



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**WILL WILSON  
ATTORNEY GENERAL**

April 12, 1962

*see C-13*

Honorable Norman W. Barr  
County Attorney  
Tom Green County Courthouse  
San Angelo, Texas

Opinion No. WW-1310

Re: Whether under the facts  
stated, a baby sitting  
facility comes within  
the purview of Section  
8a of Article 695c, Ver-  
non's Civil Statutes.

Dear Sir:

Your request for opinion states the following fact  
situation:

"We have in our community a man and wife  
who conduct in their home a day time baby sitting  
facility which cares for not more than five  
children at any one time. This facility is avail-  
able only during the day time for the mothers of  
children who work.

"The persons in question had previously ap-  
plied to the Department of Public Welfare for  
a license to operate as a registered Day Care  
Home which was denied apparently on the basis of  
their age. The Welfare Department is now threat-  
ening to take action against these parties if they  
continue to operate alleging that they are doing  
so in violation of the State law. However, a  
reading of the statute in question appears to ex-  
clude an operation such as the one in question  
which has less than six children at any one time  
and does not provide child care facilities on a full  
twenty-four hour basis.

"I find no opinion or decision interpreting  
this statute, and I would like an opinion from  
your office as to whether or not the operation out-  
lined above comes within the purview of Article  
695c, Section 8(a) of V. A. C. S. of the State of  
Texas."

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Section 8(a) of Article 695c of Vernon's Civil Statutes states in part as follows:

"1. Definitions.

". . .

"(d) Commercial Day Care Center. A Commercial day care center is any place maintained or conducted, for profit, under public or private auspices which cares for more than six (6) children during a part of the twenty-four (24) hours of the day.

". . .

"2. Provisions for License to Operate

"(a) Child-Caring Facility. Every person, association, institution or corporation, whether operating for profit or without profit, who shall conduct or manage a child-caring institution, agency, or facility coming within the purview of this Act shall obtain a license to operate from the State Department of Public Welfare, which license shall be in full force and effect until suspended or rescinded by the Department of Public Welfare as hereinafter provided." (Emphasis added)

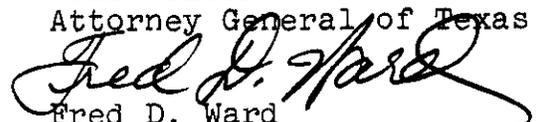
Since the baby sitting facility in question never cares for more than six children, we advise you that such facility does not qualify as a Commercial Day Care Center, and is therefore not subject of the licensing provisions of Article 695c.

#### S U M M A R Y

A baby sitting facility which does not care for more than six (6) children is not a Commercial Day Care Center and therefore not subject to the licensing provisions of Section 8(a) of Article 695c, Vernon's Civil Statutes.

Very truly yours,

WILL WILSON  
Attorney General of Texas

  
Fred D. Ward  
Assistant Attorney General

FDW:jkr

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APPROVED:

OPINION COMMITTEE  
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REVIEWED FOR THE ATTORNEY GENERAL

BY: Houghton Brownlee, Jr.