

AN ACT

relating to certain requirements for certain facilities licensed by the Department of Family and Protective Services and the department's enforcement authority.

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

SECTION 1. Subchapter C, Chapter 42, Human Resources Code, is amended by adding Section 42.0462 to read as follows:

Sec. 42.0462. WAIVER OF NOTICE AND HEARING REQUIREMENTS.

To protect the safety and well-being of residents and employees of a general residential operation that provides comprehensive residential services to children who are victims of trafficking, the department shall waive the notice and hearing requirements imposed under Section 42.0461 for an applicant who submits to the department an application to provide trafficking victim services at the applicant's general residential operation.

SECTION 2. Section 42.054, Human Resources Code, is amended by amending Subsections (a), (b), (c), (d), and (e) and adding Subsection (h) to read as follows:

(a) The department shall charge an applicant a nonrefundable application fee [~~of \$35~~] for an initial license to operate a child-care facility or a child-placing agency.

(b) The department shall charge each child-care facility a fee [~~of \$35~~] for an initial license. The department shall charge each child-placing agency a fee [~~of \$50~~] for an initial license.

(c) The department shall charge each licensed child-care facility an annual license fee [~~in the amount of \$35 plus \$1 for each child the child-care facility is permitted to serve~~]. The fee is due on the date on which the department issues the child-care facility's initial license and on the anniversary of that date.

(d) The department shall charge each licensed child-placing agency an annual license fee [~~of \$100~~]. The fee is due on the date on which the department issues the child-placing agency's initial license and on the anniversary of that date.

(e) The department shall charge each family home that is listed or registered with the department an annual fee [~~to cover a part of the department's cost in regulating family homes. The amount of the fee is \$20 for a listed home or \$35 for a registered home~~]. The fee is due on the date on which the department initially lists or registers the home and on the anniversary of that date.

(h) The executive commissioner by rule shall set fees under this section.

SECTION 3. Subchapter D, Chapter 42, Human Resources Code, is amended by adding Section 42.0704 to read as follows:

Sec. 42.0704. ENFORCEMENT POLICY. (a) The executive commissioner by rule shall adopt a general enforcement policy that describes the department's approach to enforcement of this chapter.

(b) The enforcement policy must:

(1) summarize the department's general expectations in enforcing this chapter;

(2) include the methodology required by Subsection (c); and

1 (3) describe the department's plan for strengthening
2 its enforcement efforts and for making objective regulatory
3 decisions.

4 (c) As part of the enforcement policy, the department shall
5 develop and implement a methodology for determining the appropriate
6 disciplinary action to take against a person who violates this
7 chapter or a department rule. The methodology must provide guidance
8 on when to use each of the available tools of enforcement, including
9 technical assistance, voluntary plans of action, evaluation,
10 probation, suspension or revocation of a license or registration,
11 denial of a license or registration, administrative penalties, and
12 emergency suspension. The methodology must allow the department to
13 consider the circumstances of a particular case, including the
14 nature and seriousness of the violation, history of previous
15 violations, and aggravating and mitigating factors, in determining
16 the appropriate disciplinary action.

17 (d) The department shall make the methodology described by
18 Subsection (c) available to the public, including by posting the
19 methodology on the department's Internet website.

20 SECTION 4. Section 42.078(a-2), Human Resources Code, is
21 amended to read as follows:

22 (a-2) The department may impose an administrative penalty
23 without first imposing a nonmonetary administrative sanction for
24 violating a minimum standard applicable to a facility or family
25 home under this chapter that is determined by the department to be a
26 high-risk standard, including background check standards, safety
27 hazard standards, and supervision standards [~~the following~~

1 ~~violations:~~

2 ~~[(1) failing to timely submit the information~~
3 ~~required to conduct a background and criminal history check under~~
4 ~~Section 42.056 and applicable department rules on two or more~~
5 ~~occasions;~~

6 ~~[(2) failing to submit the information required~~
7 ~~to conduct a background and criminal history check under Section~~
8 ~~42.056 and applicable department rules before the 30th day after~~
9 ~~the date the facility or family home is notified by the department~~
10 ~~that the information is overdue;~~

11 ~~[(3) except as provided by Section 42.056(g),~~
12 ~~knowingly allowing a person to be present in a facility or family~~
13 ~~home when the person's background and criminal history check has~~
14 ~~not been received;~~

15 ~~[(4) knowingly allowing a person to be present in~~
16 ~~a facility or family home when the person's background and criminal~~
17 ~~history check has been received and contains criminal history or~~
18 ~~central registry findings that under department rules preclude the~~
19 ~~person from being present in the facility or family home; or~~

20 ~~[(5) violating a condition or restriction the~~
21 ~~department places on a person's presence at a facility or family~~
22 ~~home as part of a pending or approved risk evaluation of the~~
23 ~~person's background and criminal history or central registry~~
24 ~~findings].~~

25 SECTION 5. Subchapter D, Chapter 42, Human Resources Code,
26 is amended by adding Section 42.079 to read as follows:

27 Sec. 42.079. CEASE AND DESIST ORDER. (a) If it appears to

1 the department that a person who is not licensed, certified,
2 registered, or listed under this chapter is operating a child-care
3 facility or family home, the department, after notice and
4 opportunity for a hearing, may issue a cease and desist order
5 prohibiting the person from operating the facility or home.

6 (b) A violation of an order under this section constitutes
7 grounds for imposing an administrative penalty under Section
8 [42.078](#).

9 SECTION 6. This Act takes effect September 1, 2015.

H.B. No. 2070

President of the Senate

Speaker of the House

I certify that H.B. No. 2070 was passed by the House on May 5, 2015, by the following vote: Yeas 145, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2070 on May 28, 2015, by the following vote: Yeas 144, Nays 1, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2070 was passed by the Senate, with amendments, on May 26, 2015, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor