

By: Brown of Kaufman

H.B. No. 283

Substitute the following for H.B. No. 283:

By: Rose

C.S.H.B. No. 283

A BILL TO BE ENTITLED

AN ACT

1
2 relating to investigations and decisions regarding allegations of
3 abuse, neglect, or exploitation of persons with disabilities by
4 employees at certain facilities.

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

6 SECTION 1. Subchapter F, Chapter 48, Human Resources Code,
7 is amended by adding Sections 48.257 and 48.258 to read as follows:

8 Sec. 48.257. RULES REGARDING RIGHTS OF ACCUSED EMPLOYEES.

9 (a) The executive commissioner shall adopt rules providing for the
10 protection of the rights of an employee at a facility described by
11 Section 48.252(a)(1) who is accused of abusing, neglecting, or
12 exploiting an individual with a disability receiving services in
13 the facility.

14 (b) The rules adopted under Subsection (a) must include the
15 right to:

16 (1) receive information regarding:

17 (A) the fact that an investigation is being
18 conducted;

19 (B) the specific nature of allegations made
20 against the accused employee;

21 (C) the date, time, and place of the alleged
22 incidents of abuse, neglect, or exploitation; and

23 (D) the opportunity for a hearing to contest the
24 findings of the investigation;

1 (2) employ legal counsel or obtain other legal
2 assistance for the investigation or hearing under this subchapter;

3 (3) request a hearing on the findings of the
4 investigation; and

5 (4) present evidence during the hearing, such as live
6 testimony or voluntary written statements of witnesses.

7 (c) The Department of Aging and Disability Services or the
8 Department of State Health Services, as appropriate, shall inform
9 an employee described by Subsection (a) of the employee's rights
10 under this section.

11 Sec. 48.258. RESULTS OF CERTAIN INVESTIGATIONS AND
12 DECISIONS FOLLOWING CERTAIN HEARINGS AND APPEALS. If an
13 investigation of or a hearing or appeal on a report of abuse,
14 neglect, or exploitation of an individual with a disability
15 receiving services in a facility described by Section 48.252(a)(1)
16 by an employee results in a determination that the allegation of
17 abuse, neglect, or exploitation is unfounded, unconfirmed, or
18 inconclusive:

19 (1) the Department of Aging and Disability Services or
20 the Department of State Health Services, as appropriate, shall:

21 (A) include that determination in any records
22 maintained by the department or facility relating to the allegation
23 of abuse, neglect, or exploitation by the employee, including the
24 department's or facility's client abuse and neglect records;

25 (B) compensate the employee for any lost wages;

26 (C) restore any lost benefits, including leave
27 time, to the employee; and

1 (D) on request, reinstate the employee to the
2 employee's original position or a position that is comparable in
3 terms of compensation, benefits, and other conditions of
4 employment;

5 (2) the commission shall include that determination in
6 the applicable registry if any information relating to the
7 allegation of abuse, neglect, or exploitation by the employee is
8 recorded in the employee misconduct registry under Section 253.007,
9 Health and Safety Code, or the nurse aide registry under Chapter
10 250, Health and Safety Code; and

11 (3) the Department of Family and Protective Services
12 shall include that determination in any records maintained by the
13 department relating to the allegation of abuse, neglect, or
14 exploitation by the employee.

15 SECTION 2. The executive commissioner of the Health and
16 Human Services Commission shall adopt the rules required by Section
17 48.257, Human Resources Code, as added by this Act, not later than
18 December 1, 2007.

19 SECTION 3. This Act takes effect September 1, 2007.