

By: Klick

H.B. No. 4093

A BILL TO BE ENTITLED

AN ACT

relating to the licensing of certain facilities, homes, and agencies that provide child-care services.

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

SECTION 1. Section 109.331(d), Alcoholic Beverage Code, is amended to read as follows:

(d) This section does not apply to a [~~foster group home,~~ ~~foster family home,~~] family home, specialized child-care [~~agency group~~] home, or agency foster home as those terms are defined by Section 42.002, Human Resources Code.

SECTION 2. Article 5.04(a-1), Code of Criminal Procedure, is amended to read as follows:

(a-1) A peace officer who investigates a family violence allegation or who responds to a disturbance call that may involve family violence shall determine whether the address of the persons involved in the allegation or call matches the address of a current licensed specialized child-care [~~foster~~] home or verified agency foster home listed in the Texas Crime Information Center.

SECTION 3. Articles 5.05(a-1) and (b), Code of Criminal Procedure, are amended to read as follows:

(a-1) In addition to the written report required under Subsection (a), a peace officer who investigates a family violence incident or who responds to a disturbance call that may involve family violence shall make a report to the Department of Family and

1 Protective Services if the location of the incident or call, or the  
2 known address of a person involved in the incident or call, matches  
3 the address of a current licensed specialized child-care [~~foster~~]  
4 home or a verified agency foster home as listed in the Texas Crime  
5 Information Center. The report under this subsection may be made  
6 orally or electronically and must:

7 (1) include the information required by Subsection  
8 (a); and

9 (2) be filed with the Department of Family and  
10 Protective Services within 24 hours of the beginning of the  
11 investigation or receipt of the disturbance call.

12 (b) Each local law enforcement agency shall establish a  
13 departmental code for identifying and retrieving family violence  
14 reports as outlined in Subsection (a) of this article [~~section~~]. A  
15 district or county attorney or an assistant district or county  
16 attorney exercising authority in the county where the law  
17 enforcement agency maintains records under this article [~~section~~]  
18 is entitled to access to the records. The Department of Family and  
19 Protective Services is entitled to access the records relating to  
20 any person who is 14 years of age or older and who resides in a  
21 licensed specialized child-care [~~foster~~] home or a verified agency  
22 foster home.

23 SECTION 4. Section 29.081(d), Education Code, is amended to  
24 read as follows:

25 (d) For purposes of this section, "student at risk of  
26 dropping out of school" includes each student who is under 26 years  
27 of age and who:

1           (1) was not advanced from one grade level to the next  
2 for one or more school years;

3           (2) if the student is in grade 7, 8, 9, 10, 11, or 12,  
4 did not maintain an average equivalent to 70 on a scale of 100 in two  
5 or more subjects in the foundation curriculum during a semester in  
6 the preceding or current school year or is not maintaining such an  
7 average in two or more subjects in the foundation curriculum in the  
8 current semester;

9           (3) did not perform satisfactorily on an assessment  
10 instrument administered to the student under Subchapter B, Chapter  
11 39, and who has not in the previous or current school year  
12 subsequently performed on that instrument or another appropriate  
13 instrument at a level equal to at least 110 percent of the level of  
14 satisfactory performance on that instrument;

15           (4) if the student is in prekindergarten,  
16 kindergarten, or grade 1, 2, or 3, did not perform satisfactorily on  
17 a readiness test or assessment instrument administered during the  
18 current school year;

19           (5) is pregnant or is a parent;

20           (6) has been placed in an alternative education  
21 program in accordance with Section 37.006 during the preceding or  
22 current school year;

23           (7) has been expelled in accordance with Section  
24 37.007 during the preceding or current school year;

25           (8) is currently on parole, probation, deferred  
26 prosecution, or other conditional release;

27           (9) was previously reported through the Public

1 Education Information Management System (PEIMS) to have dropped out  
2 of school;

3 (10) is a student of limited English proficiency, as  
4 defined by Section 29.052;

5 (11) is in the custody or care of the Department of  
6 Family and Protective [~~and Regulatory~~] Services or has, during the  
7 current school year, been referred to the department by a school  
8 official, officer of the juvenile court, or law enforcement  
9 official;

10 (12) is homeless, as defined by 42 U.S.C. Section  
11 11302, and its subsequent amendments; or

12 (13) resided in the preceding school year or resides  
13 in the current school year in a residential placement facility in  
14 the district, including a detention facility, substance abuse  
15 treatment facility, emergency shelter, psychiatric hospital,  
16 halfway house, or general residential operation [~~foster group~~  
17 ~~home~~].

18 SECTION 5. Section 30.083(a), Education Code, is amended to  
19 read as follows:

20 (a) The director of services shall develop and administer a  
21 comprehensive statewide plan for educational services for students  
22 who are deaf or hard of hearing, including continuing diagnosis and  
23 evaluation, counseling, and teaching. The plan shall be designed  
24 to accomplish the following objectives:

25 (1) providing assistance and counseling to parents of  
26 students who are deaf or hard of hearing in regional day school  
27 programs for the deaf and admitting to the programs students who

1 have a hearing loss that interferes with the processing of  
2 linguistic information;

3 (2) enabling students who are deaf or hard of hearing  
4 to reside with their parents or guardians and be provided an  
5 appropriate education in their home school districts or in regional  
6 day school programs for the deaf;

7 (3) enabling students who are deaf or hard of hearing  
8 who are unable to attend schools at their place of residence and  
9 whose parents or guardians live too far from facilities of regional  
10 day school programs for the deaf for daily commuting to be  
11 accommodated in specialized child-care [~~foster~~] homes or other  
12 residential school facilities provided for by the agency so that  
13 those children may attend a regional day school program for the  
14 deaf;

15 (4) enrolling in the Texas School for the Deaf those  
16 students who are deaf or hard of hearing whose needs can best be met  
17 in that school and designating the Texas School for the Deaf as the  
18 statewide educational resource for students who are deaf or hard of  
19 hearing;

20 (5) encouraging students in regional day school  
21 programs for the deaf to attend general education classes on a  
22 part-time, full-time, or trial basis; and

23 (6) recognizing the need for development of language  
24 and communications abilities in students who are deaf or hard of  
25 hearing, but also calling for the use of methods of communication  
26 that will meet the needs of each individual student, with each  
27 student assessed thoroughly so as to ascertain the student's

1 potential for communications through a variety of means, including  
2 through oral or aural means, fingerspelling, or sign language.

3 SECTION 6. Section 54.04(d), Family Code, is amended to  
4 read as follows:

5 (d) If the court or jury makes the finding specified in  
6 Subsection (c) allowing the court to make a disposition in the case:

7 (1) the court or jury may, in addition to any order  
8 required or authorized under Section 54.041 or 54.042, place the  
9 child on probation on such reasonable and lawful terms as the court  
10 may determine:

11 (A) in the child's own home or in the custody of a  
12 relative or other fit person; or

13 (B) subject to the finding under Subsection (c)  
14 on the placement of the child outside the child's home, in:

15 (i) a suitable specialized child-care  
16 ~~[foster]~~ home, as defined by Section 42.002, Human Resources Code;

17 (ii) a suitable public or private  
18 residential treatment facility licensed by a state governmental  
19 entity or exempted from licensure by state law, except a facility  
20 operated by the Texas Juvenile Justice Department; or

21 (iii) a suitable public or private  
22 post-adjudication secure correctional facility that meets the  
23 requirements of Section 51.125, except a facility operated by the  
24 Texas Juvenile Justice Department;

25 (2) if the court or jury found at the conclusion of the  
26 adjudication hearing that the child engaged in delinquent conduct  
27 that violates a penal law of this state or the United States of the

1 grade of felony, the court or jury made a special commitment finding  
2 under Section 54.04013, and the petition was not approved by the  
3 grand jury under Section 53.045, the court may commit the child to  
4 the Texas Juvenile Justice Department under Section 54.04013, or a  
5 post-adjudication secure correctional facility under Section  
6 54.04011(c)(1), as applicable, without a determinate sentence;

7 (3) if the court or jury found at the conclusion of the  
8 adjudication hearing that the child engaged in delinquent conduct  
9 that included a violation of a penal law listed in Section 53.045(a)  
10 and if the petition was approved by the grand jury under Section  
11 53.045, the court or jury may sentence the child to commitment in  
12 the Texas Juvenile Justice Department or a post-adjudication secure  
13 correctional facility under Section 54.04011(c)(2) with a possible  
14 transfer to the Texas Department of Criminal Justice for a term of:

15 (A) not more than 40 years if the conduct  
16 constitutes:

- 17 (i) a capital felony;  
18 (ii) a felony of the first degree; or  
19 (iii) an aggravated controlled substance  
20 felony;

21 (B) not more than 20 years if the conduct  
22 constitutes a felony of the second degree; or

23 (C) not more than 10 years if the conduct  
24 constitutes a felony of the third degree;

25 (4) the court may assign the child an appropriate  
26 sanction level and sanctions as provided by the assignment  
27 guidelines in Section 59.003;

1           (5) the court may place the child in a suitable  
2 nonsecure correctional facility that is registered and meets the  
3 applicable standards for the facility as provided by Section  
4 [51.126](#); or

5           (6) if applicable, the court or jury may make a  
6 disposition under Subsection (m) or Section [54.04011](#)(c)(2)(A).

7           SECTION 7. Section [101.0133](#), Family Code, is amended to  
8 read as follows:

9           Sec. 101.0133. FOSTER CARE. "Foster care" means the  
10 placement of a child who is in the conservatorship of the Department  
11 of Family and Protective Services and in care outside the child's  
12 home in an [~~agency foster group home,~~] agency foster home,  
13 specialized child-care [~~foster group~~] home, foster family  
14 operation, general residential operation [~~home~~], or another  
15 facility licensed or certified under Chapter [42](#), Human Resources  
16 Code, in which care is provided for 24 hours a day.

17           SECTION 8. Section [101.017](#), Family Code, is amended to read  
18 as follows:

19           Sec. 101.017. LICENSED CHILD PLACING AGENCY. "Licensed  
20 child placing agency" means a person, including an organization or  
21 corporation, licensed or certified under Chapter [42](#), Human  
22 Resources Code, by the Department of Family and Protective Services  
23 to place a child in a child-care facility, agency foster home,  
24 general residential operation [~~agency foster group home~~], or  
25 adoptive home.

26           SECTION 9. Section [162.0062](#)(b), Family Code, is amended to  
27 read as follows:



1           (b) The records described by Subsection (a) must include any  
2 records relating to an investigation of abuse in which the child was  
3 an alleged or confirmed victim of sexual abuse while residing in a  
4 specialized child-care [ ~~Foster~~] home or other residential  
5 child-care facility. If the licensed child-placing agency or other  
6 person placing the child for adoption does not have the information  
7 required by this subsection, the department, at the request of the  
8 licensed child-placing agency or other person placing the child for  
9 adoption, shall provide the information to the prospective adoptive  
10 parents of the child.

11           SECTION 10. Section [262.011](#), Family Code, as added by  
12 Chapter 338 (H.B. 418), Acts of the 84th Legislature, Regular  
13 Session, 2015, is amended to read as follows:

14           Sec. 262.011. PLACEMENT IN SECURE AGENCY FOSTER HOME [~~OR~~  
15 ~~SECURE AGENCY FOSTER GROUP HOME~~]. A court in an emergency, initial,  
16 or full adversary hearing conducted under this chapter may order  
17 that the child who is the subject of the hearing be placed in a  
18 secure agency foster home [~~or secure agency foster group home~~]  
19 verified in accordance with Section [42.0531](#), Human Resources Code,  
20 if the court finds that:

21                   (1) the placement is in the best interest of the child;  
22 and

23                   (2) the child's physical health or safety is in danger  
24 because the child has been recruited, harbored, transported,  
25 provided, or obtained for forced labor or commercial sexual  
26 activity, including any child subjected to an act specified in  
27 Section [20A.02](#) or [20A.03](#), Penal Code.

1 SECTION 11. Section 263.008(a)(1), Family Code, is amended  
2 to read as follows:

3 (1) "Agency foster [~~group~~] home[~~7~~]" and [~~"agency~~  
4 ~~foster home,~~"] "facility[~~7~~]" [~~"foster group home," and "foster~~  
5 ~~home"~~] have the meanings assigned by Section 42.002, Human  
6 Resources Code.

7 SECTION 12. Section 263.008(e), Family Code, is amended to  
8 read as follows:

9 (e) A specialized child-care [~~An agency foster group~~] home,  
10 agency foster home[, ~~foster group home, foster home~~], or other  
11 facility in which a child is placed in foster care shall provide a  
12 copy of the foster children's bill of rights to a child on the  
13 child's request. The foster children's bill of rights must be  
14 printed in English and in a second language.

15 SECTION 13. Section 264.0111(a), Family Code, is amended to  
16 read as follows:

17 (a) A child for whom the department has been appointed  
18 managing conservator and who has been placed by the department in a  
19 residential [~~foster home or~~] child-care facility [~~institution~~] as  
20 defined by Chapter 42, Human Resources Code, is entitled to keep any  
21 money earned by the child during the time of the child's placement.

22 SECTION 14. Section 264.101(a), Family Code, is amended to  
23 read as follows:

24 (a) The department may pay the cost of foster care for a  
25 child only if:

26 (1) the child has been placed by the department in a  
27 [~~foster home or other~~] residential child-care facility, as defined

1 by Chapter 42, Human Resources Code, or in a comparable residential  
2 facility in another state; and

3 (2) the department:

4 (A) has initiated suit and been named conservator  
5 of the child; or

6 (B) has the duty of care, control, and custody  
7 after taking possession of the child in an emergency without a prior  
8 court order as authorized by this subtitle.

9 SECTION 15. Sections 264.751(1) and (3), Family Code, are  
10 amended to read as follows:

11 (1) "Designated caregiver" means an individual who has  
12 a longstanding and significant relationship with a child for whom  
13 the department has been appointed managing conservator and who:

14 (A) is appointed to provide substitute care for  
15 the child, but is not licensed by the department or verified by a  
16 licensed child-placing agency or the department to operate a  
17 specialized child-care [~~foster home, foster group~~] home or [~~]~~  
18 ~~agency foster home[, or agency foster group home]~~ under Chapter 42,  
19 Human Resources Code; or

20 (B) is subsequently appointed permanent managing  
21 conservator of the child after providing the care described by  
22 Paragraph (A).

23 (3) "Relative caregiver" means a relative who:

24 (A) provides substitute care for a child for whom  
25 the department has been appointed managing conservator, but who is  
26 not licensed by the department or verified by a licensed  
27 child-placing agency or the department to operate a specialized

1 child-care [~~foster~~] home, general residential operation [~~foster~~  
2 ~~group home~~], agency foster home, or foster family operation [~~agency~~  
3 ~~foster group home~~] under Chapter 42, Human Resources Code; or

4 (B) is subsequently appointed permanent managing  
5 conservator of the child after providing the care described by  
6 Paragraph (A).

7 SECTION 16. Section 264.760, Family Code, is amended to  
8 read as follows:

9 Sec. 264.760. ELIGIBILITY FOR FOSTER CARE PAYMENTS AND  
10 PERMANENCY CARE ASSISTANCE. Notwithstanding any other provision of  
11 this subchapter, a relative or other designated caregiver who  
12 becomes licensed by the department or verified by a licensed  
13 child-placing agency or the department to operate a specialized  
14 child-care [~~foster~~] home or [~~, foster group home,~~] agency foster  
15 home[~~, or agency foster group home~~] under Chapter 42, Human  
16 Resources Code, may receive foster care payments in lieu of the  
17 benefits provided by this subchapter, beginning with the first  
18 month in which the relative or other designated caregiver becomes  
19 licensed or is verified.

20 SECTION 17. Section 264.8521, Family Code, is amended to  
21 read as follows:

22 Sec. 264.8521. NOTICE TO APPLICANTS. At the time a person  
23 applies to become licensed by the department or verified by a  
24 licensed child-placing agency or the department to provide foster  
25 care in order to qualify for the permanency care assistance  
26 program, the department or the child-placing agency shall:

27 (1) notify the applicant that a background check,

1 including a criminal history record check, will be conducted on the  
2 individual; and

3 (2) inform the applicant about criminal convictions  
4 that:

5 (A) preclude an individual from becoming a  
6 licensed specialized child-care [~~foster~~] home or verified agency  
7 foster home; and

8 (B) may also be considered in evaluating the  
9 individual's application.

10 SECTION 18. Section 531.151(3), Government Code, is amended  
11 to read as follows:

12 (3) "Institution" means:

13 (A) an ICF-IID, as defined by Section 531.002,  
14 Health and Safety Code;

15 (B) a group home operated under the authority of  
16 the Health and Human Services Commission [~~Department of Aging and~~  
17 ~~Disability Services~~], including a residential service provider  
18 under a Medicaid waiver program authorized under Section 1915(c) of  
19 the federal Social Security Act (42 U.S.C. Section 1396n), as  
20 amended, that provides services at a residence other than the  
21 child's home or a specialized child-care facility or agency foster  
22 home;

23 (C) [~~a foster group home or an agency foster~~  
24 ~~group home as defined by Section 42.002, Human Resources Code,~~

25 [~~(D)~~] a nursing facility;

26 (D) [~~(E)~~] a general residential operation for  
27 children with an intellectual disability that is licensed by the

1 Department of Family and Protective Services; or

2                   (E) [~~(F)~~] another residential arrangement [~~other~~  
3 ~~than a foster home as defined by Section 42.002, Human Resources~~  
4 ~~Code,~~] that provides care to four or more children who are unrelated  
5 to each other.

6           SECTION 19. Section 31.002(b), Human Resources Code, is  
7 amended to read as follows:

8           (b) In this chapter, the term "dependent child" also applies  
9 to a child:

10                   (1) who meets the specifications set forth in  
11 Subsections (a)(1)-(4);

12                   (2) who has been removed from the home of a relative  
13 specified in Subsection (a)(5) as a result of a judicial  
14 determination that the child's residence there is contrary to his  
15 or her welfare;

16                   (3) whose placement and care are the responsibility of  
17 the Department of Family and Protective Services or an agency with  
18 which the Department of Family and Protective Services has entered  
19 into an agreement for the care and supervision of the child;

20                   (4) who has been placed in a residential [~~foster home~~  
21 ~~or~~] child-care facility [~~institution~~] by the Department of Family  
22 and Protective Services; and

23                   (5) for whom the state may receive federal funds for  
24 the purpose of providing foster care in accordance with rules  
25 promulgated by the executive commissioner.

26           SECTION 20. Section 31.008(d), Human Resources Code, is  
27 amended to read as follows:

1 (d) The commission may make payments on behalf of a  
2 dependent child residing in a residential [~~foster family home or a~~  
3 child-care facility [~~institution~~] in accordance with the  
4 provisions of this chapter and commission rules.

5 SECTION 21. Section 42.002, Human Resources Code, is  
6 amended by amending Subdivisions (4), (5), (6), (10), (12), (13),  
7 and (19) and adding Subdivisions (24) and (25) to read as follows:

8 (4) "General residential operation" means a  
9 child-care facility that provides care for seven or more [~~than 12~~]  
10 children for 24 hours a day, including facilities known as  
11 [~~children's homes, halfway houses,~~] residential treatment  
12 centers[~~7~~] and emergency shelters[~~, and therapeutic camps~~].

13 (5) "Continuum-of-care residential operation" means a  
14 group of residential child-care facilities that operate under the  
15 same license or certification to provide a continuum of services to  
16 children [~~"Foster group home" means a child-care facility that~~  
17 ~~provides care for 7 to 12 children for 24 hours a day~~].

18 (6) "Foster family operation" means cottage family  
19 homes that:

20 (A) are identified on the operation's license;

21 (B) share a child-care administrator who is  
22 responsible for oversight for all homes within the operation; and

23 (C) are all in or near the same location as  
24 defined by department rule [~~home" means a child-care facility that~~  
25 ~~provides care for not more than six children for 24 hours a day~~].

26 (10) "Cottage family home" means a family residential  
27 setting with one or more homes operating under the license of a

1 foster family operation and in which:

2 (A) each home has at least one houseparent who  
3 lives at the home while children are in care; and

4 (B) based on the size of the home and the  
5 children's needs, each home cares for not more than six children  
6 ["Agency foster group home" means a facility that provides care for  
7 seven to 12 children for 24 hours a day, is used only by a licensed  
8 child-placing agency, and meets department standards].

9 (12) "Child-placing agency" means a person, including  
10 an organization, other than the natural parents or guardian of a  
11 child who plans for the placement of or places a child in a  
12 child-care facility, agency foster home, [~~agency foster group~~  
13 ~~home,~~] or adoptive home.

14 (13) "Facilities" includes child-care facilities,  
15 [~~and~~] child-placing agencies, and continuum-of-care residential  
16 operations.

17 (19) "Residential child-care facility" means a  
18 facility licensed or certified by the department that operates for  
19 all of the 24-hour day. The term includes general residential  
20 operations, child-placing agencies, specialized child-care [~~foster~~  
21 ~~group~~] homes, foster family operations [~~homes~~], continuum-of-care  
22 residential operations [~~agency foster group homes~~], and agency  
23 foster homes.

24 (24) "Specialized child-care home" means a child-care  
25 facility that:

26 (A) based on the size of the home and the  
27 children's needs, provides care for not more than six children for



1 24 hours a day; and

2 (B) has a director and has at least one  
3 houseparent who lives at the home while children are in care.

4 (25) "Family residential setting" means a setting that  
5 is the least restrictive and most family-like for children in  
6 foster care. The term includes agency foster homes, cottage family  
7 homes, and specialized child-care homes.

8 SECTION 22. Section 42.041(b), Human Resources Code, is  
9 amended to read as follows:

10 (b) This section does not apply to:

11 (1) a state-operated facility;

12 (2) an agency foster home [~~or agency foster group~~  
13 ~~home~~];

14 (3) a facility that is operated in connection with a  
15 shopping center, business, religious organization, or  
16 establishment where children are cared for during short periods  
17 while parents or persons responsible for the children are attending  
18 religious services, shopping, or engaging in other activities,  
19 including retreats or classes for religious instruction, on or near  
20 the premises, that does not advertise as a child-care facility or  
21 day-care center, and that informs parents that it is not licensed by  
22 the state;

23 (4) a school or class for religious instruction that  
24 does not last longer than two weeks and is conducted by a religious  
25 organization during the summer months;

26 (5) a youth camp licensed by the Department of State  
27 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, other than a  
11 facility that would otherwise require a license as a child-care  
12 facility under this section, that provides shelter or care to a  
13 minor and the minor's child or children, if any, under Section  
14 [32.201](#), Family Code, if the facility:

15 (A) is currently under a contract with a state or  
16 federal agency; or

17 (B) meets the requirements listed under Section  
18 [51.005\(b\)\(3\)](#);

19 (13) a juvenile detention facility certified under  
20 Section [51.12](#), Family Code, a juvenile correctional facility  
21 certified under Section [51.125](#), Family Code, a juvenile facility  
22 providing services solely for the Texas Juvenile Justice  
23 Department, or any other correctional facility for children  
24 operated or regulated by another state agency or by a political  
25 subdivision of the state;

26 (14) an elementary-age (ages 5-13) recreation program  
27 operated by a municipality provided the governing body of the

1 municipality annually adopts standards of care by ordinance after a  
2 public hearing for such programs, that such standards are provided  
3 to the parents of each program participant, and that the ordinances  
4 shall include, at a minimum, staffing ratios, minimum staff  
5 qualifications, minimum facility, health, and safety standards,  
6 and mechanisms for monitoring and enforcing the adopted local  
7 standards; and further provided that parents be informed that the  
8 program is not licensed by the state and the program may not be  
9 advertised as a child-care facility;

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

14           (16) a food distribution program that:

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

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

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

23           (18) a program:

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

26                   (B) that does not provide services or offerings  
27 that are not directly related to the single talent, ability,

1 expertise, or proficiency;

2 (C) that does not advertise or otherwise  
3 represent that the program is a child-care facility, day-care  
4 center, or licensed before-school or after-school program or that  
5 the program offers child-care services;

6 (D) that informs the parent or guardian:

7 (i) that the program is not licensed by the  
8 state; and

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

11 (E) that conducts background checks for all  
12 program employees and volunteers who work with children in the  
13 program using information that is obtained from the Department of  
14 Public Safety;

15 (19) an elementary-age (ages 5-13) recreation program  
16 that:

17 (A) adopts standards of care, including  
18 standards relating to staff ratios, staff training, health, and  
19 safety;

20 (B) provides a mechanism for monitoring and  
21 enforcing the standards and receiving complaints from parents of  
22 enrolled children;

23 (C) does not advertise as or otherwise represent  
24 the program as a child-care facility, day-care center, or licensed  
25 before-school or after-school program or that the program offers  
26 child-care services;

27 (D) informs parents that the program is not

1 licensed by the state;

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

4 (F) does not accept any remuneration other than a  
5 nominal annual membership fee;

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

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

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

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

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

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

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

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

26 (A) the department is the managing conservator of  
27 the child or sibling group;

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

3 (C) the caretaker had a long-standing and  
4 significant relationship with the child or sibling group before the  
5 child or sibling group was placed with the caretaker;

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

11 (23) a facility operated by a nonprofit organization  
12 that:

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

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

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

22 (D) meets one of the following criteria:

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

26 (ii) meets the eligibility requirements for  
27 a contract under Section [51.005\(b\)\(3\)](#); or

1           (24) a facility that provides respite care exclusively  
2 for a local mental health authority under a contract with the local  
3 mental health authority.

4           SECTION 23. Section 42.042, Human Resources Code, is  
5 amended by amending Subsections (e-1), (g), and (h-1) and adding  
6 Subsection (s) to read as follows:

7           (e-1) The department may not prohibit possession of  
8 lawfully permitted firearms and ammunition in [~~a foster home of any~~  
9 ~~type, including a foster group home, a foster home, an agency foster~~  
10 ~~group home, and~~] an agency foster home. Minimum standards may be  
11 adopted under this section relating to safety and proper storage of  
12 firearms and ammunition, including standards requiring firearms  
13 and ammunition to be stored separately in locked locations.

14           (g) In promulgating minimum standards the executive  
15 commissioner may recognize and treat differently the types of  
16 services provided by the following:

- 17           (1) registered family homes;
- 18           (2) child-care facilities, including general  
19 residential operations, foster family operations [~~group homes~~],  
20 specialized child-care [~~foster~~] homes, group day-care homes, and  
21 day-care centers;
- 22           (3) child-placing agencies;
- 23           (4) agency foster homes;
- 24           (5) continuum-of-care residential operations [~~agency~~  
25 ~~foster group homes~~];
- 26           (6) before-school or after-school programs; and
- 27           (7) school-age programs.



1 (h-1) The executive commissioner shall adopt rules  
2 governing:

3 (1) the placement and care of children by a  
4 child-placing agency, as necessary to ensure the health and safety  
5 of those children;

6 (2) the verification and monitoring of agency foster  
7 homes[~~, agency foster group homes,~~] and adoptive homes by a  
8 child-placing agency; and

9 (3) if appropriate, child-placing agency staffing  
10 levels, office locations, and administration.

11 (s) A continuum-of-care residential operation shall ensure  
12 that each residential child-care facility operating under the  
13 operation's license complies with this chapter and any standards  
14 and rules adopted under this chapter that apply to the facility.  
15 The executive commissioner by rule may prescribe the actions a  
16 continuum-of-care residential operation must take to comply with  
17 the minimum standards for each facility type.

18 SECTION 24. Section 42.0421(e), Human Resources Code, is  
19 amended to read as follows:

20 (e) In addition to other training required by this section,  
21 the executive commissioner by rule shall require an owner,  
22 operator, or employee of a day-care center, group day-care home,  
23 registered family home, general residential operation, foster  
24 family operation [~~group home~~], or specialized child-care [~~agency~~  
25 ~~foster group~~] home who transports a child under the care of the  
26 facility whose chronological or developmental age is younger than  
27 nine years of age to complete at least two hours of annual training

1 on transportation safety.

2 SECTION 25. Section 42.044(e), Human Resources Code, is  
3 amended to read as follows:

4 (e) In addition to the department's responsibility to  
5 investigate an agency foster home [~~or agency foster group home~~]  
6 under Subsection (c), the department shall:

7 (1) periodically conduct inspections of a random  
8 sample of agency foster homes [~~and agency foster group homes~~];

9 (2) investigate any report of a serious incident in an  
10 agency foster home [~~or agency foster group home~~] that pertains to a  
11 child under the age of six;

12 (3) investigate any alleged violation of a minimum  
13 standard by an agency foster home [~~or agency foster group home~~] that  
14 poses a high degree of risk to a child in the care of the home who is  
15 under the age of six; and

16 (4) conduct at least one annual enforcement team  
17 conference for each child-placing agency to thoroughly review the  
18 investigations or inspections of the child-placing agency and all  
19 of its agency foster homes to monitor and enforce compliance by a  
20 child-placing agency with rules and standards established under  
21 Section 42.042.

22 SECTION 26. Section 42.0448, Human Resources Code, is  
23 amended to read as follows:

24 Sec. 42.0448. NOTIFICATION OF FAMILY VIOLENCE CALLS. The  
25 department shall notify a child-placing agency or a  
26 continuum-of-care residential operation that includes a  
27 child-placing agency of each family violence report the department

1 receives under Article 5.05, Code of Criminal Procedure, that:

2 (1) occurred at an agency foster home verified by the  
3 child-placing agency; or

4 (2) involves a person who resides at an agency foster  
5 home verified by the child-placing agency.

6 SECTION 27. Section 42.0449, Human Resources Code, is  
7 amended to read as follows:

8 Sec. 42.0449. REQUIRED ACTIONS AFTER NOTICE OF FAMILY  
9 VIOLENCE CALL. The executive commissioner shall adopt rules  
10 specifying the actions that the department, a specialized  
11 child-care [~~an independent foster~~] home, [~~and~~] a child-placing  
12 agency, and a continuum-of-care residential operation that  
13 includes a child-placing agency shall take after receiving notice  
14 of a family violence report under Article 5.05, Code of Criminal  
15 Procedure, or Section 42.0448 to ensure the health, safety, and  
16 welfare of each child residing in the specialized child-care  
17 [~~licensed foster~~] home or verified agency foster home.

18 SECTION 28. Section 42.045(d), Human Resources Code, is  
19 amended to read as follows:

20 (d) A [~~An independent foster home and a~~] child-placing  
21 agency or a specialized child-care home that is the primary  
22 residence of a caregiver shall notify the department of any change  
23 of address for [~~a licensed foster home or~~] a verified agency foster  
24 home or specialized child-care home. The [~~independent foster home~~  
25 ~~and~~] child-placing agency and specialized child-care home shall  
26 notify the department of the address change within the earlier of  
27 two business days or 72 hours of the date the verified agency foster

1 home or specialized child-care home changes its address.

2 SECTION 29. The heading to Section 42.0451, Human Resources  
3 Code, is amended to read as follows:

4 Sec. 42.0451. DATABASE OF VERIFIED AGENCY FOSTER HOMES AND  
5 SPECIALIZED CHILD-CARE HOMES; INFORMATION PROVIDED TO DEPARTMENT  
6 OF PUBLIC SAFETY.

7 SECTION 30. Sections 42.0451(a) and (c), Human Resources  
8 Code, are amended to read as follows:

9 (a) The department shall maintain a database of specialized  
10 child-care [~~licensed foster~~] homes that are the primary residence  
11 of a caregiver and verified agency foster homes including the  
12 current address for each specialized child-care home [~~licensed~~] or  
13 verified agency foster home as reported to the department. The  
14 database must be updated on a regular basis.

15 (c) The Department of Public Safety shall include the  
16 information provided under Subsection (b) in the Texas Crime  
17 Information Center database and establish a procedure by which a  
18 peace officer or employee of a law enforcement agency who provides  
19 the department with a street address is automatically provided  
20 information as to whether the address is licensed as a specialized  
21 child-care home at the primary residence of a caregiver [~~foster~~  
22 ~~home~~] or verified as an agency foster home under this chapter.

23 SECTION 31. Section 42.0452, Human Resources Code, is  
24 amended to read as follows:

25 Sec. 42.0452. FOSTER PARENT RIGHTS AND RESPONSIBILITIES  
26 STATEMENT. (a) The department shall develop a statement that lists  
27 the rights and responsibilities of a foster parent in a specialized

1 child-care [~~foster~~] home or an agency foster home and of the  
2 department or a child-placing agency, as applicable.

3 (b) The department shall provide a written copy of the  
4 statement developed under Subsection (a) to each foster parent in a  
5 specialized child-care [~~foster~~] home and to each child-placing  
6 agency licensed by the department. A child-placing agency shall  
7 provide a written copy of the statement developed under Subsection  
8 (a) to each foster parent in an agency foster home verified by the  
9 child-placing agency.

10 SECTION 32. Section 42.046(a), Human Resources Code, is  
11 amended to read as follows:

12 (a) An applicant for a license to operate a child-care  
13 facility, ~~[or]~~ child-placing agency, or continuum-of-care  
14 residential operation or for a listing or registration to operate a  
15 family home shall submit to the department the appropriate fee  
16 prescribed by Section 42.054 and a completed application on a form  
17 provided by the department.

18 SECTION 33. The heading to Section 42.0461, Human Resources  
19 Code, is amended to read as follows:

20 Sec. 42.0461. PUBLIC NOTICE AND HEARING [~~IN CERTAIN~~  
21 ~~COUNTIES~~]: RESIDENTIAL CHILD CARE.

22 SECTION 34. Sections 42.0461(a), (d), and (e), Human  
23 Resources Code, are amended to read as follows:

24 (a) Before the department may issue a license or certificate  
25 for the operation or the expansion of the capacity [~~of a foster~~  
26 ~~group home or foster family home that is located in a county with a~~  
27 ~~population of less than 300,000 and that provides child care for 24~~

1 ~~hours a day at a location other than the actual residence of a~~  
2 ~~child's primary caretaker or]~~ of a general residential operation or  
3 a continuum-of-care residential operation, the applicant for the  
4 license, certificate, or expansion shall, at the applicant's  
5 expense:

6 (1) conduct a public hearing on the application in  
7 accordance with department rules after notifying the department of  
8 the date, time, and location of the hearing; and

9 (2) publish notice of the application in a newspaper  
10 of general circulation in the community in which the child-care  
11 services are proposed to be provided.

12 (d) Before issuing a license or certificate described by  
13 Subsection (a), the department shall consider written information  
14 provided by an interested party directly to the department's  
15 representative at the public hearing concerning:

16 (1) the amount of local resources available to support  
17 children proposed to be served by the applicant;

18 (2) the impact of the proposed child-care services on  
19 the ratio in the local school district of students enrolled in a  
20 special education program to students enrolled in a regular  
21 education program and the effect, if any, on the children proposed  
22 to be served by the applicant; and

23 (3) the impact of the proposed child-care services on  
24 the community and the effect on opportunities for social  
25 interaction for the children proposed to be served by the  
26 applicant.

27 (e) Based on the written information provided to the

1 department's representative at the public hearing, the [The]  
2 department may deny the application if the department determines  
3 that:

4 (1) the community has insufficient resources to  
5 support children proposed to be served by the applicant;

6 (2) granting the application would significantly  
7 increase the ratio in the local school district of students  
8 enrolled in a special education program to students enrolled in a  
9 regular education program and the increase would adversely affect  
10 the children proposed to be served by the applicant; or

11 (3) granting the application would have a significant  
12 adverse impact on the community and would limit opportunities for  
13 social interaction for the children proposed to be served by the  
14 applicant.

15 SECTION 35. Subchapter C, Chapter 42, Human Resources Code,  
16 is amended by adding Section 42.0463 to read as follows:

17 Sec. 42.0463. EXPANSION OF CAPACITY. Notwithstanding the  
18 limitations established by Section 42.002, the department may issue  
19 an exception in accordance with department rules allowing an agency  
20 foster home, cottage family home, or specialized child-care home to  
21 expand its capacity and care for not more than eight children.

22 SECTION 36. Section 42.048(e), Human Resources Code, is  
23 amended to read as follows:

24 (e) A license issued under this chapter is not transferable  
25 and applies only to the operator and facility location stated in the  
26 license application. Except as provided by this subsection, a  
27 change in location or ownership automatically revokes a license. A

1 change in location of a child-placing agency does not automatically  
2 revoke the license to operate the child-placing agency. A  
3 residential child-care facility operating under the license of a  
4 continuum-of-care residential operation that changes location may  
5 not continue to operate under that license unless the department  
6 approves the new location after the continuum-of-care residential  
7 operation meets all requirements related to the new location.

8 SECTION 37. Section 42.053, Human Resources Code, is  
9 amended to read as follows:

10 Sec. 42.053. AGENCY FOSTER HOMES [~~AND AGENCY FOSTER GROUP~~  
11 ~~HOMES~~]. (a) An agency foster home [~~or agency foster group home~~] is  
12 considered part of the child-placing agency that operates the  
13 agency foster home [~~or agency foster group home~~] for purposes of  
14 licensing.

15 (b) The operator of a licensed agency shall display a copy  
16 of the license in a prominent place in the agency foster home [~~or~~  
17 ~~agency foster group home~~] used by the agency.

18 (c) An agency foster home [~~or agency foster group home~~]  
19 shall comply with all provisions of this chapter and all department  
20 rules and standards that apply to a child-care facility caring for a  
21 similar number of children for a similar number of hours each day.

22 (d) The department shall revoke or suspend the license of a  
23 child-placing agency if an agency foster home [~~or agency foster~~  
24 ~~group home~~] operated by the licensed agency fails to comply with  
25 Subsection (c).

26 (e) Before verifying an agency foster home, a child-placing  
27 agency may issue a provisional verification to the home. The



1 executive commissioner by rule may establish the criteria for a  
2 child-placing agency to issue a provisional verification to a  
3 prospective agency foster home.

4 (f) If a child-placing agency under contract with the child  
5 protective services division of the department to provide services  
6 as an integrated care coordinator places children with caregivers  
7 described by Subchapter I, Chapter 264, Family Code, those  
8 caregivers are not considered a part of the child-placing agency  
9 for purposes of licensing.

10 SECTION 38. Section 42.0531, Human Resources Code, is  
11 amended to read as follows:

12 Sec. 42.0531. SECURE AGENCY FOSTER HOMES [~~AND SECURE AGENCY~~  
13 ~~FOSTER GROUP HOMES~~]. (a) The commissioners court of a county or  
14 governing body of a municipality may contract with a child-placing  
15 agency to verify a secure agency foster home [~~or secure agency~~  
16 ~~foster group home~~] to provide a safe and therapeutic environment  
17 tailored to the needs of children who are victims of trafficking.

18 (b) A child-placing agency may not verify a secure agency  
19 foster home [~~or secure agency foster group home~~] to provide  
20 services under this section unless the child-placing agency holds a  
21 license issued under this chapter that authorizes the agency to  
22 provide services to victims of trafficking in accordance with  
23 department standards adopted under this chapter for child-placing  
24 agencies.

25 (c) A secure agency foster home [~~or secure agency foster~~  
26 ~~group home~~] verified under this section must provide:

27 (1) mental health and other services specifically

1 designed to assist children who are victims of trafficking under  
2 Section 20A.02 or 20A.03, Penal Code, including:

- 3 (A) victim and family counseling;
- 4 (B) behavioral health care;
- 5 (C) treatment and intervention for sexual  
6 assault;
- 7 (D) education tailored to the child's needs;
- 8 (E) life skills training;
- 9 (F) mentoring; and
- 10 (G) substance abuse screening and treatment as  
11 needed;

12 (2) individualized services based on the trauma  
13 endured by a child, as determined through comprehensive assessments  
14 of the service needs of the child;

15 (3) 24-hour services; and

16 (4) appropriate security through facility design,  
17 hardware, technology, and staffing.

18 SECTION 39. Sections 42.0535(a), (b), (d), and (e), Human  
19 Resources Code, are amended to read as follows:

20 (a) A child-placing agency that seeks to verify an agency  
21 home [~~or an agency group home~~] shall request background information  
22 about the agency home [~~or group home~~] from a child-placing agency  
23 that has previously verified that agency home [~~or agency group~~  
24 ~~home~~].

25 (b) Notwithstanding Section 261.201, Family Code, a  
26 child-placing agency that has verified an agency home [~~or an agency~~  
27 ~~group home~~] is required to release to another child-placing agency

1 background information requested under Subsection (a).

2 (d) For purposes of this section, background information  
3 means the home study under which the agency home [~~or agency group~~  
4 ~~home~~] was verified by the previous child-placing agency and any  
5 record of noncompliance with state minimum standards received and  
6 the resolution of any such noncompliance by the previous  
7 child-placing agency.

8 (e) The executive commissioner by rule shall develop a  
9 process by which a child-placing agency shall report to the  
10 department:

11 (1) the name of any verified agency foster home [~~or~~  
12 ~~foster group home~~] that has been closed for any reason, including a  
13 voluntary closure;

14 (2) information regarding the reasons for the closure  
15 of the agency foster home [~~or foster group home~~]; and

16 (3) the name and other contact information of a person  
17 who may be contacted by another child-placing agency to obtain the  
18 records relating to the closed agency foster home [~~or foster group~~  
19 ~~home~~] that are required to be maintained and made available under  
20 this section.

21 SECTION 40. Sections [42.054](#)(a), (d), and (g), Human  
22 Resources Code, are amended to read as follows:

23 (a) The department shall charge an applicant a  
24 nonrefundable application fee for an initial license to operate a  
25 child-care facility, [~~or~~] a child-placing agency, or a  
26 continuum-of-care residential operation.

27 (d) The department shall charge each licensed child-placing

1 agency or continuum-of-care residential operation an annual  
2 license fee. The fee is due on the date on which the department  
3 issues the [~~child-placing agency's~~] initial license to the  
4 child-placing agency or continuum-of-care residential operation  
5 and on the anniversary of that date.

6 (g) The provisions of Subsections (b) through (f) do not  
7 apply to:

8 (1) [~~licensed foster homes and licensed foster group~~  
9 ~~homes,~~

10 [~~(2)~~] nonprofit facilities regulated under this  
11 chapter that provided 24-hour care for children in the managing  
12 conservatorship of the department during the 12-month period  
13 immediately preceding the anniversary date of the facility's  
14 license;

15 (2) [~~(3)~~] facilities operated by a nonprofit  
16 corporation or foundation that provides 24-hour residential care  
17 and does not charge for the care provided; or

18 (3) [~~(4)~~] a family home listed under Section 42.0523  
19 in which the relative child-care provider cares for the child in the  
20 child's own home.

21 SECTION 41. Section 42.0561, Human Resources Code, is  
22 amended to read as follows:

23 Sec. 42.0561. INFORMATION RELATING TO FAMILY VIOLENCE  
24 REPORTS. Before [~~the department may issue a license or~~  
25 ~~registration for a foster home or~~] a child-placing agency may issue  
26 a verification certificate for an agency foster home, the  
27 [~~department or~~] child-placing agency must obtain information

1 relating to each family violence report at the applicant's  
2 residence to which a law enforcement agency responded during the 12  
3 months preceding the date of the application. The applicant shall  
4 provide the information on a form prescribed by the department.

5 SECTION 42. Section 42.063(d), Human Resources Code, is  
6 amended to read as follows:

7 (d) An employee or volunteer of a general residential  
8 operation, child-placing agency, continuum-of-care residential  
9 operation, foster family operation [~~home~~], or specialized  
10 child-care [~~foster group~~] home shall report any serious incident  
11 directly to the department if the incident involves a child under  
12 the care of the operation, agency, or home.

13 SECTION 43. Sections 42.0461(f) and (g), Human Resources  
14 Code, are repealed.

15 SECTION 44. This Act applies only to a license or  
16 registration issued or renewed on or after the effective date of  
17 this Act. Facilities licensed or registered in a facility category  
18 that is not continued following the changes in law made by this Act  
19 shall continue to operate under the license or registration as it  
20 existed before the effective date of this Act until the license or  
21 registration is expired. The facilities must renew a license or  
22 registration under the new license or registration category.

23 SECTION 45. This Act takes effect September 1, 2017.