</b>	1	10	5	16	13	<b>45</b>
<b>Vehicle</b>	0	0	0	2	1	<b>3</b>
<b>Tools/Equipment</b>	2	1	2	0	1	<b>6</b>
<b>Blank</b>	0	1	0	0	0	<b>1</b>
<b>Total</b>	<b>66</b>	<b>208</b>	<b>247</b>	<b>278</b>	<b>261</b>	<b>1060</b>

### Table 5: Minimum Standards Violations

At the conclusion of a serious injury investigation conducted by HHSC or DFPS, HHSC documents any violations of minimum standards confirmed during the investigation. HHSC is able to determine that most HHSC and DFPS investigations involving children four years of age or younger do *not* result in a violation of minimum standards (in FY18 76% of investigations involving a child, four years and younger, who sustained a serious injury did not result in a violation; in FY19, 77%)

This suggests that the majority of serious injuries in licensed day-care centers may be accidental in nature. HHSC will continue to analyze the serious injury data elements, including updated CLASS fields, to determine if there is a correlation between a serious injury and a violation of minimum standards.

**Table 5. Minimum Standard Violations Involving Investigations of Children, Ages 0-4 Years, with Confirmed Serious Injuries FY18-19**

	<b>FY18</b>	<b>FY19</b>
<b># Investigations with Minimum Standard Cited</b>	120	128
<b># Investigations with No Minimum Standard Cited</b>	372	436
<b>Total Investigations</b>	<b>492</b>	<b>564</b>

## Table 6: Confirmed Serious Injuries and Minimum Standards Violations

HHSC has determined the top six violations of minimum standards in FY18 and in FY19 HHSC and DFPS investigations involving a confirmed serious injury in a child four years of age or younger. HHSC recognizes that the most violated minimum standard for both FY18 and FY19 is §746.1201(1) and will review the standard closely during the scheduled comprehensive minimum standards rule review scheduled for FY21 and FY22 to determine if the standard needs to be clarified or if the intent of risk is understood. However, HHSC cannot determine based on a review of the available serious injury data whether a specific violation of minimum standards contributed to the occurrence of a serious injury in a child four years of age or younger. With CLASS enhancements that became effective on April 26, 2020, HHSC will be able to further analyze the serious injury data elements.

**Table 6. Top Minimum Standard Violations<sup>25</sup> Involving Investigations of Serious Injuries of Children Ages 0-4 Years FY18-FY19**

Minimum Standard	FY18	FY19	Total
<b>746.1201(1)</b>	27	40	<b>67</b>
<b>746.1203(4)</b>	29	30	<b>59</b>
<b>746.305(a)(2)</b>	23	21	<b>44</b>
<b>746.1201(4)</b>	9	12	<b>21</b>
<b>746.701(1)</b>	9	7	<b>16</b>
<b>746.707</b>	10	7	<b>17</b>
<b>Other Violations</b>	110	135	<b>245</b>
<b>Total All Violations</b>	<b>217</b>	<b>252</b>	<b>469</b>

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<sup>25</sup> §746.1201(1) requires caregivers and employees to demonstrate competency, good judgement, and self-control; §746.1203(3) requires caregivers to know each child's name and have information

## **Table 7 and 8: Child Care Licensing Investigations Priority Assignment for Investigations, Number of Investigations, and Number of Violations in Licensed Day-Care Centers<sup>26</sup> FY19**

All reports that allege failure to comply with statute, administrative rules, or minimum standards require some degree of investigation, except under specific circumstances as defined in HHSC policy<sup>27</sup>. The CCR inspector and the DFPS investigator must complete an investigation of a report alleging possible risk to children promptly and thoroughly to ensure that children who are or will be in care at the licensed day-care center are protected. This applies to licensed day-care centers that HHSC regulates or is responsible for regulating under Chapter 42, HRC.

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26 [https://hhs.texas.gov/sites/default/files/documents/about-hhs/records- statistics/research- statistics/ccl/ccl-nonabuse-neglect-investigations-age-group-fy19.pdf](https://hhs.texas.gov/sites/default/files/documents/about-hhs/records-statistics/research-statistics/ccl/ccl-nonabuse-neglect-investigations-age-group-fy19.pdf)

27 CCLPPH 6100

**Table 7. Child Care Licensing Non-Abuse/Neglect Investigations Information by Age Group<sup>1</sup> FY19**

	<1 Year Old	1 Year Old	2 Year Old	3 Year Old	4 Year Old	5 Year Old	6 Year Old	7 Year Old	8 Year Old	9 Year Old	10 Year Old	11 Year Old	12 Year Old	13 Year Old	>13 Year Old <sup>2</sup>	Unknown <sup>3</sup>	Total
<b>Number of Priority 1 Investigations (P1)</b>	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	4	<b>5</b>
<b>Number of Priority 2 Investigations (P2)</b>	196	447	520	533	452	197	95	48	49	43	33	9	12	1	3	88	<b>3520</b>
<b>Number of Violations<sup>4</sup> in P1 Investigations</b>	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	1	<b>1</b>
<b>Number of Violations<sup>4</sup> on P2 Investigations</b>	96	221	248	226	220	87	34	17	21	19	13	4	9	0	1	40	<b>1626</b>
<b>Number of victims with confirmed serious injuries<sup>5</sup></b>	8	29	42	27	25	7	3	6	3	3	1	1	0	0	1	3	<b>159</b>

1 The age group is determined by the age of the youngest victim for the number of investigations and number of violations while the age group is determined by the age of each victim for the number of victims with confirmed serious injuries and child fatalities.

2 When Age of child is calculated as 14 years or more, then the age group is > 13. Age group of > 13 year old may be a result of data error entry as child care operations care for children younger than 14 years old.

3 When Date of birth not entered or entered incorrectly for child. Age group is "Unknown".

4 Includes only those Investigation Violations that are marked as Non-Compliant and has an admin review status of "Waived" or "Upheld".

5 A serious injury is not considered confirmed until the investigation results are sent to the provider. Serious Injury is captured in CLASS application and hence data for this report to calculate the count of victims with serious injury is from CLASS. Note- If there is an investigation with multiple confirmed victims but only 1 victim had a serious injury, then the count of victims with confirmed serious injury is 1.

**Table 8. Child Care Investigation Abuse/Neglect Investigations Information by Age Group<sup>1</sup> FY19**

	<1 Year Old	1 Year Old	2 Year Old	3 Year Old	4 Year Old	5 Year Old	6 Year Old	7 Year Old	8 Year Old	9 Year Old	10 Year Old	11 Year Old	12 Year Old	13 Year Old	>13 Year Old <sup>2</sup>	Unknown <sup>3</sup>	Total
<b>Number of Priority 1 Investigations (P1)</b>	17	6	6	5	3	1	0	0	0	0	0	0	0	0	0	0	<b>38</b>
<b>Number of Priority 2 Investigations (P2)</b>	96	201	193	194	128	62	22	21	8	8	5	2	1	0	0	2	<b>943</b>
<b>Number of Violations<sup>4</sup> in P1 Investigations</b>	5	1	2	4	1	0	0	0	0	0	0	0	0	0	0	0	<b>13</b>
<b>Number of Violations<sup>4</sup> on P2 Investigations</b>	25	65	67	73	45	28	13	5	3	1	1	2	0	0	0	0	<b>328</b>
<b>Number of victims with confirmed serious injuries<sup>5</sup></b>	24	16	5	6	5	2	1	0	0	0	0	0	0	0	0	0	<b>59</b>
<b>Number of Child Fatalities</b>	1	1	0	0	1	0	0	0	0	0	0	0	0	0	0	0	<b>3</b>

1 The age group is determined by the age of the youngest victim for the number of investigations and number of violations while the age group is determined by the age of each victim for the number of victims with confirmed serious injuries and child fatalities.

2 When Age of child is calculated as 14 years or more, then the age group is > 13. Age group of > 13 year old may be a result of data error entry as child care operations care for children younger than 14 years old.

3 When Date of birth not entered or entered incorrectly for child. Age group is "Unknown".

4 Includes only those Investigation Violations that are marked as Non-Compliant and has an admin review status of "Waived" or "Upheld".

5 A serious injury is not considered confirmed until the investigation results are sent to the provider. Serious Injury is captured in CLASS application and hence data for this report to calculate the count of victims with serious injury is from CLASS. Note- If there is an investigation with multiple confirmed victims but only 1 victim had a serious injury, then the count of victims with confirmed serious injury is 1.

## **Analysis of DSHS Data**

There is no comprehensive statewide data resource that compiles injury data on children who are injured outside the supervision of a licensed day-care center. For that reason, HHSC's Center for Analytics and Decision Support (CADS) conducted the following analysis, Texas Hospital Inpatient Discharge Public Use Data Files (CY 2016-2018) and the Texas Outpatient Surgical and Radiological Public Use Data Files (CY 2016-2018), provided by the Texas Department of State Health Services, Center for Health Statistics. These datasets provide patient-level information for inpatient hospital stays and outpatient services. These data sets are limited to inpatient hospital discharge data, outpatient data, (e.g. hospital-based emergency rooms and ambulatory surgical centers), and the emergency medical services registry data. Although these sources cannot be directly compared with the data collected on injuries that occur in licensed day-care centers, they can still provide insight into the general patterns of injuries among this age group.

Observations regarding general patterns and trends of child injury include:

- In 2018, there were over 4,100 injury-related inpatient hospital visits among children ages 0-4 in Texas.
- Children who were <1-year-old visited inpatient hospitals at a higher rate than children who were ages 1 to 4 years (369.9 vs. 165.9 discharges per 100,000 children).
- In 2018, there were just under 215,000 injury-related outpatient hospital visits among children ages 0 to 4 in Texas.
- Children who were <1-year-old were discharged from outpatient hospitals at a lower rate than children who were ages 1 to 4 years (7,668.8 vs. 11,292 visits per 100,000 children).
- Injuries are presented by type of injury as well as external cause of injury for each age group. Anatomical injuries were the most commonly reported diagnosis for both inpatient and outpatient visits. Injuries to the head are the largest fraction of anatomical injuries (Table 9).
- The most common external cause of injury listed for inpatient and outpatient visits was, "other causes of accidental injury." This category includes but is not limited to injuries such as stumbles and falls, accidents with mechanical forces, accidental exposure to smoke, fire, flames or electric current, and contact with heat or hot surfaces.
- The most common underlying cause of death due to injury was "other and unspecified non-transport accidents and sequelae," followed by transportation accidents and drowning.

**Table 9. Number of patients hospitalized for non-fatal injuries among children ages 0 - 4 years old, by TYPE OF INJURY and age - CY 2019 (Quarters 1-3)**

<b>Injury Description<sup>1</sup></b>	<b>1-28 days</b>	<b>29-365 days</b>	<b>1 year</b>	<b>2 years</b>	<b>3 years</b>	<b>4 years</b>
<b>Anatomic injuries</b>	16	296	142	182	167	165
<b>Injuries to the head</b>	13	245	88	90	79	59
<b>Injuries to the hip and thigh</b>	*	20	17	38	24	21
<b>Injuries to the shoulder and upper arm</b>	0	5	11	15	28	27
<b>Injuries to the abdomen, lower back, lumbar spine, pelvis and external genitals</b>	0	6	9	14	7	20
<b>Injuries to the wrist, hand and fingers</b>	*	*	6	10	9	7
<b>Injuries to the knee and lower leg</b>	0	*	*	5	*	11
<b>Injuries to the ankle and foot</b>	0	*	*	*	6	7
<b>Injuries to the thorax</b>	0	5	*	5	*	*
<b>Injuries to the elbow and forearm</b>	0	*	*	*	*	6
<b>Injuries to the neck</b>	*	*	*	*	6	*

Source: Texas Hospital Inpatient Discharge Research Data File CY 2019 (Quarters 1-3)

Non-zero cell counts less than 5 were suppressed.

1 Non-fatal injury description based on Primary Diagnosis

**Table 9.1 Number of patients hospitalized for non-fatal injuries among children ages 0 - 4 years old, by TYPE OF INJURY and age - CY 2019 (Quarters 1-3)**

<b>Injury Description<sup>1</sup></b>	<b>1-28 days</b>	<b>29-365 days</b>	<b>1 year</b>	<b>2 years</b>	<b>3 years</b>	<b>4 years</b>
<b>Foreign bodies, burns, corrosions, frostbite</b>	*	53	122	50	62	33
<b>Burns and corrosions of external body surface, specified by site</b>	0	21	73	33	37	16
<b>Effects of foreign body entering through natural orifice</b>	*	31	47	16	24	17
<b>Burns and corrosions confined to eye and internal organs</b>	0	*	*	*	0	0
<b>Burns and corrosions of multiple and unspecified body regions</b>	0	0	0	0	*	0
<b>Injury of unspecified body region</b>	0	0	*	0	0	0

Source: Texas Hospital Inpatient Discharge Research Data File CY 2019 (Quarters 1-3)

Non-zero cell counts less than 5 were suppressed.

<sup>1</sup> Non-fatal injury description based on Primary Diagnosis

**Table 9.2 Number of patients hospitalized for non-fatal injuries among children ages 0 - 4 years old, by TYPE OF INJURY and age - CY 2019 (Quarters 1-3)**

<b>Injury Description<sup>1</sup></b>	<b>1-28 days</b>	<b>29-365 days</b>	<b>1 year</b>	<b>2 years</b>	<b>3 years</b>	<b>4 years</b>
<b>Other and unspecified effects of external causes</b>	8	192	65	53	37	30
<b>Poisoning by drugs, medicaments, and biological substances<sup>2</sup></b>	*	15	94	73	31	22
<b>Toxic effects of substances nonmedicinal as to source</b>	0	7	26	21	18	10
<b>Certain early complications of trauma, not elsewhere classified</b>	0	0	0	0	*	*
<b>Traumatic injuries and abuse complicating pregnancy, childbirth, and the puerperium</b>	0	0	0	0	0	0

Source: Texas Hospital Inpatient Discharge Research Data File CY 2019 (Quarters 1-3)

Non-zero cell counts less than 5 were suppressed.

1 Non-fatal injury description based on Primary Diagnosis

2 Includes accidental, intentional self-harm, assault, and underdetermined intents; Excludes adverse effects and under dosing.

## 6. Injury Data Limitations

### Comparisons of Child Injuries and Deaths

HHSC reviewed the existing, applicable information available to compare injuries and worked to devise a methodology to determine pro-rata basis of frequency of number of violations and number of serious injury or death events. Staff encountered data limitations while working to make meaningful comparisons of injuries and fatalities at licensed day-care centers versus incidents at locations other than licensed day-care centers.

Specifically,

- key population data limitations for Texas;
- lack of standardized definition of 'serious injury' in Texas; and
- injury data is not universally collected within the state.

### Key Population Data Limitations

1. The number of children ages four and younger, who are under the supervision of licensed day-care centers cannot be accurately estimated at this time.
  - a. While HHSC does have the maximum capacity of each licensed day-care center, HHSC does not have enrollment numbers for children four years of age or younger in licensed day-care centers. Although HHSC did begin collecting classroom data for classrooms serving children four years of age or younger as of September 1, 2019, the data is only reflective of the point-in-time that the inspection was conducted. For example, if the CCR inspector conducted an inspection at 7:00 AM, the group size data would only include the number of children four years of age or younger present at 7:00 AM. The number of children four years of age or younger present would likely increase later in the day. Additionally, HHSC has limited point-in-time data as a result of the interruption of inspections due to COVID-19 as described previously in this report.
2. There are no comparable data resources to estimate the number of children in Texas who are four years of age or younger, who are not under the supervision of licensed day-care centers.

## Table 10: Children 0-4 years of age in Texas

The estimate for children under 5 in Texas is approximately 2 million<sup>28</sup>. As described above, there are no available resources to determine the percentage of this population under the supervision of licensed day-care centers and the percentage not under the supervision of licensed day-care centers.

Age group	Data Type	2016	2017	2018
0 to 4	Number	2,009,230	2,021,696	2,024,126
0 to 4	Percent	27%	27%	27%

Source: Kidscount.org

## Lack of Standardized Definition of Serious Injury

1. The definition of 'serious injury' is not standardized universally within the state.
  - a. HHSC and DFPS define serious injury as any physical injury to a child that requires medical treatment and resulted or may result in impairment to the child's overall health or well-being<sup>29</sup>. HHSC defined serious injury in this manner to assist CCR inspectors in prioritizing reports involving a serious injury differently than a report involving a less serious injury.
2. The DSHS does not categorize an injury or illness as a 'serious injury.'

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28 <https://datacenter.kidscount.org/data/tables/101-child-population-by-age-group#detailed/2/45/false/37,871,870/62,63,64,6,4693/419,420>

29 See CCLPPH Definition of Terms - <https://hhs.texas.gov/laws-regulations/handbooks/cclpph/definitions-terms>

## Injury Data

1. Injury data is not universally collected within the state.
  - a. HHSC and DFPS collect injury data based on the definition of serious injury. This data is documented in CLASS during investigations. The DSHS Office of Injury Prevention (OIP) identified Emergency Medical Services (EMS) ambulance runs that occurred among children at licensed day-care centers (via GPS coordinates) on weekdays between 6 am and 6 pm. Results from HHSC's analysis include:
    - b. Analysts at OIP were able to identify over 500 EMS runs to licensed day-care centers using 2018 data.
    - c. Among these runs, the most commonly reported complaint to dispatch was convulsions/seizures (approximately 20%).
2. HHSC's analysis indicates there is no direct comparison between injury data between HHSC and DSHS.
  - a. While DSHS is able to provide some data regarding children four years of age or younger, the data only includes information reported by emergency care settings and Emergency Medical Services (EMS) ambulance runs. Because not all serious injuries as defined by HHSC require emergency treatment (e.g., a serious injury may be treated in a physician's office or urgent care clinic) and because the OIP data includes incidents that HHSC does not consider to be a serious injury (e.g., convulsions/seizures due to routine medical events), HHSC concludes there is no direct comparison between the data.
  - b. EMS runs will exclude less severe injuries, such as when parents transport children to emergency clinics, physicians, pediatricians, or treat them at home.

EMS data alone is not able to capture the wide range of injuries occurring at or outside of licensed day-care centers.

## 7. Outcomes

Due to the limitations outlined above in Section 5, there is insufficient data to support any substantive recommendations at this time. HHSC is unable to make meaningful comparisons of injuries and fatalities at licensed day-care centers versus incidents at locations other than licensed day-care centers. Additionally, HHSC's ability to collect classroom data for all licensed day-care centers serving children four years of age or younger was impeded by COVID-19, making it difficult to come to a reliable correlation between serious injury data and classroom data.

### HHSC Improvements made

1. Through a review of the serious injuries occurring at licensed day-care centers, HHSC realized opportunities to improve the injury data being collected and has taken the following steps to improve injury data fields in CLASS:
  - a. Indicate whether an injury is related to a standard or rule violation;
  - b. Add additional severity levels of "near fatal" and "fatal" so that each injury is coded a non-serious, serious, near-fatal, or fatal; and
  - c. Add fields to capture the date and time the injury occurred.

These changes became effective on April 26, 2020.

2. HHSC found that staff choose the selection of "Other" in CLASS to describe the cause of injury 39% of the time. In some cases, staff should have chosen an available option. In other cases, staff selected "Other" because there were not available options that clearly reflected the cause of injury.
3. HHSC developed a computer-based training and job aid to assist CCR inspectors in correctly documenting injury data.
4. HHSC will evaluate by December 31, 2020 the descriptions entered when CCR inspectors chose "Other" as cause of injury in order to determine how HHSC should prioritize enhancements to CLASS so that staff have additional options to select for cause of injury.
5. In December 2020, CLASS automation will be released to allow CCR inspectors to document the classroom data within the CLASS system. The surveys completed between September 1, 2019 through November 30, 2020 will be uploaded to CLASS, allowing all data to be documented in CLASS

## 8. Conclusion

This report is relating to the collection and use of child safety data for licensed day- care centers. HHSC has made many improvements to the CLASS system and the collection of injury data since July 2017. HHSC continues to evaluate opportunities to capture information in a manner that allows for meaningful analysis to help inform policy recommendations that keep children safe.

Research during the biennium, was an important first step in understanding what child injury data exists in Texas, and this has helped highlight areas to improve HHSC's collection of injury data. HHSC will continue to provide important data to state lawmakers, agency regulatory staff, and parents and guide the state's development of informed child care policies. For the outlined reasons, it was not possible to make regulatory and legislative recommendations by age group to enhance child safety using the data collected under the statute added by SB 708.

## **Appendix A. List of Acronyms**

Acronym	Full Name
CADS	Center for Analytics and Decision Support
CCIPPH	Child Care Investigations Policy and Procedure Handbook
CCL	Child Care Licensing
CCLPPH	Child Care Licensing Policy and Procedures Handbook
CCR	Child Care Regulation
DCR	Day Care Regulation
CLASS	Child Care Licensing Automated Support System
DDS	Data and Decision Support
DFPS	Department of Family and Protective Services
DSHS	Department of State Health Services
EMS	Emergency Medical Services
FY	Fiscal Year
H.B.	House Bill
HHS	Health and Human Services
HHSC	Health and Human Services Commission
HM	Heightened Monitoring
IMPACT	Information Management Protecting Adults and Children in Texas
OIP	Office of Injury Prevention
RCCR	Residential Child Care Regulation
SAO	State Auditor's Office
S.B.	Senate Bill

## **Appendix B. Definitions**

### **Child Care Regulation**

Prior to March 2020, Child Care Regulation was referenced as Child Care Licensing. The name will be changed in policy documents, manuals, and internet websites as updates are made.

### **Minimum Standards**

Minimum standards are developed by HHSC with the assistance of licensed day- care centers, parents, lawyers, doctors, and other experts in a variety of fields. Human Resources Code Chapter 42 sets guidelines for what must be included in the minimum standards.

### **Transformation**

In September 2016, HHS Transformation began with the enactment of S.B. 200<sup>30</sup> of the 84<sup>th</sup> Legislature, which directed the consolidation of the Department of Assistive and Rehabilitative Services, the Department of Aging and Disability Services, and certain administrative services from the Department of State Health Services, and the Department of Family and Protective Services within HHSC. This directive resulted in the HHS Transformation effort with the goal of producing a more efficient, effective and responsive HHS system. In September 2017, the second phase was begun. Anticipated outcomes are beginning to emerge. This follows the first consolidation enacted by HB 2292<sup>31</sup> (2003) to merge 12 health and human services agencies into five agencies under the leadership of the HHSC.

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30 <https://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=84R&Bill=SB200#>

31 <https://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=78R&Bill=HB2292>

## **Appendix C. CCR Summary and Field Operations Map**

HHSC Child Care Regulation (CCR) is a department within HHSC's Regulatory Services Division and is authorized under Texas Human Resources Code, Chapter 42, to protect the health, safety, and well-being of Texas children in out of home care by establishing statewide minimum standards and regulating operations providing out of -home care to children. Child Care Regulation (CCR) has two major functional field operations: Day-Care Regulation (DCR), which includes the Unregulated Operations Unit (UOU), and Residential Child Care Regulation (RCCR), which includes Heightened Monitoring (HM) unit.

Main CCR Program Functions:

1. Process applications and issue permits
2. Inspect operations to ensure compliance with minimum standards, rules, and licensing laws
3. Investigate violations of minimum standards, rules or licensing law (including unregulated operations)
4. Provide technical assistance
5. Take enforcement action, as necessary
6. Develop minimum standards and administrative rules
7. Educate parents and the public
8. Conduct background checks

*Total Day-Care Operations*

**Table 11: Child Day Care Operations in Texas on August 31, 2019**

<b>Operation Type</b>	<b>Count</b>	<b>Capacity</b>
<b>Licensed Child Care Centers</b>	8,058	938,765
<b>School-Age Programs</b>	803	79,239
<b>Before or After-School Programs</b>	768	64,964
<b>Registered Child Care Homes</b>	3,290	38,132
<b>Licensed Child Care Homes</b>	1,624	19,344
<b>Listed Family Homes</b>	2,975	6,483
<b>Temporary Shelters</b>	16	639
<b>Small Employer Based Child Care</b>	12	144
<b>Total</b>	<b>17,546</b>	<b>1,147,710</b>

Source: FY19 Child Care Regulation Data Book

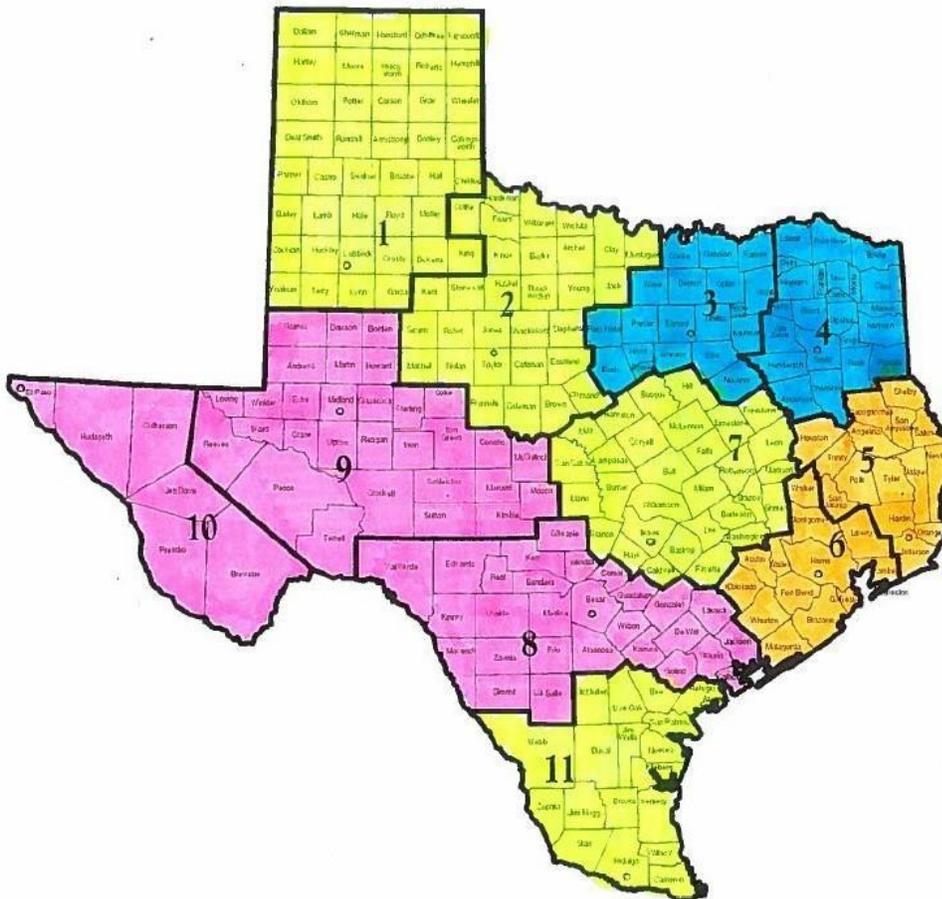
## Types of Day-Care Permits

CCR issues four types of permits to day-care operations.

1. A license is issued to most types of day-care operations, including: Licensed Child Care Centers, Before or After School Programs, School Age Programs and Licensed Child Care Homes.
2. A registration is issued to Registered Child Care Homes.
3. A listing is issued to Listed Family Homes.
4. A certificate is issued to a Small Employer Based Child Care Operation and Temporary Shelter Programs.

## Regional Day-Care Operations Map

- North Central South (Regions 1, 2, 7, 11)
- Northeast (Regions 3, 4)
- Southeast (Regions 5, 6)
- West (Regions 8, 9, 10)



## **Appendix D. CCR Classroom Survey**

As a result of Senate Bill 708, from the 86<sup>th</sup> Legislative Session, Human Resources Code §42.0412(c) was updated to require CCR inspectors to collect classroom data for each group of children four years of age and younger during each monitoring inspection of a licensed day care center. This new statute required automation changes to CLASS.

On September 1, 2019, CCR inspectors began manually collecting classroom data via a web-based survey during each monitoring or monitoring/investigation inspection conducted at a Licensed Child Care Center for classrooms caring for children four years of age and younger. CCR inspectors documented for each classroom caring children four years of age and younger, the specified age of children in the group, the number of children in the group and the number of caregivers supervising the children in the group. CCR inspectors also captured classroom activities occurring at the time of inspection. Examples of classroom activities documented included: Naptime; Meal Time; Field Trip; Transportation; Swimming/Water Activities; Night Time; Opening Time; Closing Time; Children with Special Needs present; Outdoor Activities; and Group out of ratio. CCR completed approximately 11,000 web-based surveys from September 1, 2019 – December 5, 2020. Due to COVID-19, CCR inspectors were on stay at home orders from March 20, 2020 – August 24, 2020 therefore routine monitoring inspections and web-based surveys were not conducted during this time. CCR implemented CLASS automation enhancements on December 6, 2020 which will allow the classroom data to be captured within the system at the time of the inspection. CCR also uploaded the web-based survey data captured between September 1, 2019 – December 5, 2020 to CLASS to ensure the CLASS data set was inclusive of the classroom data gathered through the manual survey process.