

Amend SB 68 (house committee printing) as follows:

(1) In SECTION 14 of the bill, in Subdivision (1) of that section (page 15, line 26) strike "and".

(2) In SECTION 14 of the bill, in Subdivision (2) of that section (page 15, line 27), between "42.0431" and the period, insert the following:

; and

(3) Subsections (a-1), (d), and (e), Section 42.056

(3) Add the following appropriately numbered SECTIONS to the bill and renumber the SECTIONS of the bill accordingly:

SECTION _____. Section 40.006, Human Resources Code, is amended to read as follows:

Sec. 40.006. APPLICATION OF OTHER LAWS. (a) The department is subject to Chapters 551, 2001, and 2002, Government Code.

(b) The department is not required to comply with Chapter 53, Occupations Code, in issuing a license or conducting a background check under Chapter 42 or 43.

SECTION _____. Section 42.056, Human Resources Code, is amended by amending Subsections (a), (a-2), (b), (b-1), (c), (f), (g), (h), (i), and (j) and adding Subsections (a-3), (a-4), and (a-5) to read as follows:

(a) In accordance with rules adopted by the executive commissioner [~~department~~], the director, owner, or operator of a child-care facility, child-placing agency, or family home shall, when applying to operate a child-care facility or child-placing agency or when listing or registering a family home and at least once during each 24 months after receiving a license, listing, registration, or certification of approval, submit to the department for use in conducting background and criminal history checks the name of:

(1) [~~the name of~~] the director, owner, and operator of the facility, agency, or home;

(2) [~~and the name of~~] each person employed at the facility, agency, or home;

(3) each prospective employee of the facility, agency, or home;

(4) each current or prospective foster parent providing foster care through a child-placing agency;

(5) each prospective adoptive parent seeking to adopt through a child-placing agency;

(6) each person at least 14 years of age, other than a client in care, who:

(A) is counted in child-to-caregiver ratios in accordance with the minimum standards of the department;

(B) will reside in a prospective adoptive home if the adoption is through a child-placing agency;

(C) has unsupervised access to children in care at the facility or family home; or

(D) resides in the facility or family home; or
[and]

(7) [~~(2) the name of~~] each person 14 years of age or older, other than a client in care, who will regularly or frequently be staying or working at a [the] facility, family [or] home, or prospective adoptive home, while children are being provided care.

(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 required to be submitted by the director, owner, or operator under Subsection (a), unless the person is only required to have the person's name submitted based on criteria specified by Subsection (a)(7).

(a-3) In accordance with rules adopted by the executive commissioner, the director, owner, or operator of a child-placing agency, foster home, or foster group home must, before a child for whom the department is the managing conservator is placed with the agency or in the home, submit a complete set of fingerprints of the following persons:

(1) a person who applies to be a foster or adoptive parent, including a person who has previously adopted a child unless the person is also verified as a foster or adoptive home; and

(2) a person who is 18 years of age or older and who lives in the home of a person who applies to be a foster or adoptive parent.

(a-4) In accordance with rules adopted by the executive commissioner, the director, owner, or operator of a child-care facility or family home shall submit a complete set of fingerprints of each person whose name is required to be submitted by the director, owner, or operator under Subsection (a) if:

(1) the person resided in another state during the five years preceding the date the person's name was required to be submitted under Subsection (a); or

(2) the director, owner, or operator has reason to suspect that the person has a criminal history in another state.

(a-5) The rules adopted by the executive commissioner under Subsections (a-2), (a-3), and (a-4):

(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; and

(3) may allow the department to waive the submission of fingerprints required by this section if:

(A) the person for whom the submission is required has:

(i) a fingerprint-based criminal history record check on file with the department; or

(ii) a fingerprint-based criminal history clearinghouse record, as provided by Section 411.0845, Government Code, that is accessible to the department through the Department of Public Safety of the State of Texas; and

(B) the date on which the current submission of fingerprints is required occurs before the second anniversary of a previous name-based criminal history check of the person.

(b) The department shall conduct background and criminal history checks using:

(1) the information provided under Subsection ~~[Subsections]~~ (a) ~~[and (a-1)]~~;

(2) the information made available by the Department

of Public Safety under Section 411.114, Government Code, or by the Federal Bureau of Investigation or other criminal justice agency under Section 411.087, Government Code; and

(3) the department's records of reported abuse and neglect.

(b-1) In addition to any other background or criminal history check conducted under Subsection (b), for each person whose fingerprints are [name is] submitted ~~[by the director, owner, or operator of a day-care center]~~ under Subsection (a-2), (a-3), or (a-4) ~~[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.

(c) The department by rule shall require a child-care facility, child-placing agency, or registered family home to pay to the department a fee in an amount not to exceed the administrative costs the department incurs in conducting a background and criminal history check under this section.

(f) As part of a background check under this section, the department shall provide any relevant information available in the department's records regarding a person's previous employment in a ~~[residential child-care]~~ facility or family home to the person submitting the request.

(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 facility or family home ~~[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 facility or family home ~~[day-care~~

~~center~~] and may provide direct care or have direct access to a child in the facility or family home [~~day-care center~~] before the person's criminal history check under Subsection (b-1) is completed if:

(1) the facility or family home is experiencing a staff shortage;

(2) 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 facility or family home [~~day-care center~~]; and

(3) [~~2~~] the person's fingerprints are submitted as soon as possible, but not later than the 30th day after the earliest of the date on which the person first:

(A) provides direct care to a child;

(B) has direct access to a child; or

(C) is hired [~~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 facility or family home [~~day-care center~~] during a staffing shortage as authorized by Subsection (g) preclude the person from being present at the facility or family home [~~day-care center~~], the director, owner, or operator of the facility or family home [~~day-care center~~] shall immediately terminate the person's employment.

(i) A director, owner, or operator of a facility or family home [~~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 facility or family home [~~day-care center~~] or otherwise allows the person to regularly or

frequently stay or work at the facility or family home [~~day-care center~~] while children are being provided care.

(j) A director, owner, or operator of a facility or family home [~~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 facility or family home [~~day-care center~~], the director, owner, or operator knowingly:

(1) employs the person at the facility or family home [~~day-care center~~]; or

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

SECTION _____. The changes in law made by this Act to Sections 42.056(i) and (j), Human Resources Code, apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For the purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.