

By: Nelson
(Laubenberg)

S.B. No. 78

Substitute the following for S.B. No. 78:

By: Gonzalez

C.S.S.B. No. 78

A BILL TO BE ENTITLED

1 AN ACT
2 relating to adverse licensing, listing, or registration decisions
3 by certain health and human services agencies.

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

5 SECTION 1. Chapter 531, Government Code, is amended by
6 adding Subchapter W to read as follows:

7 SUBCHAPTER W. ADVERSE LICENSING, LISTING, OR REGISTRATION

8 DECISIONS

9 Sec. 531.951. APPLICABILITY. (a) This subchapter applies
10 only to the final licensing, listing, or registration decisions of
11 a health and human services agency with respect to a person under
12 the law authorizing the agency to regulate the following types of
13 persons:

14 (1) a youth camp licensed under Chapter 141, Health
15 and Safety Code;

16 (2) a home and community support services agency
17 licensed under Chapter 142, Health and Safety Code;

18 (3) a hospital licensed under Chapter 241, Health and
19 Safety Code;

20 (4) an institution licensed under Chapter 242, Health
21 and Safety Code;

22 (5) an assisted living facility licensed under Chapter
23 247, Health and Safety Code;

24 (6) a special care facility licensed under Chapter

1 248, Health and Safety Code;

2 (7) an intermediate care facility licensed under
3 Chapter 252, Health and Safety Code;

4 (8) a chemical dependency treatment facility licensed
5 under Chapter 464, Health and Safety Code;

6 (9) a mental hospital or mental health facility
7 licensed under Chapter 577, Health and Safety Code;

8 (10) a child-care facility or child-placing agency
9 licensed under or a family home listed or registered under Chapter
10 42, Human Resources Code; or

11 (11) an adult day-care facility licensed under Chapter
12 103, Human Resources Code.

13 (b) This subchapter does not apply to an agency decision
14 that did not result in a final order or that was reversed on appeal.

15 Sec. 531.952. RECORD OF FINAL DECISION. (a) Each health
16 and human services agency that regulates a person described by
17 Section 531.951 shall in accordance with this section and executive
18 commissioner rule maintain a record of:

19 (1) each application for a license, including a
20 renewal license or a license that does not expire, a listing, or a
21 registration that is denied by the agency under the law authorizing
22 the agency to regulate the person; and

23 (2) each license, listing, or registration that is
24 revoked, suspended, or terminated by the agency under the
25 applicable law.

26 (b) The record of an application required by Subsection
27 (a)(1) must be maintained until the 10th anniversary of the date the

1 application is denied. The record of the license, listing, or
2 registration required by Subsection (a)(2) must be maintained until
3 the 10th anniversary of the date of the revocation, suspension, or
4 termination.

5 (c) The record required under Subsection (a) must include:

6 (1) the name and address of the applicant for a
7 license, listing, or registration that is denied as described by
8 Subsection (a)(1);

9 (2) the name and address of each person listed in the
10 application for a license, listing, or registration that is denied
11 as described by Subsection (a)(1);

12 (3) the name of each person determined by the
13 applicable regulatory agency to be a controlling person of an
14 entity for which an application, license, listing, or registration
15 is denied, revoked, suspended, or terminated as described by
16 Subsection (a);

17 (4) the specific type of license, listing, or
18 registration that was denied, revoked, suspended, or terminated by
19 the agency;

20 (5) a summary of the terms of the denial, revocation,
21 suspension, or termination; and

22 (6) the period the denial, revocation, suspension, or
23 termination was effective.

24 (d) Each health and human services agency that regulates a
25 person described by Section 531.951 each month shall provide a copy
26 of the records maintained under this section to each other health
27 and human services agency that regulates a person described by

1 Section 531.951.

2 Sec. 531.953. DENIAL OF APPLICATION BASED ON ADVERSE AGENCY
3 DECISION. A health and human services agency that regulates a
4 person described by Section 531.951 may deny an application for a
5 license, including a renewal license or a license that does not
6 expire, a listing, or a registration included in that section if:

7 (1) any of the following persons are listed in a record
8 maintained under Section 531.952:

9 (A) the applicant;

10 (B) a person listed on the application; or

11 (C) a person determined by the applicable
12 regulating agency to be a controlling person of an entity for which
13 the license, including a renewal license or a license that does not
14 expire, the listing, or the registration is sought; and

15 (2) the agency's action that resulted in the person
16 being listed in a record maintained under Section 531.952 is based
17 on:

18 (A) an act or omission that resulted in physical
19 or mental harm to an individual in the care of the applicant or
20 person;

21 (B) a threat to the health, safety, or well-being
22 of an individual in the care of the applicant or person;

23 (C) the physical, mental, or financial
24 exploitation of an individual in the care of the applicant or
25 person; or

26 (D) a determination by the agency that the
27 applicant or person has committed an act or omission that renders

1 the applicant unqualified or unfit to fulfill the obligations of
2 the license, listing, or registration.

3 Sec. 531.954. REQUIRED APPLICATION INFORMATION. An
4 applicant submitting an initial or renewal application for a
5 license, including a renewal license or a license that does not
6 expire, a listing, or a registration described under Section
7 531.951 must include with the application a written statement of:

8 (1) the name of any person who is or will be a
9 controlling person, as determined by the applicable agency
10 regulating the person, of the entity for which the license,
11 listing, or registration is sought; and

12 (2) any other relevant information required by
13 executive commissioner rule.

14 SECTION 2. (a) Not later than March 1, 2012, the executive
15 commissioner of the Health and Human Services Commission shall
16 adopt the rules necessary to implement Subchapter W, Chapter 531,
17 Government Code, as added by this Act.

18 (b) Notwithstanding Section 531.952, Government Code, as
19 added by this Act, a health and human services agency is not
20 required to maintain the records as required under that section
21 until March 1, 2012.

22 SECTION 3. This Act takes effect September 1, 2011.