

1-1 By: Thompson of Harris, Guillen H.B. No. 2070
 1-2 (Senate Sponsor - Rodríguez)
 1-3 (In the Senate - Received from the House May 6, 2015;
 1-4 May 11, 2015, read first time and referred to Committee on Health
 1-5 and Human Services; May 22, 2015, reported adversely, with
 1-6 favorable Committee Substitute by the following vote: Yeas 9,
 1-7 Nays 0; May 22, 2015, sent to printer.)

1-8 COMMITTEE VOTE

| | Yea | Nay | Absent | PNV |
|------|-----|-----|--------|-----|
| 1-9 | | | | |
| 1-10 | X | | | |
| 1-11 | X | | | |
| 1-12 | X | | | |
| 1-13 | X | | | |
| 1-14 | X | | | |
| 1-15 | X | | | |
| 1-16 | X | | | |
| 1-17 | X | | | |
| 1-18 | X | | | |

1-19 COMMITTEE SUBSTITUTE FOR H.B. No. 2070 By: Schwertner

1-20 A BILL TO BE ENTITLED
 1-21 AN ACT

1-22 relating to certain requirements for certain facilities licensed by
 1-23 the Department of Family and Protective Services and the
 1-24 department's enforcement authority.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-26 SECTION 1. Subchapter C, Chapter 42, Human Resources Code,
 1-27 is amended by adding Section 42.0462 to read as follows:

1-28 Sec. 42.0462. WAIVER OF NOTICE AND HEARING REQUIREMENTS.
 1-29 To protect the safety and well-being of residents and employees of a
 1-30 general residential operation that provides comprehensive
 1-31 residential services to children who are victims of trafficking,
 1-32 the department shall waive the notice and hearing requirements
 1-33 imposed under Section 42.0461 for an applicant who submits to the
 1-34 department an application to provide trafficking victim services at
 1-35 the applicant's general residential operation.

1-36 SECTION 2. Section 42.054, Human Resources Code, is amended
 1-37 by amending Subsections (a), (b), (c), (d), and (e) and adding
 1-38 Subsection (h) to read as follows:

1-39 (a) The department shall charge an applicant a
 1-40 nonrefundable application fee [~~of \$35~~] for an initial license to
 1-41 operate a child-care facility or a child-placing agency.

1-42 (b) The department shall charge each child-care facility a
 1-43 fee [~~of \$35~~] for an initial license. The department shall charge
 1-44 each child-placing agency a fee [~~of \$50~~] for an initial license.

1-45 (c) The department shall charge each licensed child-care
 1-46 facility an annual license fee [~~in the amount of \$35 plus \$1 for~~
 1-47 ~~each child the child-care facility is permitted to serve~~]. The fee
 1-48 is due on the date on which the department issues the child-care
 1-49 facility's initial license and on the anniversary of that date.

1-50 (d) The department shall charge each licensed child-placing
 1-51 agency an annual license fee [~~of \$100~~]. The fee is due on the date on
 1-52 which the department issues the child-placing agency's initial
 1-53 license and on the anniversary of that date.

1-54 (e) The department shall charge each family home that is
 1-55 listed or registered with the department an annual fee [~~to cover a~~
 1-56 ~~part of the department's cost in regulating family homes. The~~
 1-57 ~~amount of the fee is \$20 for a listed home or \$35 for a registered~~
 1-58 ~~home~~]. The fee is due on the date on which the department initially
 1-59 lists or registers the home and on the anniversary of that date.

1-60 (h) The executive commissioner by rule shall set fees under

2-1 this section.

2-2 SECTION 3. Subchapter D, Chapter 42, Human Resources Code,
2-3 is amended by adding Section 42.0704 to read as follows:

2-4 Sec. 42.0704. ENFORCEMENT POLICY. (a) The executive
2-5 commissioner by rule shall adopt a general enforcement policy that
2-6 describes the department's approach to enforcement of this chapter.

2-7 (b) The enforcement policy must:

2-8 (1) summarize the department's general expectations in
2-9 enforcing this chapter;

2-10 (2) include the methodology required by Subsection
2-11 (c); and

2-12 (3) describe the department's plan for strengthening
2-13 its enforcement efforts and for making objective regulatory
2-14 decisions.

2-15 (c) As part of the enforcement policy, the department shall
2-16 develop and implement a methodology for determining the appropriate
2-17 disciplinary action to take against a person who violates this
2-18 chapter or a department rule. The methodology must provide guidance
2-19 on when to use each of the available tools of enforcement, including
2-20 technical assistance, voluntary plans of action, evaluation,
2-21 probation, suspension or revocation of a license or registration,
2-22 denial of a license or registration, administrative penalties, and
2-23 emergency suspension. The methodology must allow the department to
2-24 consider the circumstances of a particular case, including the
2-25 nature and seriousness of the violation, history of previous
2-26 violations, and aggravating and mitigating factors, in determining
2-27 the appropriate disciplinary action.

2-28 (d) The department shall make the methodology described by
2-29 Subsection (c) available to the public, including by posting the
2-30 methodology on the department's Internet website.

2-31 SECTION 4. Section 42.078(a-2), Human Resources Code, is
2-32 amended to read as follows:

2-33 (a-2) The department may impose an administrative penalty
2-34 without first imposing a nonmonetary administrative sanction for
2-35 violating a minimum standard applicable to a facility or family
2-36 home under this chapter that is determined by the department to be a
2-37 high-risk standard, including background check standards, safety
2-38 hazard standards, and supervision standards ~~[the following~~
2-39 ~~violations:~~

2-40 ~~[(1) failing to timely submit the information~~
2-41 ~~required to conduct a background and criminal history check under~~
2-42 ~~Section 42.056 and applicable department rules on two or more~~
2-43 ~~occasions;~~

2-44 ~~[(2) failing to submit the information required~~
2-45 ~~to conduct a background and criminal history check under Section~~
2-46 ~~42.056 and applicable department rules before the 30th day after~~
2-47 ~~the date the facility or family home is notified by the department~~
2-48 ~~that the information is overdue;~~

2-49 ~~[(3) except as provided by Section 42.056(g),~~
2-50 ~~knowingly allowing a person to be present in a facility or family~~
2-51 ~~home when the person's background and criminal history check has~~
2-52 ~~not been received;~~

2-53 ~~[(4) knowingly allowing a person to be present in~~
2-54 ~~a facility or family home when the person's background and criminal~~
2-55 ~~history check has been received and contains criminal history or~~
2-56 ~~central registry findings that under department rules preclude the~~
2-57 ~~person from being present in the facility or family home; or~~

2-58 ~~[(5) violating a condition or restriction the~~
2-59 ~~department places on a person's presence at a facility or family~~
2-60 ~~home as part of a pending or approved risk evaluation of the~~
2-61 ~~person's background and criminal history or central registry~~
2-62 ~~findings].~~

2-63 SECTION 5. Subchapter D, Chapter 42, Human Resources Code,
2-64 is amended by adding Section 42.079 to read as follows:

2-65 Sec. 42.079. CEASE AND DESIST ORDER. (a) If it appears to
2-66 the department that a person who is not licensed, certified,
2-67 registered, or listed under this chapter is operating a child-care
2-68 facility or family home, the department, after notice and
2-69 opportunity for a hearing, may issue a cease and desist order

3-1 prohibiting the person from operating the facility or home.
3-2 (b) A violation of an order under this section constitutes
3-3 grounds for imposing an administrative penalty under Section
3-4 42.078.

3-5 SECTION 6. This Act takes effect September 1, 2015.

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