

By: Parker, Button

H.B. No. 2224

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the minimum standards for licensed child-care
3 facilities and registered family homes and retaliation against
4 certain employees of child-care facilities.

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

6 SECTION 1. This Act shall be known as Paisley's Law.

7 SECTION 2. Section 42.042(e), Human Resources Code, is
8 amended to read as follows:

9 (e) The department shall promulgate minimum standards that
10 apply to licensed child-care facilities and to registered family
11 homes covered by this chapter and that will:

12 (1) promote the health, safety, and welfare of
13 children attending a facility or registered family home;

14 (2) promote safe, comfortable, and healthy physical
15 facilities and registered family homes for children;

16 (3) ensure adequate supervision of children by
17 capable, qualified, and healthy personnel;

18 (4) ensure adequate and healthy food service where
19 food service is offered;

20 (5) prohibit racial discrimination by child-care
21 facilities and registered family homes;

22 (6) require procedures for parental and guardian
23 consultation in the formulation of children's educational and
24 therapeutic programs; ~~and~~

1 (7) prevent the breakdown of foster care and adoptive
2 placement; and

3 (8) ensure that a child-care facility or registered
4 family home follows the directions of a child's physician or other
5 health care provider in providing specialized medical assistance
6 required by the child.

7 SECTION 3. Subchapter C, Chapter 42, Human Resources Code,
8 is amended by adding Section 42.064 to read as follows:

9 Sec. 42.064. RETALIATION AGAINST EMPLOYEES PROHIBITED. (a)
10 In this section, "employee" means a person who is an employee of a
11 child-care facility or any other person who provides services for a
12 child-care facility for compensation.

13 (b) An employee has a cause of action against a child-care
14 facility, or the owner or another employee of a child-care
15 facility, that suspends or terminates the employment of the person
16 or otherwise disciplines, discriminates against, or retaliates
17 against the employee for:

18 (1) reporting to the employee's supervisor, an
19 administrator of the child-care facility, a state regulatory
20 agency, or a law enforcement agency a violation of law, including a
21 violation of this chapter or a rule adopted under this chapter; or

22 (2) initiating or cooperating in any investigation or
23 proceeding of a governmental entity relating to care, services, or
24 conditions at the child-care facility.

25 (c) The petitioner may recover:

26 (1) the greater of \$1,000 or actual damages, including
27 damages for mental anguish even if an injury other than mental

1 anguish is not shown, and damages for lost wages if the petitioner's
2 employment was suspended or terminated;

3 (2) exemplary damages;

4 (3) court costs; and

5 (4) reasonable attorney's fees.

6 (d) In addition to the amounts that may be recovered under
7 Subsection (c), a person whose employment is suspended or
8 terminated is entitled to appropriate injunctive relief,
9 including, if applicable:

10 (1) reinstatement in the person's former position; and

11 (2) reinstatement of lost fringe benefits or seniority
12 rights.

13 (e) Not later than the second anniversary of the date the
14 person's employment is suspended or terminated, or the person is
15 otherwise subjected to discipline, discrimination, or retaliation,
16 the petitioner must bring suit or notify the Texas Workforce
17 Commission of the petitioner's intent to sue under this section. A
18 petitioner who notifies the commission under this subsection must
19 bring suit not later than the 90th day after the date the notice is
20 delivered to the commission. On receipt of the notice, the
21 commission shall notify the child-care facility of the petitioner's
22 intent to bring suit under this section.

23 (f) The petitioner has the burden of proof in a suit brought
24 under this section, except that there is a rebuttable presumption
25 that the person's employment was suspended or terminated or the
26 person was otherwise subjected to discipline, discrimination, or
27 retaliation for reporting abuse or neglect if the adverse action

1 was taken on or before the 60th day after the date the person
2 reported in good faith.

3 (g) A suit under this section may be brought in the district
4 court of the county in which:

5 (1) the petitioner resides;

6 (2) the petitioner was employed by the defendant; or

7 (3) the defendant conducts business.

8 (h) Each child-care facility shall require each employee of
9 the child-care facility, as a condition of employment with the
10 child-care facility, to sign a statement that the employee
11 understands the employee's rights under this section.

12 SECTION 4. Section 42.064, Human Resources Code, as added
13 by this Act, applies only to an employee who is suspended,
14 terminated, or otherwise subjected to discipline, discrimination,
15 or retaliation on or after the effective date of this Act.

16 SECTION 5. This Act takes effect September 1, 2009.

17 SECTION 6. This Act takes effect immediately if it receives
18 a vote of two-thirds of all the members elected to each house, as
19 provided by Section 39, Article III, Texas Constitution. If this
20 Act does not receive the vote necessary for immediate effect, this
21 Act takes effect September 1, 2009.