

By: Nelson

S.B. No. 1178

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the regulation of certain shelter day-care facilities,
3 child-care facilities, and individuals providing child-care
4 services; providing an administrative penalty.

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

6 SECTION 1. Section 42.002(18), Human Resources Code, is
7 amended to read as follows:

8 (18) "Controlling person" means a person who, either
9 alone or in connection with others, has the ability to directly or
10 indirectly influence or direct the management, expenditures, or
11 policies of a [~~residential child-care~~] facility or family home.

12 SECTION 2. Section 42.052(j), Human Resources Code, is
13 amended to read as follows:

14 (j) The operator of a listed family home shall undergo
15 initial and subsequent background and criminal history checks
16 required under Section 42.056. If the operator of a listed family
17 home fails to submit the information required by Section 42.056 for
18 a subsequent background and criminal history check, the department
19 shall automatically:

20 (1) suspend the home's listing until the required
21 information is submitted; and

22 (2) revoke the home's listing if the required
23 information is not submitted within six months after the date the
24 automatic suspension begins.

1 SECTION 3. Section 42.054(f), Human Resources Code, is
2 amended to read as follows:

3 (f) If a facility, agency, or home fails to pay the annual
4 fee when due, the license, listing, or registration, as
5 appropriate, is automatically suspended until the fee is paid. The
6 license, listing, or registration shall be revoked if the fee is not
7 paid within six months after the date the automatic suspension
8 begins.

9 SECTION 4. Section 42.056, Human Resources Code, is amended
10 by amending Subsection (a-2) and adding Subsection (1) to read as
11 follows:

12 (a-2) In accordance with rules adopted by the executive
13 commissioner, the director, owner, or operator of a day-care
14 center, before-school or after-school program, or school-age
15 program shall submit a complete set of fingerprints of each person
16 whose name is required to be submitted by the director, owner, or
17 operator under Subsection (a), unless the person is only required
18 to have the person's name submitted based on criteria specified by
19 Subsection (a)(7). This subsection does not apply to a program that
20 is exempt from the licensing requirements of Section 42.041.

21 (1) In accordance with rules adopted by the executive
22 commissioner, a person that contracts to provide one or more
23 substitute employees to a facility or family home must submit to the
24 department for use in conducting background and criminal history
25 checks the name of each substitute employee. Before a substitute
26 employee may be present at a facility or family home, the employee
27 must meet the same requirements under this section as an employee

1 present at the facility or family home who performs similar duties.
2 The director, owner, or operator of a facility or family home must
3 verify with the department that a substitute employee is eligible
4 to be present at the facility or family home before allowing the
5 employee to begin work.

6 SECTION 5. Section 42.062, Human Resources Code, is amended
7 to read as follows:

8 Sec. 42.062. CERTAIN EMPLOYMENT AND SERVICE PROHIBITED. A
9 person may not be employed as a controlling person or serve in that
10 capacity in a [~~residential child-care~~] facility or family home if
11 the person [~~may not employ in any capacity a person who~~] is not
12 eligible to receive a license or certification for the operation of
13 a [~~residential child-care~~] facility or family home under Section
14 42.072(g) or [~~who~~] has been denied a license under Section 42.046
15 for a substantive reason.

16 SECTION 6. Section 42.072, Human Resources Code, is amended
17 by adding Subsection (c-1) and amending Subsection (g) to read as
18 follows:

19 (c-1) A person described by Subsection (c) may not be a
20 controlling person in any facility or family home during the
21 five-year period in which the person is ineligible to receive a
22 license, listing, registration, or certification.

23 (g) Notwithstanding Subsection (c), the department may
24 refuse to issue a license, listing, registration, or certification
25 to:

26 (1) a person whose license, listing, registration, or
27 certification for a [~~residential child-care~~] facility or family

1 home was revoked by the department or by court order;

2 (2) a person who was a controlling person of a
3 [~~residential child-care~~] facility or family home at the time
4 conduct occurred that resulted in the revocation of the license,
5 listing, registration, or certification of the facility or family
6 home;

7 (3) a person who voluntarily closed a [~~residential~~
8 ~~child-care~~] facility or family home or relinquished the person's
9 license, listing, registration, or certification after:

10 (A) the department took an action under
11 Subsection (a) in relation to the facility, family home, or person;
12 or

13 (B) the person received notice that the
14 department intended to take an action under Subsection (a) in
15 relation to the facility, family home, or person; or

16 (4) a person who was a controlling person of a
17 [~~residential child-care~~] facility or family home at the time
18 conduct occurred that resulted in the closure of the facility or
19 family home or relinquishment of the license, listing,
20 registration, or certification in the manner described by
21 Subdivision (3).

22 SECTION 7. Section 42.078(a), Human Resources Code, is
23 amended to read as follows:

24 (a) The department may impose an administrative penalty
25 against a facility or family home licensed, ~~[or]~~ registered, or
26 listed under this chapter that violates this chapter or a rule or
27 order adopted under this chapter. In addition, the department may

1 impose an administrative penalty against a residential child-care
2 facility or a controlling person of a residential child-care
3 facility if the facility or controlling person:

4 (1) violates a term of a license or registration
5 issued under this chapter;

6 (2) makes a statement about a material fact that the
7 facility or person knows or should know is false:

8 (A) on an application for the issuance of a
9 license or registration or an attachment to the application; or

10 (B) in response to a matter under investigation;

11 (3) refuses to allow a representative of the
12 department to inspect:

13 (A) a book, record, or file required to be
14 maintained by the facility; or

15 (B) any part of the premises of the facility;

16 (4) purposefully interferes with the work of a
17 representative of the department or the enforcement of this
18 chapter; or

19 (5) fails to pay a penalty assessed under this chapter
20 on or before the date the penalty is due, as determined under this
21 section.

22 SECTION 8. Chapter 42, Human Resources Code, is amended by
23 adding Subchapter G to read as follows:

24 SUBCHAPTER G. REGULATION OF TEMPORARY SHELTER DAY-CARE FACILITIES

25 Sec. 42.201. DEFINITIONS. In this subchapter:

26 (1) "Shelter" means a supervised publicly or privately
27 operated shelter or other facility that is designed to provide

1 temporary living accommodations to individuals and families,
2 including a family violence shelter, a homeless shelter, and an
3 emergency shelter.

4 (2) "Shelter care" means child care that is provided:

5 (A) to a child under 14 years of age who
6 temporarily resides at a shelter with an adult who is related to the
7 child by blood or who is the child's managing conservator;

8 (B) by a person who is not a temporary resident of
9 a shelter; and

10 (C) while the adult described by Paragraph (A) is
11 away from the shelter.

12 (3) "Shelter day-care facility" means a shelter that
13 provides shelter care for not more than 24 hours a day, but at least
14 four hours a day, three or more days a week.

15 Sec. 42.202. PERMIT REQUIRED. (a) Except as provided by
16 Subsections (b) and (e), a shelter may not provide shelter care
17 unless the shelter holds a permit issued by the department under
18 this subchapter.

19 (b) A shelter is not required to obtain a permit to provide
20 shelter care under this subchapter if the shelter holds a license to
21 operate a child-care facility that is issued by the department
22 under Subchapter C. A shelter that holds that license must comply
23 with the applicable provisions of Subchapter C, the applicable
24 rules of the department, and any specific terms of the license.

25 (c) Notwithstanding any other law, including Section
26 42.041, a shelter that holds a permit issued under this subchapter
27 is not required to hold a license under Subchapter C to operate a

1 shelter day-care facility.

2 (d) The department may not issue a permit under this
3 subchapter to a shelter that provides child care to a child who is
4 not a resident of the shelter. A shelter that provides child care
5 described by this subsection must hold a license to operate a
6 child-care facility issued under Subchapter C.

7 (e) A shelter that provides shelter care for less than two
8 hours a day or for less than three days a week is not required to
9 obtain a permit under this subchapter or a license under Subchapter
10 C.

11 Sec. 42.203. APPLICATION; INITIAL INSPECTION AND
12 BACKGROUND AND CRIMINAL HISTORY CHECKS. (a) The department shall
13 develop and implement a streamlined procedure by which a shelter
14 may apply for and be issued a permit to operate a shelter day-care
15 facility. The shelter must submit an application for the permit to
16 the department on a form prescribed by the department.

17 (b) Except as provided by Section 42.204, on receipt of a
18 shelter's application for a permit, the department shall:

19 (1) conduct an initial inspection of the shelter
20 day-care facility to ensure that the shelter is able to comply with
21 the provisions of this subchapter and that the facility complies
22 with the fire safety and sanitation standards of the political
23 subdivision in which the facility is located; and

24 (2) conduct a background and criminal history check on
25 each prospective caregiver whose name is submitted as required by
26 Section 42.206(a).

27 (c) The department may charge an applicant an

1 administrative fee in a reasonable amount that is sufficient to
2 cover the costs of the department in processing the application.

3 (d) The department shall process an application not later
4 than the 30th day after the date the department receives all of the
5 required information.

6 Sec. 42.204. CONVERSION OF LICENSE. (a) The department
7 shall develop and implement a procedure by which a shelter that
8 holds a license to operate a child-care facility that is issued
9 under Subchapter C before September 1, 2012, may convert the
10 license to a permit under this subchapter. The procedure must
11 include an abbreviated application form for use by the shelter in
12 applying for the permit.

13 (b) The department may waive the requirements under Section
14 42.203(b) for an initial inspection or background and criminal
15 history checks with respect to a licensed child-care facility
16 seeking to convert a license to a permit under this section if the
17 department determines that previously conducted inspections or
18 background and criminal history checks, as applicable, are
19 sufficient to ensure the safety of children receiving care at the
20 facility.

21 Sec. 42.205. CAREGIVER QUALIFICATIONS AND TRAINING;
22 CHILD-TO-CAREGIVER RATIOS. (a) The executive commissioner shall
23 adopt rules that specify the minimum:

24 (1) qualifications and training required for a person
25 providing child care in a shelter day-care facility; and

26 (2) child-to-caregiver ratios in a shelter day-care
27 facility.

1 (b) In adopting rules under this section, the executive
2 commissioner shall consider:

3 (1) the special circumstances and needs of families
4 that seek temporary shelter; and

5 (2) the role of a shelter in assisting and supporting
6 families in crisis.

7 Sec. 42.206. BACKGROUND AND CRIMINAL HISTORY CHECKS
8 REQUIRED. (a) In accordance with rules adopted by the executive
9 commissioner, a shelter shall, when applying for a permit under
10 this subchapter and at least once during each 24-month period after
11 receiving that permit, submit to the department for use in
12 conducting background and criminal history checks:

13 (1) the name of any director or prospective director
14 of the shelter day-care facility and the name of each caregiver or
15 prospective caregiver employed at the facility to provide care to
16 children;

17 (2) the name of each person counted in
18 child-to-caregiver ratios at the shelter day-care facility; and

19 (3) the name of each person 14 years of age or older
20 who will have unsupervised access to one or more children while in
21 the care of the shelter day-care facility.

22 (b) In addition to the requirements of Subsection (a), a
23 shelter shall submit a complete set of fingerprints of each person
24 required to undergo a criminal history check under Subsection (a)
25 if the person has lived outside the state at any time during the
26 previous five years.

27 (c) The department shall conduct background and criminal

1 history checks using:

2 (1) the information provided under Subsection (a) or
3 (b), as applicable;

4 (2) the information made available by the Department
5 of Public Safety under Section 411.114, Government Code, or by the
6 Federal Bureau of Investigation or another criminal justice agency
7 under Section 411.087, Government Code; and

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

10 (d) For purposes of Sections 411.114 and 411.087,
11 Government Code:

12 (1) a shelter that applies for a permit is considered
13 to be an applicant for a license under this chapter; and

14 (2) a shelter day-care facility operating under a
15 permit issued under this subchapter is considered to be a
16 child-care facility licensed under this chapter.

17 (e) The department shall require the shelter to pay to the
18 department a fee in an amount not to exceed the administrative costs
19 the department incurs in conducting a background and criminal
20 history check under this section.

21 Sec. 42.207. APPLICABILITY OF OTHER LAW. Except as
22 otherwise provided by this subchapter, a shelter day-care facility
23 operating under this subchapter is not a child-care facility, as
24 defined by Section 42.002, and the provisions of this chapter and
25 the department's rules that apply to a child-care facility licensed
26 under Subchapter C do not apply to a shelter day-care facility.

27 Sec. 42.208. REPORTING OF INCIDENTS AND VIOLATIONS. A

1 shelter day-care facility operating under this subchapter and each
2 employee of that facility are subject to the reporting requirements
3 of Section 42.063 to the same extent a licensed child-care facility
4 and employees of licensed child-care facilities are subject to that
5 section.

6 Sec. 42.209. AUTHORITY TO CONDUCT LIMITED INSPECTIONS. (a)
7 The department may inspect a shelter day-care facility operating
8 under this subchapter if the department receives a complaint or
9 report of child abuse or neglect alleged to have occurred at the
10 shelter day-care facility.

11 (b) If the department inspects a shelter day-care facility
12 as authorized by this section, the department may require the
13 facility to take appropriate corrective action the department
14 determines necessary to comply with the requirements of this
15 subchapter and to ensure the health and safety of children
16 receiving care at the facility. The department may continue to
17 inspect the facility until corrective action is taken and for a
18 reasonable time after that action is taken to ensure continued
19 compliance.

20 (c) The department may charge a shelter issued a permit
21 under this subchapter a reasonable fee for the cost of services
22 provided by the department in formulating, monitoring, and
23 implementing a corrective action plan under this section.

24 Sec. 42.210. SUSPENSION, DENIAL, OR REVOCATION. (a) The
25 department may suspend, deny, or revoke a permit issued to a shelter
26 under this subchapter if the shelter does not comply with the
27 provisions of this subchapter or any applicable department rules.

1 (b) The department may refuse to issue a permit under this
2 subchapter to a shelter that had its authorization to operate a
3 child-care facility issued under another subchapter revoked,
4 suspended, or not renewed for a reason relating to child health or
5 safety as determined by the department.

6 (c) A shelter day-care facility is subject to the emergency
7 suspension of its permit to operate and to closure under Section
8 42.073 to the same extent and in the same manner as a licensed
9 child-care facility is subject to that section.

10 SECTION 9. Section 43.010(a), Human Resources Code, is
11 amended to read as follows:

12 (a) The department may deny, revoke, suspend, or refuse to
13 renew a license, or place on probation or reprimand a license holder
14 for:

15 (1) violating this chapter or a rule adopted under
16 this chapter;

17 (2) circumventing or attempting to circumvent the
18 requirements of this chapter or a rule adopted under this chapter;

19 (3) engaging in fraud or deceit related to the
20 requirements of this chapter or a rule adopted under this chapter;

21 (4) providing false or misleading information to the
22 department during the license application or renewal process for
23 any person's license;

24 (5) making a statement about a material fact during
25 the license application or renewal process that the person knows or
26 should know is false;

27 (6) having:

1 (A) a criminal history or central registry record
2 that would prohibit a person from working in a child-care facility,
3 as defined by Section 42.002, under rules applicable to that type of
4 facility; or

5 (B) a criminal history relevant to the duties of
6 a licensed child-care or child-placing administrator, as those
7 duties are specified in rules adopted by the executive
8 commissioner;

9 (7) using drugs or alcohol in a manner that
10 jeopardizes the person's ability to function as an administrator;
11 or

12 (8) performing duties as a child-care administrator in
13 a negligent manner.

14 SECTION 10. Section 411.114(a), Government Code, is amended
15 to read as follows:

16 (a)(1) In this subsection:

17 (A) "Child," "child-care facility,"
18 "child-placing agency," and "family home" have the meanings
19 assigned by Section 42.002, Human Resources Code.

20 (B) "Elderly person" has the meaning assigned by
21 Section 48.002, Human Resources Code.

22 ~~[(C) "Maternity home" has the meaning assigned by~~
23 ~~Section 249.001, Health and Safety Code.]~~

24 (D) "Person with a disability" means a disabled
25 person as defined by Section 48.002, Human Resources Code.

26 (E) "Ward" has the meaning assigned by Section
27 601, Texas Probate Code.

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

5 (A) an applicant for a license, registration,
6 certification, or listing under Chapter 42, Human Resources Code[~~7~~
7 ~~or Chapter 249, Health and Safety Code~~];

8 (B) an owner, operator, or employee of or an
9 applicant for employment by a child-care facility, child-placing
10 agency, or family home[~~7~~, ~~or maternity home~~] licensed, registered,
11 certified, or listed under Chapter 42, Human Resources Code[~~7~~, ~~or~~
12 ~~Chapter 249, Health and Safety Code~~];

13 (C) a person 14 years of age or older who will be
14 regularly or frequently working or staying in a child-care facility
15 or[~~7~~] family home[~~7~~, ~~or maternity home~~] while children are being
16 provided care, other than a child in the care of the home or
17 facility;

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

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

1 direct contact with children, elderly persons, or persons with a
2 disability;

3 (F) a registered volunteer with the Department of
4 Family and Protective Services;

5 (G) a person providing or applying to provide
6 in-home, adoptive, or foster care for children in the care of the
7 Department of Family and Protective Services and other persons
8 living in the residence in which the child will reside;

9 (H) a Department of Family and Protective
10 Services employee who is engaged in the direct delivery of
11 protective services to children, elderly persons, or persons with a
12 disability;

13 (I) a person who is the subject of a report the
14 Department of Family and Protective Services receives alleging that
15 the person has abused, neglected, or exploited a child, an elderly
16 person, or a person with a disability, provided that:

17 (i) the report alleges the person has
18 engaged in conduct that meets the statutory definition of abuse,
19 neglect, or exploitation under Chapter 261, Family Code, or Chapter
20 48, Human Resources Code; and

21 (ii) the person who is the subject of the
22 report is not also the victim of the alleged conduct;

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

26 (K) through a contract with a nonprofit
27 management center, an employee of, an applicant for employment

1 with, or a volunteer or an applicant volunteer with a nonprofit,
2 tax-exempt organization that provides any service that involves the
3 care of or access to children, elderly persons, or persons with a
4 disability; or

5 (L) an applicant for a child-care administrator
6 or child-placing agency administrator license under Chapter 43,
7 Human Resources Code.

8 (3) The Department of Family and Protective [~~and~~
9 ~~Regulatory~~] Services is entitled to obtain from the department
10 criminal history record information maintained by the department
11 that relates to a person who is:

12 (A) a volunteer or applicant volunteer with a
13 local affiliate in this state of Big Brothers/Big Sisters of
14 America;

15 (B) a volunteer or applicant volunteer with the
16 "I Have a Dream/Houston" program;

17 (C) a volunteer or applicant volunteer with an
18 organization that provides court-appointed special advocates for
19 abused or neglected children;

20 (D) a person providing, at the request of the
21 child's parent, in-home care for a child who is the subject of a
22 report alleging the child has been abused or neglected;

23 (E) a volunteer or applicant volunteer with a
24 Texas chapter of the Make-a-Wish Foundation of America;

25 (F) a person providing, at the request of the
26 child's parent, in-home care for a child only if the person gives
27 written consent to the release and disclosure of the information;

1 (G) a child who is related to the caretaker, as
2 determined under Section 42.002, Human Resources Code, and who
3 resides in or is present in a child-care facility or~~[7]~~ family
4 home~~[7, or maternity home]~~, other than a child described by
5 Subdivision (2)(C), or any other person who has unsupervised access
6 to a child in the care of a child-care facility or~~[7]~~ family home~~[7~~
7 ~~or maternity home]~~;

8 (H) an applicant for a position with the
9 Department of Family and Protective ~~[and Regulatory]~~ Services,
10 other than a position described by Subdivision (2)(D), regardless
11 of the duties of the position;

12 (I) a volunteer or applicant volunteer with the
13 Department of Family and Protective ~~[and Regulatory]~~ Services,
14 other than a registered volunteer, regardless of the duties to be
15 performed;

16 (J) a person providing or applying to provide
17 in-home, adoptive, or foster care for children to the extent
18 necessary to comply with Subchapter B, Chapter 162, Family Code;

19 (K) a Department of Family and Protective ~~[and~~
20 ~~Regulatory]~~ Services employee, other than an employee described by
21 Subdivision (2)(H), regardless of the duties of the employee's
22 position;

23 (L) a relative of a child in the care of the
24 Department of Family and Protective ~~[and Regulatory]~~ Services, to
25 the extent necessary to comply with Section 162.007, Family Code;

26 (M) a person, other than the subject of a report
27 described in Subdivision (2)(I), living in the residence in which

1 the alleged victim of the report resides;

2 (N) a contractor or an employee of a contractor
3 who delivers services to a ward of the Department of Family and
4 Protective [~~and Regulatory~~] Services under a contract with the
5 estate of the ward;

6 (O) a person who seeks unsupervised visits with a
7 ward of the Department of Family and Protective [~~and Regulatory~~]
8 Services, including a relative of the ward; or

9 (P) an employee, volunteer, or applicant
10 volunteer of a children's advocacy center under Subchapter E,
11 Chapter 264, Family Code, including a member of the governing board
12 of a center.

13 (4) Subject to Section 411.087, the Department of
14 Family and Protective [~~and Regulatory~~] Services is entitled to:

15 (A) obtain through the Federal Bureau of
16 Investigation criminal history record information maintained or
17 indexed by that bureau that pertains to a person described by
18 Subdivision (2); and

19 (B) obtain from any other criminal justice agency
20 in this state criminal history record information maintained by
21 that criminal justice agency that relates to a person described by
22 Subdivision (2) or (3). Law enforcement entities shall expedite
23 the furnishing of such information to Department of Family and
24 Protective [~~and Regulatory~~] Services workers to ensure prompt
25 criminal background checks for the safety of alleged victims and
26 Department of Family and Protective [~~and Regulatory~~] Services
27 workers.

1 (5) The Department of Family and Protective [~~and~~
2 ~~Regulatory~~] Services may not use the authority granted under this
3 section to harass an employee or volunteer. The executive
4 commissioner [~~Board of Protective and Regulatory Services~~] shall
5 adopt rules to prevent the harassment of an employee or volunteer
6 through the request and use of criminal records.

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

10 (A) on court order;

11 (B) with the consent of the person who is the
12 subject of the criminal history record information;

13 (C) for purposes of an administrative hearing
14 held by the Department of Family and Protective [~~and Regulatory~~]
15 Services concerning the person who is the subject of the criminal
16 history record information; or

17 (D) as provided by Subdivision (7).

18 (7) The Department of Family and Protective [~~and~~
19 ~~Regulatory~~] Services is not prohibited from releasing criminal
20 history record information obtained under this subsection to:

21 (A) the person who is the subject of the criminal
22 history record information;

23 (B) a child-care facility, child-placing agency,
24 or family home [~~, or maternity home~~] listed in Subdivision (2) that
25 employs or is considering employing the person who is the subject of
26 the criminal history record information;

27 (C) a person or business entity described by

1 Subdivision (2)(E) or (3) who uses or intends to use the services of
2 the volunteer or employs or is considering employing the person who
3 is the subject of the criminal history record information; or

4 (D) an adult residing with a child, elderly
5 person, or person with a disability and the person who is the
6 subject of the criminal history record information, if the
7 Department of Family and Protective [~~and Regulatory~~] Services
8 determines that the release of information to the adult is
9 necessary to ensure the safety or welfare of the child, elderly
10 person, or person with a disability or the adult.

11 SECTION 11. Section 81.042(e), Health and Safety Code, is
12 amended to read as follows:

13 (e) The following persons shall report to the local health
14 authority or the department a suspected case of a reportable
15 disease and all information known concerning the person who has or
16 is suspected of having the disease if a report is not made as
17 required by Subsections (a)-(d):

18 (1) a professional registered nurse;

19 (2) an administrator or director of a public or
20 private temporary or permanent child-care facility;

21 (3) an administrator or director of a nursing home,
22 personal care home, [~~maternity home,~~] adult respite care center, or
23 adult day-care center;

24 (4) an administrator of a home health agency;

25 (5) an administrator or health official of a public or
26 private institution of higher education;

27 (6) an owner or manager of a restaurant, dairy, or

1 other food handling or processing establishment or outlet;

2 (7) a superintendent, manager, or health official of a
3 public or private camp, home, or institution;

4 (8) a parent, guardian, or householder;

5 (9) a health professional;

6 (10) an administrator or health official of a penal or
7 correctional institution; or

8 (11) emergency medical service personnel, a peace
9 officer, or a firefighter.

10 SECTION 12. (a) The Department of Family and Protective
11 Services shall develop and implement a procedure by which a
12 maternity home that provides residential child care to a minor
13 mother and that holds a license issued under Chapter 249, Health and
14 Safety Code, before September 1, 2012, may convert the license to a
15 residential child-care facility license issued under Chapter 42,
16 Human Resources Code.

17 (b) The Department of Family and Protective Services may
18 waive requirements for an initial inspection or initial background
19 and criminal history checks with respect to a maternity home
20 seeking to convert a license under Subsection (a) of this section if
21 the department determines that previously conducted inspections or
22 background and criminal history checks, as applicable, are
23 sufficient to ensure the safety of children receiving care at the
24 facility.

25 SECTION 13. The following laws are repealed:

26 (1) Chapter 249, Health and Safety Code; and

27 (2) Section 42.042(g-2), Human Resources Code.

1 SECTION 14. (a) Except as provided by Subsection (b) of this
2 section, this Act takes effect September 1, 2011.

3 (b) The changes in law made by this Act by the amendment of
4 Section 411.114(a), Government Code, and Section 81.042(e), Health
5 and Safety Code, the enactment of Subchapter G, Chapter 42, Human
6 Resources Code, and the repeal of Chapter 249, Health and Safety
7 Code, and Section 42.042(g-2), Human Resources Code, take effect
8 September 1, 2012.