

BILL ANALYSIS

H.B. 877
By: Talton
Human Services
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The Department of Family and Protective Services (DFPS) is required to investigate complaints of child abuse and neglect or lack of compliance with standards that are made against child care facilities and registered family homes. Many of these complaints are made anonymously, and when investigated are found to be without basis in fact. Investigating these anonymous complaints consumes a great deal of staff resources, and DFPS needs to establish an effective process to screen out invalid complaints and direct staff resources toward valid complaints.

Currently, all complaints regarding noncompliance with DFPS standards remain part of a facility's or family home's record, irrespective of whether they are found to be invalid after investigation. Retaining invalid complaints in the record may create an unfair impression of the facility or home. DFPS needs to develop a procedure to remove unfounded complaints from its records.

Finally, some complaints of noncompliance with standards are made maliciously and with knowledge that the complaint is false. Establishing criminal penalties would serve as a deterrent against such conduct.

House Bill 877 is intended to address the problems described above and provide effective solutions.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Executive Commissioner of the Health and Human Services Commission (HHSC) in SECTION 1 and SECTION 2 of this bill.

ANALYSIS

The bill requires the HHSC Executive Commissioner to adopt rules regarding the receipt of anonymous complaints made regarding child-care facilities and family homes to limit the number of anonymous complaints investigated by DFPS.

The bill requires the HHSC Executive Commissioner to adopt rules providing a procedure by which DFPS removes from its records with respect to a child-care facility or registered family home information relating to a complaint alleging that the facility or home failed to comply with DFPS's minimum standards if, at the conclusion of an investigation, DFPS determines that the complaint is false or lacks factual foundation. This provision applies to complaints pending on or filed on or after the effective date of the Act.

The bill provides that a person commits an offense if the person knowingly or intentionally files a complaint alleging that a child-care facility or registered family home failed to comply with DFPS's minimum standards, and the person knows the allegation is false or lacks factual foundation. The offense is a Class A misdemeanor, unless it is shown at trial that the person has previously been convicted of the same offense, in which case the offense is a state jail felony.

EFFECTIVE DATE

September 1, 2005

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