

By: Villarreal

H.B. No. 936

A BILL TO BE ENTITLED

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AN ACT

relating to liability insurance requirements for and limited liability of certain child-care facilities and child-placing agencies.

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

SECTION 1. Section 42.049, Human Resources Code, is amended by amending Subsection (a) and adding Subsection (f) to read as follows:

(a) Except as provided by Subsections (e) and (f), a [A] license holder shall maintain liability insurance coverage in the amount of \$300,000 for each occurrence of negligence. An insurance policy or contract required under this section must cover injury to a child that occurs while the child is on the premises of the license holder or in the care of the license holder.

(f) A license holder shall maintain liability insurance coverage in the amount of \$100,000 for each occurrence of negligence if the license holder is a nonprofit child-care facility or child-placing agency that:

(1) is accredited by a national accreditation agency, such as the Joint Commission on Accreditation of Healthcare Organizations or the Council on Accreditation, in accordance with rules adopted by the executive commissioner; and

(2) contracts with the department to provide services to children in foster care and those children represent not less

1 than 25 percent of the total children served annually by the license  
2 holder.

3 SECTION 2. (a) Subchapter C, Chapter 42, Human Resources  
4 Code, is amended by adding Section 42.0491 to read as follows:

5 Sec. 42.0491. LIMIT ON LIABILITY OF CERTAIN LICENSE  
6 HOLDERS. (a) In an action on a liability claim in which a final  
7 judgment is rendered against a license holder to which Section  
8 42.049(f) applies, the limit of civil liability for noneconomic  
9 damages inclusive of all persons and entities for which vicarious  
10 liability theories may apply is a total amount, including  
11 prejudgment interest, not to exceed \$250,000 for each person and  
12 \$500,000 for each single occurrence of bodily injury or death.

13 (b) The limitation on civil liability does not apply to  
14 reckless conduct or intentional, wilful, or wanton misconduct of a  
15 license holder.

16 (b) Section 42.0491, Human Resources Code, as added by this  
17 section, applies only to a cause of action that accrues on or after  
18 the effective date of this Act. An action that accrued before the  
19 effective date of this Act is governed by the law applicable to the  
20 action immediately before the effective date of this Act, and that  
21 law is continued in effect for that purpose.

22 (c) Section 42.0491, Human Resources Code, as added by this  
23 section, is an exercise of authority under Section 66(c), Article  
24 III, Texas Constitution, and takes effect only if this Act receives  
25 a vote of three-fifths of all the members elected to each house, as  
26 provided by Section 66(e) of that article.

27 SECTION 3. This Act takes effect immediately if it receives

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1 a vote of two-thirds of all the members elected to each house, as  
2 provided by Section 39, Article III, Texas Constitution. If this  
3 Act does not receive the vote necessary for immediate effect, this  
4 Act takes effect September 1, 2005.