

Amend CSSB 758 by adding the following appropriately numbered sections and renumber subsequent sections of the bill accordingly:

SECTION \_\_\_\_\_. Section 42.044, Human Resources Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) Except as otherwise provided by this subsection, during an unannounced annual inspection of a day-care center, the department shall meet with the director designated by the day-care center as having daily, on-site responsibility for the operation of the day-care center to assess whether the director meets the qualifications of a director specified by this chapter and department rules. If the director is not present during the unannounced annual inspection, the department shall schedule a subsequent meeting with the director for that purpose and shall conduct that meeting at the day-care center.

SECTION \_\_\_\_\_. The heading to Section 42.056, Human Resources Code, is amended to read as follows:

Sec. 42.056. REQUIRED BACKGROUND AND CRIMINAL HISTORY CHECKS; CRIMINAL PENALTIES.

SECTION \_\_\_\_\_. Section 42.056, Human Resources Code, is amended by adding Subsections (a-2), (b-1), (g), (h), (i), (j), and (k) to read as follows:

(a-2) In accordance with rules adopted by the executive commissioner, the director, owner, or operator of a day-care center shall submit a complete set of fingerprints of each person whose name is submitted by the director, owner, or operator under Subsection (a). The rules adopted by the executive commissioner:

(1) must require that the fingerprints be submitted in a form and of a quality acceptable to the Department of Public Safety and the Federal Bureau of Investigation for conducting a criminal history check; and

(2) may require that the fingerprints be submitted electronically through an applicant fingerprinting service center.

(b-1) In addition to any other background or criminal history check conducted under Subsection (b), for each person whose name is submitted by the director, owner, or operator of a day-care center under Subsection (a), the department shall conduct a state and Federal Bureau of Investigation criminal history check by:

(1) submitting the person's fingerprints provided under Subsection (a-2), or causing the fingerprints to be submitted electronically as authorized by that subsection, to the Department of Public Safety for the purpose of conducting a state and federal criminal history check; and

(2) using the resulting information made available by that department under Section 411.114, Government Code, and by the Federal Bureau of Investigation and any other criminal justice agency under Section 411.087, Government Code.

(g) Except as otherwise provided by this subsection, a person whose name is submitted by the director, owner, or operator of a day-care center under Subsection (a) may not provide direct care or have direct access to a child in a day-care center before the person's background and criminal history checks under Subsections (b) and (b-1) are completed. A person may be employed at a day-care center and may provide direct care or have direct access to a child in the day-care center before the person's criminal history check under Subsection (b-1) is completed if:

(1) the state criminal history check and the background check using the department's records of reported abuse and neglect have been completed under Subsection (b), and the resulting information does not preclude the person from being present at the day-care center; and

(2) the day-care center is experiencing a staffing shortage that, if the day-care center were not allowed to employ the person until completion of the federal criminal history check, would result in a staff-to-child ratio that violates the department's minimum standards.

(h) If the results of a criminal history check under Subsection (b-1) for a person employed by a day-care center during a staffing shortage as authorized by Subsection (g) preclude the person from being present at the day-care center, the director, owner, or operator of the day-care center shall immediately terminate the person's employment.

(i) A director, owner, or operator of a day-care center commits an offense if the director, owner, or operator knowingly:

(1) fails to submit to the department information about

a person as required by this section and department rules for use in conducting background and criminal history checks with respect to the person; and

(2) employs the person at the day-care center or otherwise allows the person to regularly or frequently stay or work at the day-care center while children are being provided care.

(j) A director, owner, or operator of a day-care center commits an offense if, after the date the director, owner, or operator receives notice from the department that, based on the results of a person's background or criminal history check, the person is precluded from being present at the day-care center, the director, owner, or operator knowingly:

(1) employs the person at the day-care center; or

(2) otherwise allows the person to regularly or frequently stay or work at the day-care center while children are being provided care.

(k) An offense under Subsection (i) or (j) is a Class B misdemeanor.

SECTION \_\_\_\_\_. Subchapter D, Chapter 42, Human Resources Code, is amended by adding Section 42.0761 to read as follows:

Sec. 42.0761. CRIMINAL PENALTY FOR OPERATING DAY-CARE CENTER WITHOUT QUALIFIED DIRECTOR. (a) An owner or operator of a day-care center commits an offense if the owner or operator knowingly operates the day-care center:

(1) without a director who meets the qualifications of a director prescribed by department rules; or

(2) without the routine presence during the day-care center's hours of operation of a director described by Subdivision (1).

(b) An offense under this section is a Class B misdemeanor.

SECTION \_\_\_\_\_. Section 42.056(a-2), (b-1), (g), and (h), Human Resources Code, as added by this Act, apply to the conduct of background and criminal history checks of a person whose name is submitted to the Department of Family Protective Services under Section 42.056(a), Human Resources Code, on or after the effective date of this Act.