

1-1 By: Nelson S.B. No. 221  
1-2 (In the Senate - Filed November 18, 2010; January 31, 2011,  
1-3 read first time and referred to Committee on Health and Human  
1-4 Services; February 22, 2011, reported favorably by the following  
1-5 vote: Yeas 8, Nays 0; February 22, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to the Department of Family and Protective Services,  
1-9 including protective services and investigations of alleged abuse,  
1-10 neglect, or exploitation for certain adults who are elderly or  
1-11 disabled; providing a criminal penalty.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subsection (a), Section 59.006, Finance Code, is  
1-14 amended to read as follows:

1-15 (a) This section provides the exclusive method for  
1-16 compelled discovery of a record of a financial institution relating  
1-17 to one or more customers but does not create a right of privacy in a  
1-18 record. This section does not apply to and does not require or  
1-19 authorize a financial institution to give a customer notice of:

1-20 (1) a demand or inquiry from a state or federal  
1-21 government agency authorized by law to conduct an examination of  
1-22 the financial institution;

1-23 (2) a record request from a state or federal  
1-24 government agency or instrumentality under statutory or  
1-25 administrative authority that provides for, or is accompanied by, a  
1-26 specific mechanism for discovery and protection of a customer  
1-27 record of a financial institution, including a record request from  
1-28 a federal agency subject to the Right to Financial Privacy Act of  
1-29 1978 (12 U.S.C. Section 3401 et seq.), as amended, or from the  
1-30 Internal Revenue Service under Section 1205, Internal Revenue Code  
1-31 of 1986;

1-32 (3) a record request from or report to a government  
1-33 agency arising out of the investigation or prosecution of a  
1-34 criminal offense or the investigation of alleged abuse, neglect, or  
1-35 exploitation of an elderly or disabled person in accordance with  
1-36 Chapter 48, Human Resources Code;

1-37 (4) a record request in connection with a garnishment  
1-38 proceeding in which the financial institution is garnishee and the  
1-39 customer is debtor;

1-40 (5) a record request by a duly appointed receiver for  
1-41 the customer;

1-42 (6) an investigative demand or inquiry from a state  
1-43 legislative investigating committee;

1-44 (7) an investigative demand or inquiry from the  
1-45 attorney general of this state as authorized by law other than the  
1-46 procedural law governing discovery in civil cases; or

1-47 (8) the voluntary use or disclosure of a record by a  
1-48 financial institution subject to other applicable state or federal  
1-49 law.

1-50 SECTION 2. Section 411.114, Government Code, is amended to  
1-51 read as follows:

1-52 Sec. 411.114. ACCESS TO CRIMINAL HISTORY RECORD  
1-53 INFORMATION: DEPARTMENT OF FAMILY AND PROTECTIVE [~~AND REGULATORY~~]  
1-54 SERVICES. (a)(1) In this subsection:

1-55 (A) "Child," "child-care facility,"  
1-56 "child-placing agency," and "family home" have the meanings  
1-57 assigned by Section 42.002, Human Resources Code.

1-58 (B) "Elderly person" has the meaning assigned by  
1-59 Section 48.002, Human Resources Code.

1-60 (C) "Maternity home" has the meaning assigned by  
1-61 Section 249.001, Health and Safety Code.

1-62 (D) "Person with a disability" means a disabled  
1-63 person as defined by Section 48.002, Human Resources Code.

1-64 (E) "Ward" has the meaning assigned by Section

2-1 601, Texas Probate Code.

2-2 (2) The Department of Family and Protective Services  
2-3 shall obtain from the department criminal history record  
2-4 information maintained by the department that relates to a person  
2-5 who is:

2-6 (A) an applicant for a license, registration,  
2-7 certification, or listing under Chapter 42, Human Resources Code,  
2-8 or Chapter 249, Health and Safety Code;

2-9 (B) an owner, operator, or employee of or an  
2-10 applicant for employment by a child-care facility, child-placing  
2-11 agency, family home, or maternity home licensed, registered,  
2-12 certified, or listed under Chapter 42, Human Resources Code, or  
2-13 Chapter 249, Health and Safety Code;

2-14 (C) a person 14 years of age or older who will be  
2-15 regularly or frequently working or staying in a child-care  
2-16 facility, family home, or maternity home while children are being  
2-17 provided care, other than a child in the care of the home or  
2-18 facility;

2-19 (D) an applicant selected for a position with the  
2-20 Department of Family and Protective Services, the duties of which  
2-21 include direct delivery of protective services to children, elderly  
2-22 persons, or persons with a disability;

2-23 (E) an employee of, an applicant for employment  
2-24 with, or a volunteer or an applicant volunteer with a business  
2-25 entity or person that contracts with the Department of Family and  
2-26 Protective Services to provide direct delivery of protective  
2-27 services to children, elderly persons, or persons with a  
2-28 disability, if the person's duties or responsibilities include  
2-29 direct contact with children, elderly persons, or persons with a  
2-30 disability;

2-31 (F) a registered volunteer with the Department of  
2-32 Family and Protective Services;

2-33 (G) a person providing or applying to provide  
2-34 in-home, adoptive, or foster care for children in the care of the  
2-35 Department of Family and Protective Services and other persons  
2-36 living in the residence in which the child will reside;

2-37 (H) a Department of Family and Protective  
2-38 Services employee who is engaged in the direct delivery of  
2-39 protective services to children, elderly persons, or persons with a  
2-40 disability;

2-41 (I) an alleged perpetrator in ~~[a person who is~~  
2-42 ~~the subject of]~~ a report the Department of Family and Protective  
2-43 Services receives alleging that the person has abused, neglected,  
2-44 or exploited a child, an elderly person, or a person with a  
2-45 disability, provided that:

2-46 (i) the report alleges the person has  
2-47 engaged in conduct that meets the statutory definition of abuse,  
2-48 neglect, or exploitation under Chapter 261, Family Code, or Chapter  
2-49 48, Human Resources Code; and

2-50 (ii) the person ~~[who is the subject of the~~  
2-51 ~~report]~~ is not also the victim of the alleged conduct;

2-52 (J) a person providing child care for a child who  
2-53 is in the care of the Department of Family and Protective Services  
2-54 and who is or will be receiving adoptive, foster, or in-home care;

2-55 (K) through a contract with a nonprofit  
2-56 management center, an employee of, an applicant for employment  
2-57 with, or a volunteer or an applicant volunteer with a nonprofit,  
2-58 tax-exempt organization that provides any service that involves the  
2-59 care of or access to a child ~~[children]~~, an elderly person  
2-60 ~~[persons]~~, or a person ~~[persons]~~ with a disability; or

2-61 (L) an applicant for a child-care administrator  
2-62 or child-placing agency administrator license under Chapter 43,  
2-63 Human Resources Code.

2-64 (3) The Department of Family and Protective ~~[and~~  
2-65 ~~Regulatory]~~ Services is entitled to obtain from the department  
2-66 criminal history record information maintained by the department  
2-67 that relates to a person who is:

2-68 (A) a volunteer or applicant volunteer with a  
2-69 local affiliate in this state of Big Brothers/Big Sisters of

3-1 America;

3-2 (B) a volunteer or applicant volunteer with the

3-3 "I Have a Dream/Houston" program;

3-4 (C) a volunteer or applicant volunteer with an

3-5 organization that provides court-appointed special advocates for

3-6 abused or neglected children;

3-7 (D) a person providing, at the request of the

3-8 child's parent, in-home care for a child who is the subject of a

3-9 report alleging the child has been abused or neglected;

3-10 (E) a volunteer or applicant volunteer with a

3-11 Texas chapter of the Make-a-Wish Foundation of America;

3-12 (F) a person providing, at the request of the

3-13 child's parent, in-home care for a child only if the person gives

3-14 written consent to the release and disclosure of the information;

3-15 (G) a child who is related to the caretaker, as

3-16 determined under Section 42.002, Human Resources Code, and who

3-17 resides in or is present in a child-care facility, family home, or

3-18 maternity home, other than a child described by Subdivision (2)(C),

3-19 or any other person who has unsupervised access to a child in the

3-20 care of a child-care facility, family home, or maternity home;

3-21 (H) an applicant for a position with the

3-22 Department of Family and Protective [~~and Regulatory~~] Services,

3-23 other than a position described by Subdivision (2)(D), regardless

3-24 of the duties of the position;

3-25 (I) a volunteer or applicant volunteer with the

3-26 Department of Family and Protective [~~and Regulatory~~] Services,

3-27 other than a registered volunteer, regardless of the duties to be

3-28 performed;

3-29 (J) a person providing or applying to provide

3-30 in-home, adoptive, or foster care for children to the extent

3-31 necessary to comply with Subchapter B, Chapter 162, Family Code;

3-32 (K) a Department of Family and Protective [~~and~~

3-33 ~~Regulatory~~] Services employee, other than an employee described by

3-34 Subdivision (2)(H), regardless of the duties of the employee's

3-35 position;

3-36 (L) a relative of a child in the care of the

3-37 Department of Family and Protective [~~and Regulatory~~] Services, to

3-38 the extent necessary to comply with Section 162.007, Family Code;

3-39 (M) a person, other than an alleged perpetrator

3-40 in [~~the subject of~~] a report described in Subdivision (2)(I),

3-41 living in the residence in which the alleged victim of the report

3-42 resides;

3-43 (N) a contractor or an employee of a contractor

3-44 who delivers services to a ward of the Department of Protective and

3-45 Regulatory Services under a contract with the estate of the ward;

3-46 (O) a person who seeks unsupervised visits with a

3-47 ward of the Department of Protective and Regulatory Services,

3-48 including a relative of the ward; [~~or~~]

3-49 (P) an employee, volunteer, or applicant

3-50 volunteer of a children's advocacy center under Subchapter E,

3-51 Chapter 264, Family Code, including a member of the governing board

3-52 of a center; or

3-53 (Q) an employee of, an applicant for employment

3-54 with, or a volunteer or an applicant volunteer with an entity or

3-55 person that contracts with the Department of Family and Protective

3-56 Services and has access to confidential information in the

3-57 department's records, if the employee, applicant, volunteer, or

3-58 applicant volunteer has or will have access to that confidential

3-59 information.

3-60 (4) Subject to Section 411.087, the Department of

3-61 Family and Protective [~~and Regulatory~~] Services is entitled to:

3-62 (A) obtain through the Federal Bureau of

3-63 Investigation criminal history record information maintained or

3-64 indexed by that bureau that pertains to a person described by

3-65 Subdivision (2) or (3); and

3-66 (B) obtain from any other criminal justice agency

3-67 in this state criminal history record information maintained by

3-68 that criminal justice agency that relates to a person described by

3-69 Subdivision (2) or (3). Law enforcement entities shall expedite

4-1 the furnishing of such information to Department of Family and  
 4-2 Protective [~~and Regulatory~~] Services workers to ensure prompt  
 4-3 criminal background checks for the safety of alleged victims and  
 4-4 Department of Family and Protective [~~and Regulatory~~] Services  
 4-5 workers.

4-6 (5) The Department of Family and Protective [~~and~~  
 4-7 Regulatory] Services may not use the authority granted under this  
 4-8 section to harass an employee or volunteer. The executive  
 4-9 commissioner of the Health and Human Services Commission [~~Board of~~  
 4-10 Protective and Regulatory Services] shall adopt rules to prevent  
 4-11 the harassment of an employee or volunteer through the request and  
 4-12 use of criminal records.

4-13 (6) Criminal history record information obtained by  
 4-14 the Department of Family and Protective [~~and Regulatory~~] Services  
 4-15 under this subsection may not be released to any person except:

4-16 (A) on court order;

4-17 (B) with the consent of the person who is the  
 4-18 subject of the criminal history record information;

4-19 (C) for purposes of an administrative hearing  
 4-20 held by the Department of Family and Protective [~~and Regulatory~~]  
 4-21 Services concerning the person who is the subject of the criminal  
 4-22 history record information; or

4-23 (D) as provided by Subdivision (7).

4-24 (7) The Department of Family and Protective [~~and~~  
 4-25 Regulatory] Services is not prohibited from releasing criminal  
 4-26 history record information obtained under this subsection to:

4-27 (A) the person who is the subject of the criminal  
 4-28 history record information;

4-29 (B) a child-care facility, child-placing agency,  
 4-30 family home, or maternity home listed in Subdivision (2) that  
 4-31 employs or is considering employing the person who is the subject of  
 4-32 the criminal history record information;

4-33 (C) a person or business entity described by  
 4-34 Subdivision (2)(E) or (3) who uses or intends to use the services of  
 4-35 the volunteer or employs or is considering employing the person who  
 4-36 is the subject of the criminal history record information; ~~or~~

4-37 (D) an adult who resides [~~residing~~] with an  
 4-38 alleged victim of abuse, neglect, or exploitation of a child,  
 4-39 elderly person, or person with a disability and who also resides  
 4-40 with the alleged perpetrator of that abuse, neglect, or  
 4-41 exploitation if:

4-42 (i) the alleged perpetrator [~~person who~~] is  
 4-43 the subject of the criminal history record information; and

4-44 (ii) [~~if~~] the Department of Family and  
 4-45 Protective [~~and Regulatory~~] Services determines that the release of  
 4-46 information to the adult is necessary to ensure the safety or  
 4-47 welfare of the alleged victim [~~child, elderly person, or person~~  
 4-48 ~~with a disability~~] or the adult; or

4-49 (E) an elderly or disabled person who is an  
 4-50 alleged victim of abuse, neglect, or exploitation and who resides  
 4-51 with the alleged perpetrator of that abuse, neglect, or  
 4-52 exploitation if:

4-53 (i) the alleged perpetrator is the subject  
 4-54 of the criminal history record information; and

4-55 (ii) the Department of Family and  
 4-56 Protective Services determines that the release of information to  
 4-57 the elderly or disabled person or adult is necessary to ensure the  
 4-58 safety or welfare of the elderly or disabled person.

4-59 (b) The failure or refusal to provide a complete set of  
 4-60 fingerprints or a complete name on request constitutes good cause  
 4-61 for dismissal or refusal to hire, as applicable, with regard to a  
 4-62 volunteer of or an employee or applicant for permanent or temporary  
 4-63 employment with the Department of Family and Protective [~~and~~  
 4-64 Regulatory] Services, or a facility, home, business, or other  
 4-65 entity, if the volunteer position, employment, or potential  
 4-66 employment involves direct interaction with or the opportunity to  
 4-67 interact and associate with children.

4-68 (c) The Department of Family and Protective [~~and~~  
 4-69 Regulatory] Services may charge an organization or person that

5-1 requests criminal history record information under Subsection  
5-2 (a)(3) a fee in an amount necessary to cover the costs of obtaining  
5-3 the information on the organization's or person's behalf.

5-4 SECTION 3. Subsection (a), Section 142.018, Health and  
5-5 Safety Code, is amended to read as follows:

5-6 (a) In this section, "abuse," "exploitation," and "neglect"  
5-7 have the meanings assigned as provided by Section 48.002(c)  
5-8 [~~48.002~~], Human Resources Code.

5-9 SECTION 4. Subsection (b), Section 40.0315, Human Resources  
5-10 Code, is amended to read as follows:

5-11 (b) An investigator in the unit shall determine whether an  
5-12 elderly or disabled person who is the subject of a report made under  
5-13 Section 48.051(a) may have suffered from abuse, neglect, or  
5-14 exploitation as a result of the criminal conduct of another person.  
5-15 If the investigator determines that criminal conduct may have  
5-16 occurred, the investigator shall immediately notify:

5-17 (1) the commission's office of inspector general if  
5-18 the disabled person who is the subject of the report resides in a  
5-19 state supported living center or the ICF-MR component of the Rio  
5-20 Grande State Center; and [~~or~~]

5-21 (2) the appropriate law enforcement agency, unless the  
5-22 law enforcement agency reported the alleged abuse, neglect, or  
5-23 exploitation to the department.

5-24 SECTION 5. Subdivisions (3) and (5), Subsection (a),  
5-25 Section 48.002, Human Resources Code, are amended to read as  
5-26 follows:

5-27 (3) "Exploitation" means the illegal or improper act  
5-28 or process of a caretaker, family member, or other individual who  
5-29 has an ongoing relationship with an [~~the~~] elderly or disabled  
5-30 person that involves using, or attempting to use, the resources of  
5-31 the [~~an~~] elderly or disabled person, including the person's social  
5-32 security number or other identifying information, for monetary or  
5-33 personal benefit, profit, or gain without the informed consent of  
5-34 the elderly or disabled person.

5-35 (5) "Protective services" means the services  
5-36 furnished by the department or by a protective services agency to an  
5-37 elderly or disabled person who has been determined to be in a state  
5-38 of abuse, neglect, or exploitation or to a relative or caretaker of  
5-39 an elderly or disabled person if the department determines the  
5-40 services are necessary to prevent the elderly or disabled person  
5-41 from returning to a state of abuse, neglect, or exploitation. These  
5-42 services may include social casework, case management, and  
5-43 arranging for psychiatric and health evaluation, home care, day  
5-44 care, social services, health care, respite services, and other  
5-45 services consistent with this chapter. The term does not include  
5-46 the services of the department or another protective services  
5-47 agency in conducting an investigation regarding alleged abuse,  
5-48 neglect, or exploitation of an elderly or disabled person.

5-49 SECTION 6. Section 48.002, Human Resources Code, is amended  
5-50 by adding Subsection (c) to read as follows:

5-51 (c) Notwithstanding Subsection (a), the executive  
5-52 commissioner may adopt rules defining "abuse," "neglect," and  
5-53 "exploitation" for use in an investigation of a caretaker who is an  
5-54 employee, contractor, agent, or volunteer of an entity licensed  
5-55 under Chapter 142, Health and Safety Code.

5-56 SECTION 7. Subsection (a), Section 48.006, Human Resources  
5-57 Code, is amended to read as follows:

5-58 (a) Subject to the availability of funds, the department  
5-59 shall develop a community satisfaction survey that solicits  
5-60 information regarding the department's performance with respect to  
5-61 providing investigative and adult protective services. In each  
5-62 region, the department shall send the survey at least biennially  
5-63 [~~annually~~] to:

5-64 (1) stakeholders in the adult protective services  
5-65 system, including local law enforcement agencies and prosecutors'  
5-66 offices;

5-67 (2) protective services agencies, including nonprofit  
5-68 agencies; and

5-69 (3) courts with jurisdiction over probate matters.

6-1 SECTION 8. Section 48.053, Human Resources Code, is amended  
6-2 to read as follows:

6-3 Sec. 48.053. FALSE REPORT; PENALTY. (a) A person commits  
6-4 an offense if the person knowingly or intentionally reports  
6-5 information as provided in this chapter that the person knows is  
6-6 false or lacks factual foundation.

6-7 (b) An offense under this section is a Class A [~~B~~]  
6-8 misdemeanor.

6-9 SECTION 9. Section 48.152, Human Resources Code, is amended  
6-10 to read as follows:

6-11 Sec. 48.152. INVESTIGATION. (a) An investigation by the  
6-12 department or a state agency shall include an interview with the  
6-13 elderly or disabled person, if appropriate, and with persons  
6-14 thought to have knowledge of the circumstances. If the elderly or  
6-15 disabled person refuses to be interviewed or cannot be interviewed  
6-16 because of a physical or mental impairment, the department shall  
6-17 continue the investigation by interviewing other persons thought to  
6-18 have knowledge relevant to the investigation.

6-19 (b) The investigation may include an interview with an  
6-20 alleged juvenile perpetrator of the alleged abuse, neglect, or  
6-21 exploitation.

6-22 (c) The department or state agency may conduct an interview  
6-23 under this section in private or may include any person the  
6-24 department or agency determines is necessary.

6-25 SECTION 10. Section 48.1522, Human Resources Code, is  
6-26 amended to read as follows:

6-27 Sec. 48.1522. REPORTS OF CRIMINAL CONDUCT TO LAW  
6-28 ENFORCEMENT AGENCY. (a) Except as provided by Subsection (b), if  
6-29 during the course of the department's or another state agency's  
6-30 investigation of reported abuse, neglect, or exploitation a  
6-31 caseworker of the department or other state agency, as applicable,  
6-32 or the caseworker's supervisor has cause to believe that the  
6-33 elderly or disabled person has been abused, neglected, or exploited  
6-34 by another person in a manner that constitutes a criminal offense  
6-35 under any law, including Section 22.04, Penal Code, the caseworker  
6-36 or supervisor shall:

6-37 (1) immediately notify an appropriate law enforcement  
6-38 agency, unless the law enforcement agency reported the alleged  
6-39 abuse, neglect, or exploitation to the department; and

6-40 (2) provide the law enforcement agency with a copy of  
6-41 the investigation report of the department or other state agency,  
6-42 as applicable, in a timely manner.

6-43 (b) If during the course of the department's investigation  
6-44 of reported abuse, neglect, or exploitation a caseworker of the  
6-45 department or the caseworker's supervisor has cause to believe that  
6-46 a disabled person who is a resident or client of a state supported  
6-47 living center or the ICF-MR component of the Rio Grande State Center  
6-48 has been abused, neglected, or exploited by another person in a  
6-49 manner that constitutes a criminal offense under any law, including  
6-50 Section 22.04, Penal Code, in addition to the report to the  
6-51 appropriate law enforcement agency required by Subsection (a), the  
6-52 caseworker shall immediately notify the commission's office of  
6-53 inspector general and promptly provide the commission's office of  
6-54 inspector general with a copy of the department's investigation  
6-55 report.

6-56 SECTION 11. Subsections (a) through (e), Section 48.154,  
6-57 Human Resources Code, are amended to read as follows:

6-58 (a) The department or another state agency, as appropriate,  
6-59 shall have access to any records or documents, including  
6-60 client-identifying information, financial records, and medical and  
6-61 psychological records, necessary to the performance of the  
6-62 department's or state agency's duties under this chapter. The  
6-63 duties include but are not limited to the investigation of abuse,  
6-64 neglect, or exploitation or the provisions of services to an  
6-65 elderly or disabled person. A person, ~~or~~ agency, or institution  
6-66 that has a record or document that the department or state agency  
6-67 needs to perform its duties under this chapter shall, without  
6-68 unnecessary delay, make the record or document available to the  
6-69 department or state agency that requested the record or document.

7-1 (b) The department is exempt from the payment of a fee  
 7-2 otherwise required or authorized by law to obtain a financial  
 7-3 record from a person, agency, or institution or a medical record,  
 7-4 including a mental health record, from a hospital or health care  
 7-5 provider if the request for a record is made in the course of an  
 7-6 investigation by the department.

7-7 (c) If the department or another state agency cannot obtain  
 7-8 access to a record or document that is necessary to properly conduct  
 7-9 an investigation or to perform another duty under this chapter, the  
 7-10 department or state agency may petition the probate court or the  
 7-11 statutory or constitutional county court having probate  
 7-12 jurisdiction for access to the record or document.

7-13 (d) On good cause shown, the court shall order the person,  
 7-14 agency, or institution who has ~~[denied access to]~~ a requested  
 7-15 record or document to allow the department or state agency to have  
 7-16 access to that record or document under the terms and conditions  
 7-17 prescribed by the court.

7-18 (e) A person, agency, or institution who has a requested  
 7-19 record or document is entitled to notice and a hearing on a ~~[the]~~  
 7-20 petition filed under this section.

7-21 SECTION 12. Subsection (d), Section 48.203, Human Resources  
 7-22 Code, is amended to read as follows:

7-23 (d) Except as provided by Section 48.208, if ~~[If]~~ an elderly  
 7-24 or disabled person withdraws from or refuses consent to voluntary  
 7-25 protective services, the services may not be provided.

7-26 SECTION 13. Section 48.204, Human Resources Code, is  
 7-27 amended to read as follows:

7-28 Sec. 48.204. AGENCY POWERS. A protective services agency  
 7-29 may furnish protective services to an elderly or disabled person  
 7-30 with the person's consent or to a relative or caretaker of an  
 7-31 elderly or disabled person on behalf of the elderly or disabled  
 7-32 person with the relative's or caregiver's consent or, if the elderly  
 7-33 or disabled person lacks the capacity to consent, without that  
 7-34 person's consent as provided by this chapter.

7-35 SECTION 14. Section 48.208, Human Resources Code, is  
 7-36 amended by amending Subsections (e), (e-2), (f), and (h) and adding  
 7-37 Subsection (i) to read as follows:

7-38 (e) The emergency order expires on the earlier of ~~[at]~~ the  
 7-39 end of the 10th day after ~~[72 hours from]~~ the date ~~[time]~~ the order  
 7-40 is rendered or the end of the 10th day after the date the person was  
 7-41 removed to safer surroundings if the emergency order was rendered  
 7-42 subsequent to the removal of the person to safer surroundings in  
 7-43 accordance with Subsection (h), unless:

7-44 (1) the emergency order terminates as provided by  
 7-45 Subsection (e-1);

7-46 (2) the 10-day ~~[72-hour]~~ period ends on a Saturday,  
 7-47 Sunday, or legal holiday in which event the order is automatically  
 7-48 extended to 4 p.m. on the first succeeding business day; or

7-49 (3) the court extends the order as provided by  
 7-50 Subsection (e-2).

7-51 (e-2) The court, after notice and a hearing, may extend an  
 7-52 emergency order issued under this section for a period of not more  
 7-53 than 30 days after the date the original emergency order for  
 7-54 protective services was rendered. The court, after notice and a  
 7-55 hearing and for good cause shown, may grant a second extension of an  
 7-56 emergency order of not more than an additional 30 days. The court  
 7-57 may not grant more than two extensions of the original emergency  
 7-58 order. An extension order that ends on a Saturday, Sunday, or legal  
 7-59 holiday is automatically extended to 4 p.m. on the first succeeding  
 7-60 business day. The court may modify or terminate the emergency order  
 7-61 on petition of the department, the incapacitated person, or any  
 7-62 person interested in the person's ~~[his]~~ welfare.

7-63 (f) Any medical facility, emergency medical services  
 7-64 provider, or physician who provides treatment to or who transports  
 7-65 [treating] an elderly or disabled person pursuant to an emergency  
 7-66 order under Subsection (d) or an emergency authorization under  
 7-67 Subsection (h) ~~[this chapter]~~ is not liable for any damages arising  
 7-68 from the treatment or transportation, except those damages  
 7-69 resulting from the negligence of the facility, provider, or

8-1 physician.

8-2 (h) If the department cannot obtain an emergency order under  
8-3 this section because the court is closed on a Saturday, Sunday, or  
8-4 legal holiday or after 5 p.m., the department may remove or  
8-5 authorize an appropriate transportation service, including an  
8-6 emergency medical services provider, to remove the elderly or  
8-7 disabled person to safer surroundings, authorize medical  
8-8 treatment, or authorize [~~order~~] or provide other available services  
8-9 necessary to remove conditions creating the threat to life or  
8-10 physical safety. The department must obtain an emergency order  
8-11 under this section not later than 4 p.m. on the first succeeding  
8-12 business day after the date on which protective services are  
8-13 provided. If the department does not obtain an emergency order, the  
8-14 department shall cease providing protective services and, if  
8-15 necessary, make arrangements for the immediate return of the person  
8-16 to the place from which the person was removed, to the person's  
8-17 place of residence in the state, or to another suitable place.

8-18 (i) If the department's removal of a person from the  
8-19 person's place of residence under this section results in that  
8-20 residence being vacant, the department shall notify the appropriate  
8-21 law enforcement agency of the vacancy to facilitate the law  
8-22 enforcement agency's monitoring of the residence.

8-23 SECTION 15. The change made by this Act to Section 48.053,  
8-24 Human Resources Code, applies only to an offense committed on or  
8-25 after the effective date of this Act. An offense committed before  
8-26 the effective date of this Act is governed by the law in effect when  
8-27 the offense was committed, and the former law is continued in effect  
8-28 for that purpose. For the purposes of this section, an offense was  
8-29 committed before the effective date of this Act if any element of  
8-30 the offense occurred before that date.

8-31 SECTION 16. This Act takes effect September 1, 2011.

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