

1-1 By: Talton (Senate Sponsor - Madla) H.B. No. 877  
1-2 (In the Senate - Received from the House May 2, 2005;  
1-3 May 3, 2005, read first time and referred to Committee on Health  
1-4 and Human Services; May 16, 2005, reported favorably by the  
1-5 following vote: Yeas 6, Nays 0; May 16, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to certain complaints and information with respect to  
1-9 certain child-care facilities and family homes and to procedures  
1-10 for certain disciplinary actions against certain child-care  
1-11 facilities; providing a criminal penalty.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 42.042(c), Human Resources Code, is  
1-14 amended to read as follows:

1-15 (c) The department shall provide a standard procedure for  
1-16 receiving and recording complaints. The executive commissioner  
1-17 shall adopt rules regarding the receipt of anonymous complaints  
1-18 made regarding child-care facilities and family homes to limit the  
1-19 number of anonymous complaints investigated by the department.

1-20 SECTION 2. Subchapter C, Chapter 42, Human Resources Code,  
1-21 is amended by adding Sections 42.0446 and 42.0447 to read as  
1-22 follows:

1-23 Sec. 42.0446. REMOVAL OF CERTAIN INVESTIGATION INFORMATION  
1-24 FROM INTERNET WEBSITE. The executive commissioner shall adopt  
1-25 rules providing a procedure by which the department removes from  
1-26 the department's Internet website information with respect to a  
1-27 child-care facility or registered family home that relates to an  
1-28 anonymous complaint alleging that the facility or family home  
1-29 failed to comply with the department's minimum standards if, at the  
1-30 conclusion of an investigation, the department determines that the  
1-31 complaint is false or lacks factual foundation.

1-32 Sec. 42.0447. FALSE REPORT; CRIMINAL PENALTY. (a) A  
1-33 person commits an offense if the person knowingly or intentionally  
1-34 files a complaint alleging that a child-care facility or registered  
1-35 family home failed to comply with the department's minimum  
1-36 standards and the person knows the allegation is false or lacks  
1-37 factual foundation.

1-38 (b) An offense under this section is a Class A misdemeanor  
1-39 unless it is shown on the trial of the offense that the person has  
1-40 previously been convicted under this section, in which case the  
1-41 offense is a state jail felony.

1-42 SECTION 3. Section 42.072(b), Human Resources Code, is  
1-43 amended to read as follows:

1-44 (b) If the department proposes to take an action under  
1-45 Subsection (a), the person is entitled to a hearing conducted by the  
1-46 State Office of Administrative Hearings. Proceedings for a  
1-47 disciplinary action are governed by the administrative procedure  
1-48 law, Chapter 2001, Government Code. An action under this section,  
1-49 including a revocation of a person's license, is a contested case as  
1-50 defined by Chapter 2001, Government Code, and is subject to  
1-51 judicial review under the substantial evidence rule in accordance  
1-52 with that chapter. Rules of practice adopted by the board under  
1-53 Section 2001.004, Government Code, applicable to the proceedings  
1-54 for a disciplinary action may not conflict with rules adopted by the  
1-55 State Office of Administrative Hearings.

1-56 SECTION 4. Section 42.0446, Human Resources Code, as added  
1-57 by this Act, applies to a complaint under Chapter 42, Human  
1-58 Resources Code, with respect to a child-care facility or registered  
1-59 family home that is pending on or filed on or after the effective  
1-60 date of this Act.

1-61 SECTION 5. This Act takes effect September 1, 2005.

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