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By:  Kolkhorst S.B. No. 781

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of residential treatment centers.

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

SECTION 1.  Subchapter B, Chapter 40, Human Resources Code, is amended by adding Section 40.043 to read as follows:

Sec. 40.043.  CHILD SAFETY AND RUNAWAY PREVENTION PROCEDURES. The commissioner by rule shall establish procedures to:

(1)  reduce the number of incidents in which a child in the conservatorship of the department runs away from a residential treatment center; and

(2)  ensure the safety of a child who leaves a residential treatment center.

SECTION 2.  Section 42.0462, Human Resources Code, is amended to read as follows:

Sec. 42.0462.  WAIVER OF NOTICE AND HEARING REQUIREMENTS. (a) Subject to Subsection (b), to [~~To~~] protect the safety and well-being of residents and employees of a general residential operation that provides comprehensive residential services to children who are victims of trafficking, the commission [~~department~~] shall waive the notice and hearing requirements imposed under Section 42.0461 for an applicant who submits to the commission [~~department~~] an application to provide trafficking victim services at the applicant's general residential operation.

(b)  This section does not apply to an applicant who submits an application for a residential treatment center license.

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

SUBCHAPTER H. REGULATION OF RESIDENTIAL TREATMENT CENTERS

Sec. 42.251.  DEFINITIONS. In this subchapter:

(1)  "Life or safety incident" means an actual incident that threatens the life or safety of a child. The term includes:

(A)  multiple incidents of arrest, abuse, neglect, or exploitation of or attempted suicide by the same child;

(B)  the death of a child; or

(C)  a life-threatening injury to a child.

(2)  "Residential treatment center" means a general residential operation that:

(A)  provides care for 13 or more children or young adults; and

(B)  exclusively provides treatment services for children or young adults with emotional disorders.

Sec. 42.252.  LICENSING PROCEDURES. (a) In addition to the applicable requirements to obtain a license under Subchapter C, a person applying for a license to operate a residential treatment center shall submit:

(1)  an operational plan for the proposed center to the commission; and

(2)  an educational plan describing the applicant's plan to provide for the educational needs of the children at the proposed center to the Texas Education Agency.

(b)  The operational plan must include:

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

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

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

(c)  A person applying for a license to operate a residential treatment center is not required to include in the operational plan whether the proposed residential treatment center will provide services to children who are victims of human trafficking.

(d)  The commission must approve the proposed center's operational plan and the Texas Education Agency must approve the proposed center's educational plan before any hearing under Section 42.0461 is held.

(e)  In evaluating an application for a license to operate a residential treatment center, the commission may consider:

(1)  evidence of community support for or opposition to the proposed center;

(2)  the educational plan for the proposed center, including whether:

(A)  the proposed center will provide for the private or public education of school-age children residing in the proposed center;

(B)  the proposed center has entered into a tentative agreement pending the center's licensure with independent school districts or public charter schools to provide the educational services to school-age children residing in the proposed center;

(C)  the board of trustees of an independent school district has agreed to serve the school-age children residing in the proposed center through signed and approved board minutes and the district superintendent's approval demonstrated by signature; or

(D)  the governing board of a public charter school has agreed to serve the school-age children residing in the proposed center through signed and approved board minutes and the charter school superintendent's approval demonstrated by signature on an amendment request form submitted to and approved by the commissioner of education;

(3)  an impact statement from the school district likely to be affected by the proposed center, including information relating to any financial impact on the district that may result from an increase in enrollment;

(4)  the qualifications, background, and history of each individual and entity who is proposed to be involved in:

(A)  the management of the proposed center; or

(B)  the educational leadership of the proposed center; and

(5)  the history of the board of the proposed center, as defined in the application form.

(f)  The commission shall approve or deny an application for a proposed residential treatment center based on the merits of the application. In making the decision, the commission shall:

(1)  heavily weigh any public comment the commission receives relating to the licensing of the proposed center; and

(2)  consider documented evidence gathered through the application review process.

(g)  The commission may deny an application for a license to operate a residential treatment center if the commission determines that:

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

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

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

Sec. 42.253.  CONFIDENTIALITY OF INFORMATION RELATING TO SERVICES FOR HUMAN TRAFFICKING VICTIMS. (a) If an applicant for a license to operate a residential treatment center will be providing services to victims of human trafficking, any information relating to the provision of services for victims of human trafficking is confidential and the commission may not disclose that information.

(b)  If a hearing is required under Section 42.0461 for an application for a license to operate a residential treatment center and the proposed center will be providing services to victims of human trafficking, the applicant is not required to disclose any information relating to the provision of services for victims of human trafficking.

Sec. 42.254.  SCHOOL YEAR; REPORT. (a) A residential treatment center that provides for the education of school-age children residing in the proposed center must have an academic school year that begins not earlier than August 1 or later than September 1 of each year.

(b)  Children receiving educational services from a residential treatment center must be reported in the fall semester Public Education Information Management System (PEIMS) submission.

Sec. 42.255.  REPORTING REQUIREMENT. In addition to the applicable requirements of Subchapter C, a residential treatment center shall immediately report to the commission and the department any incident in which a child in the care of the center:

(1)  leaves the center without authorization for any period of time;

(2)  is accused of engaging in delinquent conduct or conduct indicating a need for supervision, as defined by Section 51.03, Family Code; or

(3)  is charged with a criminal offense or convicted of a criminal offense.

Sec. 42.256.  PROCEDURES FOR CIRCUMSTANCES REQUIRING RELOCATION OF CHILDREN. If the commission or department finds that a residential treatment center has violated the requirements of this chapter or a standard or rule adopted under this chapter two times within a 24-month period and the violations are classified as a life or safety incident, the department shall develop a plan for the temporary relocation of children in the care of the residential treatment center on the revocation of the center's license.

Sec. 42.257.  REVOCATION OF LICENSE. The commission shall revoke the license of a residential treatment center if the commission or department finds that the license holder has violated the requirements of this chapter or a standard or rule adopted under this chapter three times within a 24-month period and the violations are classified as a life or safety incident.

Sec. 42.258.  HEARING BEFORE RENEWAL OF LICENSE. (a) On request of the commissioners court of a county where a residential treatment center is located, the commission shall hold a public hearing to obtain public input regarding the renewal of the center's license.

(b)  The commission shall adopt procedures that provide the public with a reasonable opportunity to appear before the commission and to speak on any issue related to renewal of the residential treatment center's license, including procedures relating to the conduct of the hearing, the order of witnesses, and the conduct of participants at the hearing.

Sec. 42.259.  COMMUNITY ENGAGEMENT PLAN. (a) Each residential treatment center licensed under this chapter shall develop a community engagement plan to improve relations between the center and the community where the center is located.

(b)  The department may not contract with a residential treatment center unless the center has a community engagement plan required by Subsection (a).

Sec. 42.260.  QUALITY-BASED PAYMENT SYSTEM. (a) The department shall develop quality-based outcome and process measures that promote the provision of high-quality services by residential treatment centers licensed under this chapter, including measures that advance quality improvement and innovation.

(b)  The department may change measures developed under this section to promote continuous system reform and improved quality of services provided by residential treatment centers.

(c)  Using quality-based outcome and process measures developed under Subsection (a), the department, after consulting with appropriate stakeholders, shall develop and implement quality-based payment systems for compensating residential treatment centers.

Sec. 42.261.  RESIDENTIAL TREATMENT CENTER QUALITY RATING SYSTEM. (a) The commission shall develop and implement a quality rating system to evaluate residential treatment centers licensed under this chapter. In developing the rating system, the commission shall select relevant and appropriate criteria on which to evaluate a residential treatment center.

(b)  The commission shall publish the quality rating for each residential treatment center licensed under this chapter on the commission's Internet website.

Sec. 42.262.  DUTIES OF TEXAS EDUCATION AGENCY. (a) Before the Texas Education Agency approves any educational services provided at a residential treatment center, including the accreditation of a charter school at the center, the agency shall evaluate each licensing violation for which the center has been cited by the commission to determine whether the violation would impair the education of the children at the center.

(b)  The Texas Education Agency shall notify the commission of any possible licensing violation at a residential treatment center of which the agency becomes aware.

Sec. 42.263.  APPLICATION OF FEDERAL LAW. (a) The department shall develop a plan to ensure that, not later than December 31, 2021, each residential treatment center is in compliance with the requirements of Title VII of the Bipartisan Budget Act of 2018 (Pub. L. No. 115-123) relating to the accreditation of residential treatment centers.

(b)  Not later than December 31, 2019, the department shall submit the plan to the lieutenant governor, the speaker of the house of representatives, and the standing committees of each house of the legislature with primary jurisdiction over child protective services.

(c)  This section expires September 1, 2023.

SECTION 4.  This Act takes effect September 1, 2019.