

By: Bonnen of Galveston

H.B. No. 4259

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the regulation of listed family homes.

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

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

7 (d-1) The executive commissioner by rule shall adopt
8 minimum standards for listed family homes. The minimum standards
9 must:

10 (1) promote the health, safety, and welfare of
11 children attending a listed family home;

12 (2) promote safe, comfortable, and healthy listed
13 family homes for children;

14 (3) ensure adequate supervision of children by
15 capable, qualified, and healthy personnel; and

16 (4) ensure medication is administered in accordance
17 with Section 42.065.

18 (g) In promulgating minimum standards the executive
19 commissioner may recognize and treat differently the types of
20 services provided by the following:

21 (1) listed family homes;

22 (2) registered family homes;

23 (3) [~~2~~] child-care facilities, including general
24 residential operations, cottage home operations, specialized

- 1 child-care homes, group day-care homes, and day-care centers;
- 2 (4) [~~(3)~~] child-placing agencies;
- 3 (5) [~~(4)~~] agency foster homes;
- 4 (6) [~~(5)~~] continuum-of-care residential operations;
- 5 (7) [~~(6)~~] before-school or after-school programs; and
- 6 (8) [~~(7)~~] school-age programs.

7 SECTION 2. Section [42.044](#), Human Resources Code, is amended

8 by amending Subsections (a) and (c) and adding Subsection (b-4) to

9 read as follows:

10 (a) An authorized representative of the commission

11 [~~department~~] may visit a facility regulated under this chapter or a

12 registered or listed family home during operating hours to

13 investigate, inspect, and evaluate.

14 (b-4) The commission shall inspect a listed family home at

15 least once every three years. The inspection must be unannounced.

16 (c) The commission [~~department~~] must investigate a facility

17 regulated under this chapter or a registered or listed family home

18 when a complaint is received. The representative of the commission

19 [~~department~~] must notify the operator of a registered or listed

20 family home or the director or authorized representative of a

21 regulated facility when a complaint is being investigated and

22 report in writing the results of the investigation to the family

23 home's operator or to the regulated facility's director or the

24 director's authorized representative.

25 SECTION 3. Section [42.0442](#)(a), Human Resources Code, is

26 amended to read as follows:

27 (a) The commission [~~department~~] shall coordinate monitoring

1 inspections of licensed day-care centers, licensed group day-care
2 homes, and registered and listed family homes performed by another
3 state agency to eliminate redundant inspections.

4 SECTION 4. Section 42.04425, Human Resources Code, is
5 amended by adding Subsection (d) to read as follows:

6 (d) The commission shall provide with the inspection data
7 described by Subsection (c) a minimum of five years of inspection
8 data for listed family homes regulated under this chapter to
9 enhance consumer choice with respect to those homes.

10 SECTION 5. Section 42.0446, Human Resources Code, is
11 amended to read as follows:

12 Sec. 42.0446. REMOVAL OF CERTAIN INVESTIGATION INFORMATION
13 FROM INTERNET WEBSITE. The executive commissioner shall adopt
14 rules providing a procedure by which the commission [~~department~~]
15 removes from the commission's [~~department's~~] Internet website
16 information on [~~with respect to~~] a child-care facility or
17 registered or listed family home that relates to an anonymous
18 complaint alleging [~~that~~] the facility or family home failed to
19 comply with the commission's [~~department's~~] minimum standards if,
20 at the conclusion of an investigation, the commission [~~department~~]
21 determines [~~that~~] the complaint is false or lacks factual
22 foundation.

23 SECTION 6. Section 42.0447(a), Human Resources Code, is
24 amended to read as follows:

25 (a) A person commits an offense if the person knowingly or
26 intentionally files a complaint alleging that a child-care facility
27 or registered or listed family home failed to comply with the

1 commission's [~~department's~~] minimum standards and the person knows
2 the allegation is false or lacks factual foundation.

3 SECTION 7. Section 42.046, Human Resources Code, is amended
4 by adding Subsection (f) to read as follows:

5 (f) An applicant for a listing to operate a family home
6 shall submit with the application proof of the applicant's
7 successful completion of safe sleep training in accordance with
8 commission rules.

9 SECTION 8. Subchapter C, Chapter 42, Human Resources Code,
10 is amended by adding Section 42.0495 to read as follows:

11 Sec. 42.0495. LIABILITY INSURANCE REQUIRED FOR LISTED
12 FAMILY HOMES. (a) A listed family home shall maintain liability
13 insurance coverage in the amount of \$300,000 for each occurrence of
14 negligence. An insurance policy or contract required under this
15 section must cover injury to a child that occurs while the child is
16 on the premises of or in the care of the listed family home.

17 (b) A listed family home shall annually file with the
18 commission a certificate or other evidence of coverage from an
19 insurance company demonstrating that the listed family home has an
20 unexpired and uncanceled insurance policy or contract that meets
21 the requirements of this section.

22 (c) If a listed family home is unable to secure a policy or
23 contract required under this section for financial reasons or for
24 lack of availability of an underwriter willing to issue a policy or
25 contract or the home's policy or contract limits are exhausted, the
26 home shall timely provide written notice to the parent or guardian
27 of each child attending the home that the liability coverage is not

1 provided.

2 (d) A listed family home described by Subsection (c) shall
3 timely provide written notice to the commission that the home is
4 unable to secure liability insurance and the reason the insurance
5 could not be secured.

6 (e) If a listed family home complies with the notice
7 requirements under this section, the commission may not assess an
8 administrative penalty or suspend or revoke the family home's
9 listing for violating Subsection (a). This subsection may not be
10 construed to indemnify a family home for damages due to negligence.

11 SECTION 9. Sections 42.052(f) and (i), Human Resources
12 Code, are amended to read as follows:

13 (f) To remain listed or registered with the commission
14 [~~department~~], a family home must comply with the commission's
15 [~~department's~~] rules and standards[~~, if applicable,~~] and any
16 provision of this chapter that applies to a listed or registered
17 family home.

18 (i) The commission [~~department~~] shall provide to a listed
19 family home a copy of the listing. A listing must contain a
20 provision that states: "THIS HOME IS A LISTED FAMILY HOME. IT IS
21 NOT LICENSED OR REGISTERED WITH THE HEALTH AND HUMAN [~~DEPARTMENT OF~~
22 ~~FAMILY AND PROTECTIVE~~] SERVICES COMMISSION. A LISTED FAMILY HOME
23 HAS LIMITED MINIMUM STANDARDS AND IS NOT INSPECTED EVERY YEAR [~~IT~~
24 ~~HAS NOT BEEN INSPECTED AND WILL NOT BE INSPECTED~~]." The operator of
25 a listed family home is not required to display the listing in a
26 prominent place at the home but shall make the listing available for
27 examination. [~~The executive commissioner by rule shall provide for~~

1 ~~a sufficient period to allow operators of family homes to comply~~
2 ~~with the listing requirement of this section.]~~

3 SECTION 10. Section 42.0522(b), Human Resources Code, is
4 amended to read as follows:

5 (b) A family home may not place a public advertisement that
6 uses the title "listed family home" or any variation of that phrase
7 unless the home is listed as provided by this chapter. Any public
8 advertisement for a listed family home that uses the title "listed
9 family home" must contain a provision in bold type stating: "THIS
10 HOME IS A LISTED FAMILY HOME. IT IS NOT LICENSED OR REGISTERED WITH
11 THE HEALTH AND HUMAN [~~DEPARTMENT OF FAMILY AND PROTECTIVE~~] SERVICES
12 COMMISSION. A LISTED FAMILY HOME HAS LIMITED MINIMUM STANDARDS AND
13 IS NOT INSPECTED EVERY YEAR [~~IT HAS NOT BEEN INSPECTED AND WILL NOT~~
14 ~~BE INSPECTED~~]."

15 SECTION 11. Section 42.0523, Human Resources Code, is
16 amended by adding Subsections (e), (f), and (g) to read as follows:

17 (e) The following requirements do not apply to a family home
18 listed under this section:

19 (1) the minimum standards adopted under Section
20 42.042;

21 (2) the inspection requirement under Section 42.044;
22 and

23 (3) the liability insurance requirement under Section
24 42.0495.

25 (f) A family home listed under this section shall undergo
26 initial and subsequent background and criminal history checks
27 required under Section 42.056. If the operator of the home fails to

1 submit the information required by Section 42.056 for a subsequent
2 background and criminal history check, the commission shall
3 automatically:

4 (1) suspend the home's listing until the required
5 information is submitted; and

6 (2) revoke the home's listing if the required
7 information is not submitted before six months after the date the
8 automatic suspension begins under Subdivision (1).

9 (g) A suspension or revocation under Subsection (f) is not a
10 suspension or revocation under Section 42.072.

11 SECTION 12. The following provisions of the Human Resources
12 Code are repealed:

13 (1) Sections 42.044(c-1) and (c-2); and

14 (2) Sections 42.052(j) and (j-1).

15 SECTION 13. As soon as practicable after the effective date
16 of this Act, the executive commissioner of the Health and Human
17 Services Commission shall adopt rules necessary to implement
18 Chapter 42, Human Resources Code, as amended by this Act.

19 SECTION 14. This Act takes effect September 1, 2019.