

AN ACT

relating to certain complaints and information with respect to certain child-care facilities and family homes and to procedures for certain disciplinary actions against certain child-care facilities; providing a criminal penalty.

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

SECTION 1. Section 42.042(c), Human Resources Code, is amended to read as follows:

(c) The department shall provide a standard procedure for receiving and recording complaints. The executive commissioner shall 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 the department.

SECTION 2. Subchapter C, Chapter 42, Human Resources Code, is amended by adding Sections 42.0446 and 42.0447 to read as follows:

Sec. 42.0446. REMOVAL OF CERTAIN INVESTIGATION INFORMATION FROM INTERNET WEBSITE. The executive commissioner shall adopt rules providing a procedure by which the department removes from the department's Internet website information with respect to a child-care facility or registered family home that relates to an anonymous complaint alleging that the facility or family home failed to comply with the department's minimum standards if, at the conclusion of an investigation, the department determines that the

1 complaint is false or lacks factual foundation.

2 Sec. 42.0447. FALSE REPORT; CRIMINAL PENALTY. (a) A
3 person commits an offense if the person knowingly or intentionally
4 files a complaint alleging that a child-care facility or registered
5 family home failed to comply with the department's minimum
6 standards and the person knows the allegation is false or lacks
7 factual foundation.

8 (b) An offense under this section is a Class A misdemeanor
9 unless it is shown on the trial of the offense that the person has
10 previously been convicted under this section, in which case the
11 offense is a state jail felony.

12 SECTION 3. Section 42.072(b), Human Resources Code, is
13 amended to read as follows:

14 (b) If the department proposes to take an action under
15 Subsection (a), the person is entitled to a hearing conducted by the
16 State Office of Administrative Hearings. Proceedings for a
17 disciplinary action are governed by the administrative procedure
18 law, Chapter 2001, Government Code. An action under this section,
19 including a revocation of a person's license, is a contested case as
20 defined by Chapter 2001, Government Code, and is subject to
21 judicial review under the substantial evidence rule in accordance
22 with that chapter. Rules of practice adopted by the board under
23 Section 2001.004, Government Code, applicable to the proceedings
24 for a disciplinary action may not conflict with rules adopted by the
25 State Office of Administrative Hearings.

26 SECTION 4. Section 42.0446, Human Resources Code, as added
27 by this Act, applies to a complaint under Chapter 42, Human

1 Resources Code, with respect to a child-care facility or registered
2 family home that is pending on or filed on or after the effective
3 date of this Act.

4 SECTION 5. This Act takes effect September 1, 2005.

H.B. No. 877

President of the Senate

Speaker of the House

I certify that H.B. No. 877 was passed by the House on April 29, 2005, by a non-record vote.

Chief Clerk of the House

I certify that H.B. No. 877 was passed by the Senate on May 20, 2005, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor