

By: N. Gonzalez of El Paso

H.B. No. 1452

A BILL TO BE ENTITLED

1 AN ACT

2 relating to an exemption for certain facilities that provide
3 shelter and care to child victims of human trafficking from
4 child-care licensing requirements.

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

6 SECTION 1. Section 42.041(b), Human Resources Code, is
7 amended to read as follows:

8 (b) This section does not apply to:

- 9 (1) a state-operated facility;
- 10 (2) an agency foster home or agency foster group home;
- 11 (3) a facility that is operated in connection with a
12 shopping center, business, religious organization, or
13 establishment where children are cared for during short periods
14 while parents or persons responsible for the children are attending
15 religious services, shopping, or engaging in other activities,
16 including retreats or classes for religious instruction, on or near
17 the premises, that does not advertise as a child-care facility or
18 day-care center, and that informs parents that it is not licensed by
19 the state;
- 20 (4) a school or class for religious instruction that
21 does not last longer than two weeks and is conducted by a religious
22 organization during the summer months;
- 23 (5) a youth camp licensed by the Department of State
24 Health Services;

1 (6) a facility licensed, operated, certified, or
2 registered by another state agency;

3 (7) an educational facility that is accredited by the
4 Texas Education Agency, the Southern Association of Colleges and
5 Schools, or an accreditation body that is a member of the Texas
6 Private School Accreditation Commission and that operates
7 primarily for educational purposes for prekindergarten and above, a
8 before-school or after-school program operated directly by an
9 accredited educational facility, or a before-school or
10 after-school program operated by another entity under contract with
11 the educational facility, if the Texas Education Agency, the
12 Southern Association of Colleges and Schools, or the other
13 accreditation body, as applicable, has approved the curriculum
14 content of the before-school or after-school program operated under
15 the contract;

16 (8) an educational facility that operates solely for
17 educational purposes for prekindergarten through at least grade
18 two, that does not provide custodial care for more than one hour
19 during the hours before or after the customary school day, and that
20 is a member of an organization that promulgates, publishes, and
21 requires compliance with health, safety, fire, and sanitation
22 standards equal to standards required by state, municipal, and
23 county codes;

24 (9) a kindergarten or preschool educational program
25 that is operated as part of a public school or a private school
26 accredited by the Texas Education Agency, that offers educational
27 programs through grade six, and that does not provide custodial

1 care during the hours before or after the customary school day;

2 (10) a family home, whether registered or listed;

3 (11) an educational facility that is integral to and
4 inseparable from its sponsoring religious organization or an
5 educational facility both of which do not provide custodial care
6 for more than two hours maximum per day, and that offers an
7 educational program in one or more of the
8 following: prekindergarten through at least grade three,
9 elementary grades, or secondary grades;

10 (12) an emergency shelter facility providing shelter
11 to minor mothers who are the sole support of their natural children
12 under Section 32.201, Family Code, unless the facility would
13 otherwise require a license as a child-care facility under this
14 section;

15 (13) a juvenile detention facility certified under
16 Section 51.12, Family Code, a juvenile correctional facility
17 certified under Section 51.125, Family Code, a juvenile facility
18 providing services solely for the Texas Juvenile Justice Department
19 [~~Youth Commission~~], or any other correctional facility for children
20 operated or regulated by another state agency or by a political
21 subdivision of the state;

22 (14) an elementary-age (ages 5-13) recreation program
23 operated by a municipality provided the governing body of the
24 municipality annually adopts standards of care by ordinance after a
25 public hearing for such programs, that such standards are provided
26 to the parents of each program participant, and that the ordinances
27 shall include, at a minimum, staffing ratios, minimum staff

1 qualifications, minimum facility, health, and safety standards,
2 and mechanisms for monitoring and enforcing the adopted local
3 standards; and further provided that parents be informed that the
4 program is not licensed by the state and the program may not be
5 advertised as a child-care facility;

6 (15) an annual youth camp held in a municipality with a
7 population of more than 1.5 million that operates for not more than
8 three months and that has been operated for at least 10 years by a
9 nonprofit organization that provides care for the homeless;

10 (16) a food distribution program that:

11 (A) serves an evening meal to children two years
12 of age or older; and

13 (B) is operated by a nonprofit food bank in a
14 nonprofit, religious, or educational facility for not more than two
15 hours a day on regular business days;

16 (17) a child-care facility that operates for less than
17 three consecutive weeks and less than 40 days in a period of 12
18 months;

19 (18) a program:

20 (A) in which a child receives direct instruction
21 in a single skill, talent, ability, expertise, or proficiency;

22 (B) that does not provide services or offerings
23 that are not directly related to the single talent, ability,
24 expertise, or proficiency;

25 (C) that does not advertise or otherwise
26 represent that the program is a child-care facility, day-care
27 center, or licensed before-school or after-school program or that

1 the program offers child-care services;

2 (D) that informs the parent or guardian:

3 (i) that the program is not licensed by the
4 state; and

5 (ii) about the physical risks a child may
6 face while participating in the program; and

7 (E) that conducts background checks for all
8 program employees and volunteers who work with children in the
9 program using information that is obtained from the Department of
10 Public Safety;

11 (19) an elementary-age (ages 5-13) recreation program
12 that:

13 (A) adopts standards of care, including
14 standards relating to staff ratios, staff training, health, and
15 safety;

16 (B) provides a mechanism for monitoring and
17 enforcing the standards and receiving complaints from parents of
18 enrolled children;

19 (C) does not advertise as or otherwise represent
20 the program as a child-care facility, day-care center, or licensed
21 before-school or after-school program or that the program offers
22 child-care services;

23 (D) informs parents that the program is not
24 licensed by the state;

25 (E) is organized as a nonprofit organization or
26 is located on the premises of a participant's residence;

27 (F) does not accept any remuneration other than a

1 nominal annual membership fee;

2 (G) does not solicit donations as compensation or
3 payment for any good or service provided as part of the program; and

4 (H) conducts background checks for all program
5 employees and volunteers who work with children in the program
6 using information that is obtained from the Department of Public
7 Safety;

8 (20) a living arrangement in a caretaker's home
9 involving one or more children or a sibling group, excluding
10 children who are related to the caretaker, in which the caretaker:

11 (A) had a prior relationship with the child or
12 sibling group or other family members of the child or sibling group;

13 (B) does not care for more than one unrelated
14 child or sibling group;

15 (C) does not receive compensation or solicit
16 donations for the care of the child or sibling group; and

17 (D) has a written agreement with the parent to
18 care for the child or sibling group;

19 (21) a living arrangement in a caretaker's home
20 involving one or more children or a sibling group, excluding
21 children who are related to the caretaker, in which:

22 (A) the department is the managing conservator of
23 the child or sibling group;

24 (B) the department placed the child or sibling
25 group in the caretaker's home; and

26 (C) the caretaker had a long-standing and
27 significant relationship with the child or sibling group before the

1 child or sibling group was placed with the caretaker; [~~or~~]

2 (22) a living arrangement in a caretaker's home
3 involving one or more children or a sibling group, excluding
4 children who are related to the caretaker, in which the child is in
5 the United States on a time-limited visa under the sponsorship of
6 the caretaker or of a sponsoring organization; or

7 (23) a facility operated by a nonprofit organization
8 that:

9 (A) does not otherwise operate as a child-care
10 facility that is required to be licensed under this section;

11 (B) provides emergency shelter and care for not
12 more than 15 days to children 13 years of age or older but younger
13 than 18 years of age who are victims of human trafficking alleged
14 under Section 20A.02, Penal Code;

15 (C) is located in a municipality with a
16 population of at least 600,000 that is in a county on an
17 international border; and

18 (D) meets one of the following criteria:

19 (i) is licensed by, or operates under an
20 agreement with, a state or federal agency to provide shelter and
21 care to children; or

22 (ii) meets the eligibility requirements for
23 a contract under Section 51.005(b)(3).

24 SECTION 2. This Act takes effect September 1, 2013.