

By: Hernandez

H.B. No. 459

Substitute the following for H.B. No. 459:

By: Hinojosa

C.S.H.B. No. 459

A BILL TO BE ENTITLED

AN ACT

relating to the placement and use of video recording equipment in certain child-care facilities.

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

SECTION 1. Subchapter C, Chapter 42, Human Resources Code, is amended by adding Section 42.0429 to read as follows:

Sec. 42.0429. VIDEO SURVEILLANCE OF DAY-CARE CENTER. (a)

This section applies only to a day-care center that provides care for children who are two years of age or younger.

(b) Each day-care center shall:

(1) place video recording equipment in each area of the center occupied by children who are two years of age or younger; and

(2) record each area described by Subdivision (1) any time children who are two years of age or younger are present in the area.

(c) If a day-care center is inside of or connected to a school, office building, or other facility, the day-care center is only required to record areas used by the center as classrooms.

(d) A day-care center is not required to operate video recording equipment required by this section when children are not present in the day-care center.

(e) Except as provided by Subsections (f) and (g), video recording equipment required by this section must visually monitor

1 and record video in all areas of the day-care center occupied by
2 children who are two years of age or younger.

3 (f) The inside of a bathroom or any area in the day-care
4 center other than the main instructional area of a classroom in
5 which a child's clothes or diapers are changed may not be visually
6 monitored, except for incidental coverage of a minor portion of a
7 bathroom or changing area because of the layout of the center.

8 (g) A day-care center may temporarily turn off video
9 recording equipment that is visually monitoring the main
10 instructional area of a classroom while that area is used by
11 children to change clothes or by staff to change a child's clothes
12 or diaper. The day-care center shall resume recording the main
13 instructional area once the area is no longer used for those
14 purposes.

15 (h) Except as provided by Subsection (i), a day-care center
16 shall retain video recorded from video recording equipment required
17 by this section for at least 30 days after the date the video is
18 recorded.

19 (i) If a person described by Subsection (j) requests to view
20 video recorded from video recording equipment required by this
21 section, a day-care center shall retain the video from the date the
22 request is received until the person views the video and a
23 determination is made as to whether the video documents an alleged
24 incident. If the video documents an alleged incident, the center
25 shall retain the video until the alleged incident is resolved,
26 including the exhaustion of all appeals.

27 (j) A video of a child recorded from video recording

1 equipment required by this section is confidential and may not be
2 released or viewed except as provided by this subsection or
3 Subsection (k). A day-care center shall release a video for viewing
4 by:

5 (1) an employee who is involved in an alleged incident
6 that is documented by the video and has been reported to the
7 commission;

8 (2) a parent of a child who is involved in an alleged
9 incident that is documented by the video and has been reported to
10 the commission, on request of the parent; or

11 (3) appropriate commission, department, or law
12 enforcement personnel as part of:

13 (A) an investigation of a report of alleged or
14 suspected abuse or neglect of a child or of a violation of a
15 licensing standard; or

16 (B) a monitoring inspection.

17 (k) A contractor or employee performing job duties relating
18 to the installation, operation, or maintenance of video recording
19 equipment or the retention of recorded videos who incidentally
20 views a video is not in violation of Subsection (j).

21 (l) The executive commissioner may adopt rules to implement
22 and administer this section.

23 SECTION 2. Notwithstanding Section 42.0429, Human
24 Resources Code, as added by this Act, a day-care center is not
25 required to be equipped with video recording equipment as required
26 by that section before January 1, 2020.

27 SECTION 3. This Act takes effect September 1, 2019.