

By: Christian

H.B. No. 1415

A BILL TO BE ENTITLED

1 AN ACT

2 relating to an accreditation program for child-care facilities and  
3 child-placing agencies as an alternative to state licensure;  
4 providing a penalty.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Subchapter E, Chapter 42, Human Resources Code,  
7 is reenacted and amended to read as follows:

8 SUBCHAPTER E. ACCREDITATION OF CHILD-CARE FACILITIES AND  
9 CHILD-PLACING AGENCIES

10 Sec. 42.101. ALTERNATIVE ACCREDITATION PROGRAM. The  
11 department shall establish a streamlined procedure by which the  
12 department authorizes a child-care facility or child-placing  
13 agency that is otherwise required to obtain a license under  
14 Subchapter C to operate the facility or agency without a license if  
15 the facility or agency is accredited by an accreditation  
16 organization approved by the department.

17 Sec. 42.102. ACCREDITATION ORGANIZATION. (a) To qualify  
18 for approval by the department under Section 42.101, an  
19 accreditation organization must:

20 (1) be a recognized private organization that  
21 promulgates, publishes, and requires compliance with standards and  
22 inspection procedures for child-care facilities or child-placing  
23 agencies that meet or exceed the state's minimum requirements for  
24 child-care facilities and child-placing agencies under Subchapter

1 C, with the exception of standards relating to the internal  
2 self-governance of a facility or agency and to the curriculum,  
3 teaching, or instruction of the facility or agency;

4 (2) not have any person serve as a member of the  
5 governing body of the accrediting organization who has a  
6 proprietary or financial interest in a child-care facility or  
7 child-placing agency that is accredited by the accrediting  
8 organization; and

9 (3) demonstrate a strong commitment to ensuring the  
10 provision of high-quality child-care services.

11 (b) An accreditation organization must file a copy of its  
12 minimum standards and inspection procedures for child-care  
13 facilities or child-placing agencies with the department to enable  
14 the department to make its determination under Subsection (a).

15 Sec. 42.103. APPROVED ACCREDITATION ORGANIZATION. (a) The  
16 department shall approve an accreditation organization under this  
17 subchapter if the department determines that the accreditation  
18 organization has satisfied the requirements prescribed by this  
19 subchapter.

20 (b) An approval granted by the department under this section  
21 is valid for one year.

22 (c) The department shall prescribe an annual renewal  
23 procedure for an approved accreditation organization that ensures  
24 continued compliance with this subchapter.

25 (d) The department may use the remedies specified in  
26 Subchapter D to address exigent situations in which an approved  
27 accreditation organization does not timely correct an action that

1 endangers the health and safety of children.

2           Sec. 42.104. REGISTRATION TO OPERATE UNDER  
3 ACCREDITATION. (a) A child-care facility or child-placing agency  
4 that is accredited by an approved accreditation organization may  
5 register with the department to operate under that accreditation by  
6 filing:

7                   (1) a registration in a simple form prescribed by the  
8 department;

9                   (2) a copy of the certificate, license, or award  
10 letter of accreditation from the accreditation body showing that  
11 the facility or agency is accredited; and

12                   (3) a copy of the written accreditation report of the  
13 agency or facility from the accreditation body.

14           (b) In addition to any fee that may be required under  
15 Section 411.114(c) [~~411.114(b)~~], Government Code, the department  
16 may charge a child-care facility or child-placing agency a single  
17 administrative fee in a reasonable amount that is sufficient to  
18 cover the costs of the department in processing and acting on the  
19 registration.

20           (c) The department shall process and act on a registration  
21 not later than the 30th day after the date on which the department  
22 receives all of the required information.

23           Sec. 42.105. BACKGROUND AND CRIMINAL HISTORY CHECKS. (a) An  
24 approved accreditation organization shall obtain from the  
25 department information from the central registry of reported cases  
26 of child abuse or neglect established under Section 261.002, Family  
27 Code, and information from the Department of Public Safety under

1 Section 411.114, Government Code, for purposes of reviewing the  
2 general character and fitness of:

3 (1) a child-care administrator seeking accreditation  
4 under Section 43.003;

5 (2) a person who registers with the department to  
6 operate under this subchapter or a holder of a certificate issued  
7 under this subchapter;

8 (3) an operator of a child-care facility or  
9 child-placing agency accredited by the organization and seeking to  
10 register with the department under Section 42.104 or issued a  
11 certificate to operate under that accreditation under this  
12 subchapter; and

13 (4) an employee of or an applicant for employment by a  
14 child-care facility or child-placing agency accredited by the  
15 organization and seeking to register with the department under  
16 Section 42.104 or issued a certificate to operate under that  
17 accreditation under this chapter.

18 (b) The department by rule may provide for not issuing or  
19 not renewing a certificate to operate under accreditation or may  
20 revoke a certificate based on the results of a background or  
21 criminal history check conducted by the department under this  
22 section.

23 Sec. 42.106. ACCEPTANCE OF ACCREDITATION INSTEAD OF  
24 LICENSE. (a) Except as provided by Section 42.105(b), the  
25 department shall issue a certificate to operate under accreditation  
26 to a child-care facility or child-placing agency that registers  
27 with the department under Section 42.104 if:

1           (1) the facility or agency submits all of the  
2 information required by Section 42.104(a);

3           (2) the facility or agency remits any required  
4 administrative fee under Section 42.104(b); and

5           (3) the department verifies that the facility or  
6 agency is accredited by and in good standing with an approved  
7 accreditation organization.

8           (b) A certificate issued under this section is not  
9 transferrable and applies only to the operator named in the  
10 registration.

11           (c) A certificate is valid for one year.

12           Sec. 42.107. RENEWAL OF CERTIFICATE. The department shall  
13 provide for an annual renewal of a certificate issued to an operator  
14 of a child-care facility or child-placing agency under Section  
15 42.106. The department shall renew the certificate if the  
16 child-care facility or child-placing agency maintains  
17 accreditation from the approved accreditation organization.

18           Sec. 42.108. NOTIFICATION OF REVOCATION OR WITHDRAWAL OF  
19 ACCREDITATION. Not later than the seventh day after the date on  
20 which an approved accreditation organization revokes or withdraws  
21 the accreditation of a child-care facility or child-placing agency  
22 that is exempt from licensing under this subchapter, the  
23 organization shall notify the department of the revocation or  
24 withdrawal.

25           Sec. 42.109. REVOCATION OR WITHDRAWAL OF APPROVAL TO  
26 OPERATE UNDER ACCREDITATION. (a) A holder of a certificate  
27 issued under Section 42.106 may not operate a child-care facility

1 or child-care placing agency under this subchapter if an  
2 accreditation organization has revoked or withdrawn the  
3 accreditation of the child-care facility or child-placing agency,  
4 unless the department grants the holder a license under Subchapter  
5 C or a provisional license.

6 (b) The department may adopt rules as necessary to implement  
7 this section.

8 Sec. 42.110. AUTHORITY TO CONDUCT LIMITED  
9 INSPECTIONS. (a) The department may inspect a child-care  
10 facility or child-placing agency that has received a certificate to  
11 operate under accreditation as provided by Section 42.106 if:

12 (1) the department has received a complaint or report  
13 of child abuse or neglect alleged to have occurred at the facility  
14 or agency; or

15 (2) the department has received a complaint indicating  
16 that despite efforts made by an accreditation organization approved  
17 under Section 42.103, a facility or agency certified to operate  
18 under accreditation under Section 42.104 has violated the standards  
19 of the accreditation organization and the violation creates an  
20 immediate threat to the health or safety of children attending or  
21 residing in the facility or agency.

22 (b) This chapter does not affect the authority of local,  
23 regional, or state health department officials, the state fire  
24 marshal, or local fire prevention officials to inspect a child-care  
25 facility or child-placing agency that is certified to operate under  
26 accreditation under this subchapter.

27 (c) If, as provided by Subsection (a), the department has

1 inspected a child-care facility or child-placing agency that has  
2 received a certificate to operate under accreditation as provided  
3 by Section 42.106, the department may require the facility or  
4 agency to take appropriate corrective action to eliminate any  
5 violations of the standards of the accreditation organization or  
6 such other action as the department determines necessary to ensure  
7 the health or safety of the children attending or residing in the  
8 facility or agency. The department may continue to inspect the  
9 facility or agency until corrective action has been taken and for  
10 such reasonable time after corrective action to ensure continued  
11 compliance with standards.

12 Sec. 42.111. EMERGENCY SUSPENSION OF CHILD-CARE FACILITY OR  
13 CHILD-PLACING AGENCY. (a) The department shall suspend a  
14 certificate of a child-care facility or child-placing agency issued  
15 under Section 42.106 [~~42.041~~] and, if appropriate, place the  
16 children attending or residing in the facility or agency elsewhere  
17 if:

18 (1) the department finds the facility or agency is  
19 operating in violation of the standards of its accrediting  
20 organization; and

21 (2) the violation creates an immediate threat to the  
22 health and safety of the children attending or residing in the  
23 facility or agency.

24 (b) An order suspending the certificate of a child-care  
25 facility or child-placing agency is immediately effective on the  
26 date on which the certificate holder receives written notice or on a  
27 later date specified in the order.

1           (c) An order is valid for 10 days after the effective date of  
2 the order.

3           (d) The suspension of a certificate and the appeal from that  
4 action are governed by the procedures for a contested case hearing  
5 under Chapter 2001, Government Code.

6           SECTION 2. The heading to Section 42.041, Human Resources  
7 Code, is reenacted to read as follows:

8           Sec. 42.041. REQUIRED LICENSE OR ACCREDITATION.

9           SECTION 3. Sections 42.041(a) and (d), Human Resources  
10 Code, are reenacted and amended to read as follows:

11           (a) No person may operate a child-care facility or  
12 child-placing agency without a license issued by the department or  
13 a certificate to operate under accreditation issued by the  
14 department under Subchapter E.

15           (d) Unless accredited under Subchapter E, a facility exempt  
16 from the provisions of Subsection (a) [~~of this section~~] that  
17 desires to receive or participate in federal or state funding shall  
18 be required to comply with all other provisions of this chapter and  
19 with all regulations promulgated under this chapter.

20           SECTION 4. Section 42.076(a), Human Resources Code, is  
21 reenacted to read as follows:

22           (a) A person who operates a child-care facility or  
23 child-placing agency without a license or certificate to operate  
24 under accreditation under Subchapter E commits a Class B  
25 misdemeanor.

26           SECTION 5. The heading to Section 43.003, Human Resources  
27 Code, is reenacted to read as follows:



1           Sec. 43.003. LICENSE OR ACCREDITATION REQUIRED.

2           SECTION 6. Sections 43.003(a) and (c), Human Resources  
3 Code, are reenacted and amended to read as follows:

4           (a) Except as provided by Subsections (b) and (c) [~~of this~~  
5 ~~section~~], a person may not serve as a child-care administrator of a  
6 child-care institution without a license issued by the department  
7 under this chapter.

8           (c) A person may serve as the child-care administrator of a  
9 child-care institution if the person is accredited by a private  
10 organization that has qualifications that apply to the child-care  
11 administrators and that meet or exceed the state's qualifications,  
12 as determined by the department, with the exception of those  
13 qualifications relating to the internal self-governance of the  
14 child-care institution and to the curriculum, teaching, or  
15 instruction of the institution. This subsection applies only to a  
16 child-care institution that operates under a certificate to operate  
17 under accreditation issued by the department under Subchapter E,  
18 Chapter 42.

19           SECTION 7. This Act takes effect immediately if it receives  
20 a vote of two-thirds of all the members elected to each house, as  
21 provided by Section 39, Article III, Texas Constitution. If this  
22 Act does not receive the vote necessary for immediate effect, this  
23 Act takes effect September 1, 2003.