Day Care: Children vs. Government
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At a recent White House conference on child care, President Clinton called the day care market "dysfunctional." First Lady Hillary Rodham Clinton complained of a "silent crisis" in child care. Both the president and Mrs. Clinton advocated more government intervention, including more federal spending on training day-care workers. But government is the cause of many of the problems parents face, including arbitrary, cost-increasing regulations at the local level and discriminatory tax laws at the federal level.

No Real Crisis. There appears to be no real crisis in day care. According to fall 1993 U.S. Census data, of the 10.9 million day-care arrangements with someone other than a parent for children under age 5 (see the figure):

Only 3.27 million (30 percent) were in institutional day-care centers.

Another 1.8 million (16.5 percent) were in family day care, that is, child care for a small number of children in the home of an unrelated provider.

621,000 (5.7 percent) were cared for in a parent's home by paid babysitters.

Almost half, 5.22 million (47.8 percent), were cared for by relatives.
The average weekly child-care cost for those families with employed mothers who paid for day care was $57.

Regulation Is Reducing Choices. Day-care facilities are subject to a great deal of state and local regulation, much of it discouraging child-care providers or driving them underground. Studies have found that day-care regulations reduce the supply of family day-care homes. For example, a 1995 Brookings Institution study by William T. Gormley found:

The growth rate of licensed day-care homes in Missouri slowed after the state implemented new training, safety and health requirements for family day-care homes in October 1991 - and added rules on pets, field trips, nutrition and transportation.

When California imposed a state licensing fee on child-care facilities in September 1992, the number of licensed family day-care homes declined by almost 1,500.

After Texas introduced training and inspection requirements in July 1990, the number of registered family day-care homes in Houston declined by 35. Nationwide, according to another Gormley study, more inspections by day-care regulators caused a decrease in the number of regulated family day-care homes.

Why does regulation cause the number of registered family day-care homes to fall? Because regulation is burdensome and increases day care costs. One study found that regulation in Milwaukee County, Wis., imposed home improvement costs averaging $936 per provider.

Regulation May Make Children Less Safe. Although ostensibly designed to protect children, many regulations do nothing of the sort. To the extent that regulations raise costs without increasing quality, they encourage parents and providers to make illegal arrangements. For example, in DeKalb County, Ga., an informal study found that eight of 10 family day-care providers simply ignored the requirement for a zoning permit. But underground day care almost by definition is more difficult for parents (and public officials) to monitor.

Local governments often prohibit day care altogether. As Gormley notes in an article in the Brookings Review:

In Shorewood, Wis., a suburb of Milwaukee, zoning laws prohibit group day-care centers in commercial buildings.

In Clifton, N.J., family day-care homes in residential neighborhoods are illegal.

In Tallahassee, Fla., family day-care homes with more than two children are illegal.

Even where day care is permitted, local governments often inhibit it (along with many other home-based businesses) through zoning restrictions that extend even to licensed family day-care homes with six or fewer children. In DeKalb County,

according to Gormley, a family day-care provider who wishes to care for just one child must get a zoning permit, which requires inspections by a building inspector, an electrical inspector and a plumbing inspector. According to Reason magazine editor Virginia Postrel:

The government of Culver City, Calif., tried unsuccessfully to require off-street covered parking for each employee, with neither the garage nor the driveway as an option.

West Los Angeles, Calif., and a number of other cities require care givers to provide the government with detailed interior and exterior plans of their houses to get a permit for a day-care home for more than six children.

West Los Angeles told one provider she had to have separate bathrooms for care givers and children, commercial rather than household locks on her doors and a commercial thermostat in her refrigerator. The city also warned her it could shut her down if any child ever arrived before 8:00 a.m. or remained beyond 5:30 p.m. Solution: Help Parents Protect Their Own Children. Shouldn't the government regulate day-care providers? One analyst's case for such regulation is that "children can't protect themselves." True, but the people who can protect children and whose job is to protect children are parents. Parents are much more capable than regulators of evaluating day-care facilities and choosing those that fit their needs and budgets. For example, most parents probably don't care if providers and children use the same bathroom as long as the bathroom is clean. One parent of each child sees a day-care facility twice a day; government officials see each facility at most a few times a year.

Government regulation tends to lead to one-size-fits-all child care by reducing the number of available options. Further, it tends to lead to unnecessary, often counterproductive, rules and restrictions.

President Clinton appropriately criticized state laws that make it difficult for day-care providers to get information about criminal histories of job applicants for day-care positions, but he failed to mention that federal laws prohibit employers in many industries from getting information about the criminal backgrounds of job applicants.

Solution: End Discriminatory Tax Laws. Since 1952 provisions have existed in the tax code to allow for exclusions, deductions or tax credits for day care. However, the current system is highly arbitrary. Parents lucky enough to work for large firms that offer flexible spending accounts (FSAs) get the best deal. They can allocate up to $5,000 from their pretax wages for pension contributions, health care costs and day-care expenses. If they wish, they can allocate the entire amount to day care. For a middle-income family, the tax saving is more than $2,000. Middle-income parents who work for small firms that lack FSAs, however, get a maximum child-care tax credit of only $960. A simpler and fairer solution would be to let everyone deduct an amount of child care expenses up to a certain limit (say, $5,000 per family) from his or her adjusted gross income.

Wouldn't this tax fairness lead to a loss of government revenue and a higher deficit? Not necessarily. A study by the National Center for Policy Analysis found that for families in the 28 percent tax bracket, the child-care credit, by increasing the incentive to work, creates 69 cents to $1.04 in new tax revenues for every dollar in revenue lost due to the tax credit.

Conclusion. The day-care industry, with small profit margins, is intensely competitive. If someone develops a clearly better way of providing child care, competitive imitators will adopt it quickly. Government officials will be among the last to know.