

By: Schwertner, et al.
(Klick)

S.B. No. 1208

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

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

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

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

(3) did not perform satisfactorily on an assessment

1 instrument administered to the student under Subchapter B, Chapter
2 39, and who has not in the previous or current school year
3 subsequently performed on that instrument or another appropriate
4 instrument at a level equal to at least 110 percent of the level of
5 satisfactory performance on that instrument;

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

10 (5) is pregnant or is a parent;

11 (6) has been placed in an alternative education
12 program in accordance with Section 37.006 during the preceding or
13 current school year;

14 (7) has been expelled in accordance with Section
15 37.007 during the preceding or current school year;

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

18 (9) was previously reported through the Public
19 Education Information Management System (PEIMS) to have dropped out
20 of school;

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

23 (11) is in the custody or care of the Department of
24 Family and Protective [~~and Regulatory~~] Services or has, during the
25 current school year, been referred to the department by a school
26 official, officer of the juvenile court, or law enforcement
27 official;

1 (12) is homeless, as defined by 42 U.S.C. Section
2 11302, and its subsequent amendments; or

3 (13) resided in the preceding school year or resides
4 in the current school year in a residential placement facility in
5 the district, including a detention facility, substance abuse
6 treatment facility, emergency shelter, psychiatric hospital,
7 halfway house, cottage home operation, specialized child-care
8 home, or general residential operation [~~foster group home~~].

9 SECTION 3. Section 101.0133, Family Code, is amended to
10 read as follows:

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

20 SECTION 4. Section 101.017, Family Code, is amended to read
21 as follows:

22 Sec. 101.017. LICENSED CHILD PLACING AGENCY. "Licensed
23 child placing agency" means a person, including an organization or
24 corporation, licensed or certified under Chapter 42, Human
25 Resources Code, by the Department of Family and Protective Services
26 to place a child in an adoptive home or a residential child-care
27 facility, including a child-care facility, agency foster home,

1 cottage home operation, or general residential operation [~~agency~~
2 ~~foster group home, or adoptive home~~].

3 SECTION 5. Section 262.011, Family Code, as added by
4 Chapter 338 (H.B. 418), Acts of the 84th Legislature, Regular
5 Session, 2015, is amended to read as follows:

6 Sec. 262.011. PLACEMENT IN SECURE AGENCY FOSTER HOME [~~OR~~
7 ~~SECURE AGENCY FOSTER GROUP HOME~~]. A court in an emergency, initial,
8 or full adversary hearing conducted under this chapter may order
9 that the child who is the subject of the hearing be placed in a
10 secure agency foster home [~~or secure agency foster group home~~]
11 verified in accordance with Section 42.0531, Human Resources Code,
12 if the court finds that:

13 (1) the placement is in the best interest of the child;
14 and

15 (2) the child's physical health or safety is in danger
16 because the child has been recruited, harbored, transported,
17 provided, or obtained for forced labor or commercial sexual
18 activity, including any child subjected to an act specified in
19 Section 20A.02 or 20A.03, Penal Code.

20 SECTION 6. Section 263.008(a)(1), Family Code, is amended
21 to read as follows:

22 (1) "Agency foster [~~group~~] home[~~7~~]" and [~~"agency~~
23 ~~foster home,~~"] "facility[~~7~~]" [~~"foster group home," and "foster~~
24 ~~home"~~] have the meanings assigned by Section 42.002, Human
25 Resources Code.

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

1 (e) An [~~agency foster group home,~~] agency foster home[~~7~~
2 ~~foster group home, foster home,~~] or other residential child-care
3 facility in which a child is placed in foster care shall provide a
4 copy of the foster children's bill of rights to a child on the
5 child's request. The foster children's bill of rights must be
6 printed in English and in a second language.

7 SECTION 8. Section 264.0111(a), Family Code, is amended to
8 read as follows:

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

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

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

19 (A) is appointed to provide substitute care for
20 the child, but is not [~~licensed by the department or~~] verified by a
21 licensed child-placing agency [~~or the department~~] to operate an [~~a~~
22 ~~foster home, foster group home,~~] agency foster home[~~7~~ ~~or agency~~
23 ~~foster group home~~] under Chapter 42, Human Resources Code; or

24 (B) is subsequently appointed permanent managing
25 conservator of the child after providing the care described by
26 Paragraph (A).

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

1 (A) provides substitute care for a child for whom
2 the department has been appointed managing conservator, but who is
3 not [~~licensed by the department or~~] verified by a licensed
4 child-placing agency [~~or the department~~] to operate an [~~a foster~~
5 ~~home, foster group home,~~] agency foster home[~~, or agency foster~~
6 ~~group home~~] under Chapter 42, Human Resources Code; or

7 (B) is subsequently appointed permanent managing
8 conservator of the child after providing the care described by
9 Paragraph (A).

10 SECTION 10. Section 264.760, Family Code, is amended to
11 read as follows:

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

22 SECTION 11. Section 264.8521, Family Code, is amended to
23 read as follows:

24 Sec. 264.8521. NOTICE TO APPLICANTS. At the time a person
25 applies to become [~~licensed by the department or~~] verified by a
26 licensed child-placing agency [~~or the department~~] to provide foster
27 care in order to qualify for the permanency care assistance

1 program, the department or the child-placing agency shall:

2 (1) notify the applicant that a background check,
3 including a criminal history record check, will be conducted on the
4 individual; and

5 (2) inform the applicant about criminal convictions
6 that:

7 (A) preclude an individual from becoming a
8 ~~[licensed foster home or]~~ verified agency foster home; and

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

11 SECTION 12. Section 531.151(3), Government Code, is amended
12 to read as follows:

13 (3) "Institution" means:

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

16 (B) a group home operated under the authority of
17 the commission ~~[Department of Aging and Disability Services]~~,
18 including a residential service provider under a Medicaid waiver
19 program authorized under Section 1915(c) of the federal Social
20 Security Act (42 U.S.C. Section 1396n), as amended, that provides
21 services at a residence other than the child's home 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 commission [~~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 13. 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 14. 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 15. Section 42.002, Human Resources Code, is
6 amended by amending Subdivisions (4), (5), (6), (10), (11), (12),
7 (13), and (19) and adding Subdivision (24) 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) "Cottage [~~Foster~~] home operation" means cottage
19 family 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 [~~a child-care facility that provides~~
25 ~~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 cottage home 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 (11) "Agency foster home" means a facility that
10 provides care for not more than six children for 24 hours a day, is
11 used only by a licensed child-placing agency or continuum-of-care
12 residential operation, and meets department standards.

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

18 (13) "Facilities" includes child-care facilities,
19 ~~[and]~~ child-placing agencies, and continuum-of-care residential
20 operations.

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

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

3 (A) based on the size of the home and the
4 children's needs, provides care for not more than six children for
5 24 hours a day; and

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

8 SECTION 16. Subchapter A, Chapter 42, Human Resources Code,
9 is amended by adding Section 42.0031 to read as follows:

10 Sec. 42.0031. REFERENCE TO PART OF CONTINUUM-OF-CARE
11 OPERATION. With respect to a continuum-of-care operation, a
12 reference in this code or in any other law to a type of residential
13 child-care facility that is a part of a continuum-of-care operation
14 shall be construed as a reference to that portion of the
15 continuum-of-care operation, and the department may take all
16 regulatory action with respect to the continuum-of-care operation
17 that the department could take with respect to the type of
18 residential child-care facility, as further specified in
19 department rule.

20 SECTION 17. Section 42.041(b), Human Resources Code, is
21 amended to read as follows:

22 (b) This section does not apply to:

23 (1) a state-operated facility;

24 (2) an agency foster home [~~or agency foster group~~
25 ~~home~~];

26 (3) a facility that is operated in connection with a
27 shopping center, business, religious organization, or

1 establishment where children are cared for during short periods
2 while parents or persons responsible for the children are attending
3 religious services, shopping, or engaging in other activities,
4 including retreats or classes for religious instruction, on or near
5 the premises, that does not advertise as a child-care facility or
6 day-care center, and that informs parents that it is not licensed by
7 the state;

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

11 (5) a youth camp licensed by the Department of State
12 Health Services;

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

15 (7) an educational facility that is accredited by the
16 Texas Education Agency, the Southern Association of Colleges and
17 Schools, or an accreditation body that is a member of the Texas
18 Private School Accreditation Commission and that operates
19 primarily for educational purposes for prekindergarten and above, a
20 before-school or after-school program operated directly by an
21 accredited educational facility, or a before-school or
22 after-school program operated by another entity under contract with
23 the educational facility, if the Texas Education Agency, the
24 Southern Association of Colleges and Schools, or the other
25 accreditation body, as applicable, has approved the curriculum
26 content of the before-school or after-school program operated under
27 the contract;

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

9 (9) a kindergarten or preschool educational program
10 that is operated as part of a public school or a private school
11 accredited by the Texas Education Agency, that offers educational
12 programs through grade six, and that does not provide custodial
13 care during the hours before or after the customary school day;

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

15 (11) an educational facility that is integral to and
16 inseparable from its sponsoring religious organization or an
17 educational facility both of which do not provide custodial care
18 for more than two hours maximum per day, and that offers an
19 educational program in one or more of the following:
20 prekindergarten through at least grade three, elementary grades, or
21 secondary grades;

22 (12) an emergency shelter facility, other than a
23 facility that would otherwise require a license as a child-care
24 facility under this section, that provides shelter or care to a
25 minor and the minor's child or children, if any, under Section
26 [32.201](#), Family Code, if the facility:

27 (A) is currently under a contract with a state or

1 federal agency; or

2 (B) meets the requirements listed under Section
3 51.005(b)(3);

4 (13) a juvenile detention facility certified under
5 Section 51.12, Family Code, a juvenile correctional facility
6 certified under Section 51.125, Family Code, a juvenile facility
7 providing services solely for the Texas Juvenile Justice
8 Department, or any other correctional facility for children
9 operated or regulated by another state agency or by a political
10 subdivision of the state;

11 (14) an elementary-age (ages 5-13) recreation program
12 operated by a municipality provided the governing body of the
13 municipality annually adopts standards of care by ordinance after a
14 public hearing for such programs, that such standards are provided
15 to the parents of each program participant, and that the ordinances
16 shall include, at a minimum, staffing ratios, minimum staff
17 qualifications, minimum facility, health, and safety standards,
18 and mechanisms for monitoring and enforcing the adopted local
19 standards; and further provided that parents be informed that the
20 program is not licensed by the state and the program may not be
21 advertised as a child-care facility;

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

26 (16) a food distribution program that:

27 (A) serves an evening meal to children two years

1 of age or older; and

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

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

8 (18) a program:

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

11 (B) that does not provide services or offerings
12 that are not directly related to the single talent, ability,
13 expertise, or proficiency;

14 (C) that does not advertise or otherwise
15 represent that the program is a child-care facility, day-care
16 center, or licensed before-school or after-school program or that
17 the program offers child-care services;

18 (D) that informs the parent or guardian:

19 (i) that the program is not licensed by the
20 state; and

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

23 (E) that conducts background checks for all
24 program employees and volunteers who work with children in the
25 program using information that is obtained from the Department of
26 Public Safety;

27 (19) an elementary-age (ages 5-13) recreation program

1 that:

2 (A) adopts standards of care, including
3 standards relating to staff ratios, staff training, health, and
4 safety;

5 (B) provides a mechanism for monitoring and
6 enforcing the standards and receiving complaints from parents of
7 enrolled children;

8 (C) does not advertise as or otherwise represent
9 the program as a child-care facility, day-care center, or licensed
10 before-school or after-school program or that the program offers
11 child-care services;

12 (D) informs parents that the program is not
13 licensed by the state;

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

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

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

20 (H) conducts background checks for all program
21 employees and volunteers who work with children in the program
22 using information that is obtained from the Department of Public
23 Safety;

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

27 (A) had a prior relationship with the child or

1 sibling group or other family members of the child or sibling group;

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

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

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

8 (21) 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:

11 (A) the department is the managing conservator of
12 the child or sibling group;

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

15 (C) the caretaker had a long-standing and
16 significant relationship with the child or sibling group before the
17 child or sibling group was placed with the caretaker;

18 (22) a living arrangement in a caretaker's home
19 involving one or more children or a sibling group, excluding
20 children who are related to the caretaker, in which the child is in
21 the United States on a time-limited visa under the sponsorship of
22 the caretaker or of a sponsoring organization; [~~or~~]

23 (23) a facility operated by a nonprofit organization
24 that:

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

27 (B) provides emergency shelter and care for not

1 more than 15 days to children 13 years of age or older but younger
2 than 18 years of age who are victims of human trafficking alleged
3 under Section 20A.02, Penal Code;

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

7 (D) meets one of the following criteria:

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

11 (ii) meets the eligibility requirements for
12 a contract under Section 51.005(b)(3); or

13 (24) a facility that provides respite care exclusively
14 for a local mental health authority under a contract with the local
15 mental health authority.

16 SECTION 18. Section 42.042, Human Resources Code, is
17 amended by amending Subsections (e-1), (g), and (h-1) and adding
18 Subsection (s) to read as follows:

19 (e-1) The department may not prohibit possession of
20 lawfully permitted firearms and ammunition in [~~a foster home of any~~
21 ~~type, including a foster group home, a foster home, an agency foster~~
22 ~~group home, and~~] an agency foster home. Minimum standards may be
23 adopted under this section relating to safety and proper storage of
24 firearms and ammunition, including standards requiring firearms
25 and ammunition to be stored separately in locked locations.

26 (g) In promulgating minimum standards the executive
27 commissioner may recognize and treat differently the types of

1 services provided by the following:

- 2 (1) registered family homes;
- 3 (2) child-care facilities, including general
4 residential operations, cottage home operations [~~foster group~~
5 ~~homes~~], specialized child-care [~~foster~~] homes, group day-care
6 homes, and day-care centers;
- 7 (3) child-placing agencies;
- 8 (4) agency foster homes;
- 9 (5) continuum-of-care residential operations [~~agency~~
10 ~~foster group homes~~];
- 11 (6) before-school or after-school programs; and
- 12 (7) school-age programs.

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

- 15 (1) the placement and care of children by a
16 child-placing agency, as necessary to ensure the health and safety
17 of those children;
- 18 (2) the verification and monitoring of agency foster
19 homes[~~, agency foster group homes,~~] and adoptive homes by a
20 child-placing agency; and
- 21 (3) if appropriate, child-placing agency staffing
22 levels, office locations, and administration.

23 (s) A continuum-of-care residential operation shall ensure
24 that each residential child-care facility operating under the
25 operation's license complies with this chapter and any standards
26 and rules adopted under this chapter that apply to the facility.
27 The executive commissioner by rule may prescribe the actions a

1 continuum-of-care residential operation must take to comply with
2 the minimum standards for each facility type.

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

5 (e) In addition to other training required by this section,
6 the executive commissioner by rule shall require an owner,
7 operator, or employee of a day-care center, group day-care home,
8 registered family home, general residential operation, cottage
9 home operation [~~foster group home~~], or specialized child-care
10 [~~agency foster group~~] home who transports a child under the care of
11 the facility whose chronological or developmental age is younger
12 than nine years of age to complete at least two hours of annual
13 training on transportation safety.

14 SECTION 20. Section 42.044(e), Human Resources Code, is
15 amended to read as follows:

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

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

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

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

1 (4) conduct at least one annual enforcement team
2 conference for each child-placing agency to thoroughly review the
3 investigations or inspections of the child-placing agency and all
4 of its agency foster homes to monitor and enforce compliance by a
5 child-placing agency with rules and standards established under
6 Section 42.042.

7 SECTION 21. Section 42.0448, Human Resources Code, is
8 amended to read as follows:

9 Sec. 42.0448. NOTIFICATION OF FAMILY VIOLENCE CALLS. The
10 department shall notify a child-placing agency or a
11 continuum-of-care residential operation that includes a
12 child-placing agency of each family violence report the department
13 receives under Article 5.05, Code of Criminal Procedure, that:

14 (1) occurred at an agency foster home [~~verified by the~~
15 ~~child-placing agency~~]; or

16 (2) involves a person who resides at an agency foster
17 home [~~verified by the child-placing agency~~].

18 SECTION 22. Section 42.0449, Human Resources Code, is
19 amended to read as follows:

20 Sec. 42.0449. REQUIRED ACTIONS AFTER NOTICE OF FAMILY
21 VIOLENCE CALL. The executive commissioner shall adopt rules
22 specifying the actions that the department, [~~an independent foster~~
23 ~~home, and~~] a child-placing agency, and a continuum-of-care
24 residential operation that includes a child-placing agency shall
25 take after receiving notice of a family violence report under
26 Article 5.05, Code of Criminal Procedure, or Section 42.0448 to
27 ensure the health, safety, and welfare of each child residing in the

1 ~~[licensed foster home or]~~ verified agency foster home.

2 SECTION 23. Section 42.045(d), Human Resources Code, is
3 amended to read as follows:

4 (d) A ~~[An independent foster home and a]~~ child-placing
5 agency shall notify the department of any change of address for an
6 ~~[a licensed foster home or a verified]~~ agency foster home. The
7 ~~[independent foster home and]~~ child-placing agency shall notify the
8 department of the address change within the earlier of two business
9 days or 72 hours of the date the agency foster home changes its
10 address.

11 SECTION 24. The heading to Section 42.0451, Human Resources
12 Code, is amended to read as follows:

13 Sec. 42.0451. DATABASE OF AGENCY FOSTER HOMES; INFORMATION
14 PROVIDED TO DEPARTMENT OF PUBLIC SAFETY.

15 SECTION 25. Sections 42.0451(a) and (c), Human Resources
16 Code, are amended to read as follows:

17 (a) The department shall maintain a database of ~~[licensed~~
18 ~~foster homes and verified]~~ agency foster homes including the
19 current address for each agency foster ~~[licensed or verified]~~ home
20 as reported to the department. The database must be updated on a
21 regular basis.

22 (c) The Department of Public Safety shall include the
23 information provided under Subsection (b) in the Texas Crime
24 Information Center database and establish a procedure by which a
25 peace officer or employee of a law enforcement agency who provides
26 the department with a street address is automatically provided
27 information as to whether the address is ~~[licensed as a foster home~~

1 ~~or~~] verified as an agency foster home under this chapter.

2 SECTION 26. Section 42.0452, Human Resources Code, is
3 amended to read as follows:

4 Sec. 42.0452. FOSTER PARENT RIGHTS AND RESPONSIBILITIES
5 STATEMENT. (a) The department shall develop a statement that
6 lists the rights and responsibilities of a foster parent in [~~a~~
7 ~~foster home or~~] an agency foster home and [~~of the department or~~] a
8 child-placing agency, as applicable.

9 (b) The department shall provide a written copy of the
10 statement developed under Subsection (a) to each foster parent in
11 an agency [~~a~~] foster home and to each child-placing agency licensed
12 by the department. A child-placing agency shall provide a written
13 copy of the statement developed under Subsection (a) to each foster
14 parent in an agency foster home verified by the child-placing
15 agency.

16 SECTION 27. Section 42.046(a), Human Resources Code, is
17 amended to read as follows:

18 (a) An applicant for a license to operate a child-care
19 facility, [~~or~~] child-placing agency, or continuum-of-care
20 residential operation or for a listing or registration to operate a
21 family home shall submit to the department the appropriate fee
22 prescribed by Section 42.054 and a completed application on a form
23 provided by the department.

24 SECTION 28. The heading to Section 42.0461, Human Resources
25 Code, is amended to read as follows:

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

1 SECTION 29. Sections 42.0461(a), (d), and (e), Human
2 Resources Code, are amended to read as follows:

3 (a) Before the department may issue a license or certificate
4 for the operation or the expansion of the capacity [~~of a foster~~
5 ~~group home or foster family home that is located in a county with a~~
6 ~~population of less than 300,000 and that provides child care for 24~~
7 ~~hours a day at a location other than the actual residence of a~~
8 ~~child's primary caretaker or~~] of a general residential operation, a
9 cottage home operation, or a continuum-of-care residential
10 operation that is located in a county with a population of less than
11 300,000, the applicant for the license, certificate, or expansion
12 shall, at the applicant's expense:

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

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

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

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

25 (2) the impact of the proposed child-care services on
26 the ratio in the local school district of students enrolled in a
27 special education program to students enrolled in a regular

1 education program and the effect, if any, on the children proposed
2 to be served by the applicant; and

3 (3) the impact of the proposed child-care services on
4 the community and the effect on opportunities for social
5 interaction for the children proposed to be served by the
6 applicant.

7 (e) Based on the written information provided to the
8 department's representative at the public hearing, the [The]
9 department may deny the application if the department determines
10 that:

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

13 (2) granting the application would significantly
14 increase the ratio in the local school district of students
15 enrolled in a special education program to students enrolled in a
16 regular education program and the increase would adversely affect
17 the children proposed to be served by the applicant; or

18 (3) granting the application would have a significant
19 adverse impact on the community and would limit opportunities for
20 social interaction for the children proposed to be served by the
21 applicant.

22 SECTION 30. Subchapter C, Chapter 42, Human Resources Code,
23 is amended by adding Section 42.0463 to read as follows:

24 Sec. 42.0463. EXPANSION OF CAPACITY. (a) Notwithstanding
25 the limitations established by Section 42.002, the department may:

26 (1) develop, by rule, criteria to determine when it
27 may be appropriate to exclude children who are related to a

1 caretaker in determining a residential child-care facility's total
2 capacity; and

3 (2) issue an exception in accordance with department
4 rules allowing an agency foster home, cottage family home, or
5 specialized child-care home to expand its capacity and care for not
6 more than eight children.

7 (b) The department may include children who are related to a
8 caretaker when determining under Subsection (a)(1) whether a
9 residential child-care facility complies with the standards
10 relating to total capacity or child-to-caregiver ratios for the
11 facility.

12 SECTION 31. Section 42.048(e), Human Resources Code, is
13 amended to read as follows:

14 (e) A license issued under this chapter is not transferable
15 and applies only to the operator and facility location stated in the
16 license application. Except as provided by this subsection, a
17 change in location or ownership automatically revokes a license. A
18 change in location of a child-placing agency does not automatically
19 revoke the license to operate the child-placing agency. A
20 residential child-care facility operating under the license of a
21 continuum-of-care residential operation that changes location may
22 not continue to operate under that license unless the department
23 approves the new location after the continuum-of-care residential
24 operation meets all requirements related to the new location.

25 SECTION 32. Section 42.053, Human Resources Code, is
26 amended to read as follows:

27 Sec. 42.053. AGENCY FOSTER HOMES [~~AND AGENCY FOSTER GROUP~~

1 ~~HOMES~~]. (a) An agency foster home [~~or agency foster group home~~] is
2 considered part of the child-placing agency that operates the
3 agency foster home [~~or agency foster group home~~] for purposes of
4 licensing.

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

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

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

16 (e) Before verifying an agency foster home, a child-placing
17 agency may issue a provisional verification to the home. The
18 executive commissioner by rule may establish the criteria for a
19 child-placing agency to issue a provisional verification to a
20 prospective agency foster home.

21 (f) If a child-placing agency under contract with the
22 division to provide services as an integrated care coordinator
23 places children with caregivers described by Subchapter I, Chapter
24 264, Family Code, those caregivers are not considered a part of the
25 child-placing agency for purposes of licensing.

26 SECTION 33. Section [42.0531](#), Human Resources Code, is
27 amended to read as follows:

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

7 (b) A child-placing agency may not verify a secure agency
8 foster home [~~or secure agency foster group home~~] to provide
9 services under this section unless the child-placing agency holds a
10 license issued under this chapter that authorizes the agency to
11 provide services to victims of trafficking in accordance with
12 department standards adopted under this chapter for child-placing
13 agencies.

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

16 (1) mental health and other services specifically
17 designed to assist children who are victims of trafficking under
18 Section 20A.02 or 20A.03, Penal Code, including:

- 19 (A) victim and family counseling;
- 20 (B) behavioral health care;
- 21 (C) treatment and intervention for sexual
22 assault;
- 23 (D) education tailored to the child's needs;
- 24 (E) life skills training;
- 25 (F) mentoring; and
- 26 (G) substance abuse screening and treatment as
27 needed;

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

4 (3) 24-hour services; and

5 (4) appropriate security through facility design,
6 hardware, technology, and staffing.

7 SECTION 34. Sections 42.0535(a), (b), (d), and (e), Human
8 Resources Code, are amended to read as follows:

9 (a) A child-placing agency that seeks to verify an agency
10 foster home [~~or an agency group home~~] shall request background
11 information about the agency foster home [~~or group home~~] from a
12 child-placing agency that has previously verified the home as an
13 [~~that~~] agency foster home or agency foster group home.

14 (b) Notwithstanding Section 261.201, Family Code, a
15 child-placing agency that has verified an agency foster home or an
16 agency foster group home is required to release to another
17 child-placing agency background information requested under
18 Subsection (a).

19 (d) For purposes of this section, background information
20 means the home study under which the agency foster home or agency
21 foster group home was verified by the previous child-placing agency
22 and any record of noncompliance with state minimum standards
23 received and the resolution of any such noncompliance by the
24 previous child-placing agency.

25 (e) The executive commissioner by rule shall develop a
26 process by which a child-placing agency shall report to the
27 department:

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

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

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

11 SECTION 35. Sections 42.054(a), (b), (d), and (g), Human
12 Resources Code, are amended to read as follows:

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

17 (b) The department shall charge each child-care facility a
18 fee for an initial license. The department shall charge each
19 child-placing agency and continuum-of-care residential operation a
20 fee for an initial license.

21 (d) The department shall charge each licensed child-placing
22 agency and continuum-of-care residential operation an annual
23 license fee. The fee is due on the date on which the department
24 issues the [~~child-placing agency's~~] initial license to the
25 child-placing agency or continuum-of-care residential operation
26 and on the anniversary of that date.

27 (g) The provisions of Subsections (b) through (f) do not

1 apply to:

2 (1) [~~licensed foster homes and licensed foster group~~
3 ~~homes,~~

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

9 (2) [~~(3)~~] facilities operated by a nonprofit
10 corporation or foundation that provides 24-hour residential care
11 and does not charge for the care provided; or

12 (3) [~~(4)~~] a family home listed under Section [42.0523](#)
13 in which the relative child-care provider cares for the child in the
14 child's own home.

15 SECTION 36. Section [42.0561](#), Human Resources Code, is
16 amended to read as follows:

17 Sec. 42.0561. INFORMATION RELATING TO FAMILY VIOLENCE
18 REPORTS. Before [~~the department may issue a license or~~
19 ~~registration for a foster home or~~] a child-placing agency may issue
20 a verification certificate for an agency foster home, the
21 [~~department or~~] child-placing agency must obtain information
22 relating to each family violence report at the applicant's
23 residence to which a law enforcement agency responded during the 12
24 months preceding the date of the application. The applicant shall
25 provide the information on a form prescribed by the department.

26 SECTION 37. Section [42.063\(d\)](#), Human Resources Code, is
27 amended to read as follows:

1 (d) An employee or volunteer of a general residential
2 operation, child-placing agency, continuum-of-care residential
3 operation, cottage home operation [~~foster home~~], or specialized
4 child-care [~~foster group~~] home shall report any serious incident
5 directly to the department if the incident involves a child under
6 the care of the operation, agency, or home.

7 SECTION 38. Sections 42.0461(f) and (g), Human Resources
8 Code, are repealed.

9 SECTION 39. Subject to an appropriation of funds for this
10 purpose, the executive commissioner of the Health and Human
11 Services Commission shall adopt minimum standards related to
12 continuum-of-care operations, cottage home operations, and
13 specialized child-care homes as provided by Section 42.042, Human
14 Resources Code, as amended by this Act, as soon as practicable after
15 the effective date of this Act.

16 SECTION 40. (a) The executive commissioner of the Health
17 and Human Services Commission shall develop and implement a
18 procedure by which a residential child-care facility that holds a
19 license or certification issued under Chapter 42, Human Resources
20 Code, may convert the license or certification to a new type of
21 residential child-care facility license or certification created
22 by this Act.

23 (b) With respect to a residential child-care facility
24 converting a license or certification under Subsection (a) of this
25 section, the Health and Human Services Commission may waive
26 requirements for an initial inspection, an initial background and
27 criminal history check, or a family violence report, or for notice

1 and hearing if the commission determines that previous inspections,
2 background and criminal history checks, family violence reports, or
3 notice and hearing, as applicable, were conducted and are
4 sufficient to ensure the safety of children receiving care at the
5 residential child-care facility converting a license or
6 certification.

7 SECTION 41. (a) The executive commissioner of the Health
8 and Human Services Commission shall develop and implement a
9 procedure that requires a foster home or a foster group home that
10 holds a license issued by the Department of Family and Protective
11 Services under Chapter 42, Human Resources Code, before September
12 1, 2017, to convert the license to another residential child-care
13 facility license issued under Chapter 42, Human Resources Code, or
14 relinquish the license.

15 (b) With respect to a foster home or foster group home
16 converting a license under Subsection (a) of this section, the
17 Health and Human Services Commission may waive requirements for an
18 initial inspection, an initial background and criminal history
19 check, or a family violence report, or for notice and hearing if the
20 commission determines that previous inspections, background and
21 criminal history checks, family violence reports, or notice and
22 hearing, as applicable, were conducted and are sufficient to ensure
23 the safety of children receiving care at the foster home or foster
24 group home converting a license or certification.

25 (c) The Department of Family and Protective Services may not
26 issue a license or certification to a foster home or foster group
27 home after August 31, 2017.

1 (d) A foster home or a foster group home that was licensed by
2 the department before September 1, 2017, may continue to operate
3 under the law as it existed immediately before the effective date of
4 this Act, and that law is continued in effect for that purpose,
5 until each foster home and foster group home has been converted to
6 another residential child-care facility license or the license has
7 been relinquished.

8 SECTION 42. (a) The executive commissioner of the Health
9 and Human Services Commission shall develop and implement a
10 procedure that requires a child-placing agency that verified,
11 before September 1, 2017, an agency foster group home according to
12 the Minimum Standards for Child-Placing Agencies to convert the
13 agency foster group home to an agency foster home or to close the
14 agency foster group home.

15 (b) With respect to a child-placing agency converting an
16 agency foster group home under Subsection (a) of this section, the
17 Health and Human Services Commission may waive requirements for an
18 initial inspection, an initial background and criminal history
19 check, or a family violence report, if the commission determines
20 that previous inspections, background and criminal history checks,
21 or family violence reports, as applicable, were conducted and are
22 sufficient to ensure the safety of children receiving care at the
23 agency foster home.

24 (c) A child-placing agency may not verify an agency foster
25 group home after August 31, 2017.

26 (d) An agency foster group home that was verified by a
27 child-placing agency before September 1, 2017, may continue to

1 operate under the child-placing agency that verified the home and
2 under the law as it existed immediately before the effective date of
3 this Act, and that law is continued in effect for that purpose,
4 until each agency foster group home has been converted to a verified
5 foster home or has been closed.

6 SECTION 43. This Act takes effect September 1, 2017.