

1-1 By: Huffman S.B. No. 568
1-2 (In the Senate - Filed February 1, 2019; February 21, 2019,
1-3 read first time and referred to Committee on Health & Human
1-4 Services; March 18, 2019, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;
1-6 March 18, 2019, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 568 By: Perry

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to the regulation of child-care facilities and family
1-22 homes; providing administrative penalties.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Subchapter C, Chapter 42, Human Resources Code,
1-25 is amended by adding Section 42.04215 to read as follows:

1-26 Sec. 42.04215. SAFETY TRAINING ACCOUNT. (a) The safety
1-27 training account is a dedicated account in the general revenue
1-28 fund. The account is composed of:

1-29 (1) money deposited into the account under Section
1-30 42.078;

1-31 (2) gifts, grants, and donations contributed to the
1-32 account; and

1-33 (3) interest earned on the investment of money in the
1-34 account.

1-35 (b) Section 403.0956, Government Code, does not apply to the
1-36 account.

1-37 (c) Money in the account may be appropriated only to the
1-38 commission to provide safety training materials at no cost to a
1-39 facility licensed under this chapter or a family home registered or
1-40 listed under this chapter. The commission may contract with a third
1-41 party to create the training materials.

1-42 (d) The executive commissioner shall adopt rules necessary
1-43 to implement this section.

1-44 SECTION 2. Subchapter C, Chapter 42, Human Resources Code,
1-45 is amended by adding Section 42.0429 to read as follows:

1-46 Sec. 42.0429. SAFE SLEEPING STANDARDS. (a) The executive
1-47 commissioner by rule shall establish safe sleeping standards for
1-48 licensed facilities and registered family homes. Each licensed
1-49 facility and registered family home shall comply with the safe
1-50 sleeping standards.

1-51 (b) If the commission determines that a licensed facility or
1-52 registered family home has violated a safe sleeping standard
1-53 established as required by Subsection (a), the facility or home
1-54 shall provide written notice in the form and manner required by the
1-55 executive commissioner to the parent or legal guardian of each
1-56 child attending the facility or home.

1-57 (c) The executive commissioner shall prescribe the form for
1-58 the notice required by Subsection (b) and post the form on the
1-59 commission's Internet website.

1-60 SECTION 3. Section 42.04425, Human Resources Code, is

2-1 amended to read as follows:

2-2 Sec. 42.04425. INSPECTION INFORMATION DATABASE. (a) If
2-3 feasible using available information systems, the commission
2-4 [~~department~~] shall establish a computerized database containing
2-5 relevant inspection information on all licensed facilities
2-6 [~~day-care centers, licensed group day-care homes,~~] and registered
2-7 family homes obtained from other state agencies and political
2-8 subdivisions of the state.

2-9 (b) The commission [~~department~~] shall make the data
2-10 collected by the commission [~~department~~] available to another state
2-11 agency or political subdivision of the state for the purpose of
2-12 administering programs or enforcing laws within the jurisdiction of
2-13 that agency or subdivision. If feasible using available
2-14 information systems, the commission [~~department~~] shall make the
2-15 data directly available to [~~the Department of State Health~~
2-16 ~~Services, the Department of Aging and Disability Services, and~~] the
2-17 Texas Workforce Commission through electronic information systems.
2-18 The commission [~~department, the Department of State Health~~
2-19 ~~Services, the Department of Aging and Disability Services,~~] and the
2-20 Texas Workforce Commission shall jointly plan the development of
2-21 child-care inspection databases that, to the extent feasible, are
2-22 similar in their design and architecture to promote the sharing of
2-23 data.

2-24 (c) The commission shall [~~department may~~] provide at a
2-25 minimum five years of inspection data for all facilities licensed
2-26 or family homes registered under this chapter to enhance [~~on~~
2-27 ~~licensed day-care centers, licensed group day-care homes, or~~
2-28 ~~registered family homes to the public if the department determines~~
2-29 ~~that providing inspection data enhances~~] consumer choice with
2-30 respect to those facilities and homes.

2-31 (d) The commission is required to implement Subsections (a)
2-32 and (c) only if the legislature appropriates money specifically for
2-33 that purpose. If the legislature does not appropriate money
2-34 specifically for that purpose, the commission may provide
2-35 inspection data on licensed day-care centers, licensed group
2-36 day-care homes, or registered family homes to the public if the
2-37 commission determines that providing inspection data enhances
2-38 consumer choice with respect to those facilities.

2-39 SECTION 4. Section 42.049, Human Resources Code, is amended
2-40 to read as follows:

2-41 Sec. 42.049. LIABILITY INSURANCE REQUIRED. (a) A license
2-42 or registration holder under this chapter shall maintain liability
2-43 insurance coverage in the amount of \$300,000 for each occurrence of
2-44 negligence. An insurance policy or contract required under this
2-45 section must cover injury to a child that occurs while the child is
2-46 on the premises of [~~the license holder~~] or in the care of the
2-47 [license] holder.

2-48 (b) A license or registration holder under this chapter
2-49 shall annually file with the commission [~~department~~] a certificate
2-50 or other evidence from an insurance company showing that the
2-51 [~~license~~] holder has an unexpired and uncanceled insurance policy
2-52 or contract that meets the requirements of this section.

2-53 (c) Should the license or registration holder for financial
2-54 reasons or for lack of availability of an underwriter willing to
2-55 issue a policy be unable to secure the insurance required under
2-56 Subsection (a) or should the policy limits be exhausted, the
2-57 [license] holder shall timely notify the parent or guardian of [~~a~~
2-58 ~~person standing in parental relationship to~~] each child for whom
2-59 the [license] holder provides care a written notice that the
2-60 liability coverage is not provided and there will not be a ground
2-61 for an administrative penalty or suspension or revocation of the
2-62 [license] holder's license or registration under this chapter. The
2-63 [license] holder shall also notify the commission [~~department~~] that
2-64 the coverage is not provided and provide the reason for same. In no
2-65 case shall the inability to secure coverage serve to indemnify the
2-66 [license] holder for damages due to negligence.

2-67 (c-1) The commission shall prescribe a form that a license
2-68 or registration holder may use to notify a parent or guardian in
2-69 accordance with Subsection (c) that liability coverage is not

3-1 provided. The commission shall post the form on the commission's
 3-2 Internet website. The commission is required to implement this
 3-3 subsection only if the legislature appropriates money specifically
 3-4 for that purpose.

3-5 (d) The insurance policy or contract shall be maintained at
 3-6 all times in an amount as required by this section. Failure by a
 3-7 license or registration holder to renew the policy or contract or to
 3-8 maintain the policy or contract in the required amount is a ground
 3-9 for suspension or revocation of the [~~license~~] holder's license or
 3-10 registration under this chapter.

3-11 ~~[(c) This section does not apply to a group day-care home or~~
 3-12 ~~a listed or registered family home.]~~

3-13 SECTION 5. Section 42.050, Human Resources Code, is amended
 3-14 by amending Subsections (a), (b), and (c) and adding Subsection
 3-15 (c-1) to read as follows:

3-16 (a) A license holder may apply for renewal of a license in
 3-17 compliance with the requirements of this chapter and commission
 3-18 [~~department~~] rules.

3-19 (b) The application for renewal of a license must be
 3-20 completed and decided on by the commission [~~department~~] before the
 3-21 expiration of the license under which a facility is operating.

3-22 (c) The commission [~~department~~] shall evaluate the
 3-23 application for renewal of a license to determine if all licensing
 3-24 requirements are met and whether the facility has been cited for
 3-25 repeated violations or has established a pattern of violations
 3-26 during the preceding two years. The evaluation may include a
 3-27 specified number of visits to the facility and must include a review
 3-28 of all required forms and records. If the commission determines the
 3-29 facility has repeated violations or an established pattern of
 3-30 violations, before the commission renews the license the commission
 3-31 may place restrictions, conditions, or additional requirements on
 3-32 the license to ensure the violations cease.

3-33 (c-1) The commission may not renew the license of a facility
 3-34 cited for a violation that is not corrected by the required
 3-35 compliance date unless the violation is pending an administrative
 3-36 review under commission rules or pending review as a contested case
 3-37 under Chapter 2001, Government Code. The commission is required to
 3-38 implement this subsection only if the legislature appropriates
 3-39 money specifically for that purpose.

3-40 SECTION 6. Section 42.052, Human Resources Code, is amended
 3-41 by amending Subsections (a), (b), (c), (d), (f), (i), (j), and (k)
 3-42 and adding Subsections (f-2) and (f-3) to read as follows:

3-43 (a) A state-operated child-care facility or child-placing
 3-44 agency must receive certification of approval from the commission
 3-45 [~~department~~]. The certification of approval remains valid until
 3-46 the certification expires, is revoked, or is surrendered.

3-47 (b) To be certified, a facility must comply with the
 3-48 commission's [~~department's~~] rules and standards and any provisions
 3-49 of this chapter that apply to a licensed facility of the same
 3-50 category. The operator of a certified facility must display the
 3-51 certification in a prominent place at the facility.

3-52 (c) A family home that provides care for compensation for
 3-53 three or fewer children, excluding children who are related to the
 3-54 caretaker, shall list with the commission [~~department~~] if the home
 3-55 provides regular care in the caretaker's own residence. The home
 3-56 may register with the commission [~~department~~].

3-57 (d) A family home that provides care for four or more
 3-58 children, excluding children who are related to the caretaker,
 3-59 shall register with the commission [~~department~~]. A family home
 3-60 that provides care exclusively for any number of children who are
 3-61 related to the caretaker is not required to be listed or registered
 3-62 with the commission [~~department~~].

3-63 (f) To remain listed or registered with the commission
 3-64 [~~department~~], a family home must comply with the commission's
 3-65 [~~department's~~] rules and standards, if applicable, and any
 3-66 provision of this chapter that applies to a listed or registered
 3-67 family home.

3-68 (f-2) The commission shall evaluate an application for
 3-69 renewal of a facility certification or family home registration to

4-1 determine if all requirements are met and whether the applicant has
 4-2 been cited for repeated violations or has established a pattern of
 4-3 violations during the preceding two years. The evaluation may
 4-4 include a specified number of visits to the facility or family home
 4-5 subject to this section and must include a review of all required
 4-6 forms and records. If the commission determines the facility or
 4-7 family home has repeated violations or an established pattern of
 4-8 violations, before the commission renews the certification or
 4-9 registration the commission may place restrictions, conditions, or
 4-10 additional requirements on the certification or registration to
 4-11 ensure the violations cease.

4-12 (f-3) The commission may not renew the certification or
 4-13 registration of a facility or family home cited for a violation that
 4-14 is not corrected by the required compliance date unless the
 4-15 violation is pending an administrative review under commission
 4-16 rules or pending review as a contested case under Chapter 2001,
 4-17 Government Code. The commission is required to implement this
 4-18 subsection only if the legislature appropriates money specifically
 4-19 for that purpose.

4-20 (i) The commission [~~department~~] shall provide to a listed
 4-21 family home a copy of the listing. A listing must contain a
 4-22 provision that states: "THIS HOME IS A LISTED FAMILY HOME. IT IS
 4-23 NOT LICENSED OR REGISTERED WITH THE HEALTH AND HUMAN SERVICES
 4-24 COMMISSION [~~DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES~~]. IT HAS
 4-25 NOT BEEN INSPECTED AND WILL NOT BE INSPECTED." The operator of a
 4-26 listed home is not required to display the listing in a prominent
 4-27 place at the home but shall make the listing available for
 4-28 examination. The executive commissioner by rule shall provide for
 4-29 a sufficient period to allow operators of family homes to comply
 4-30 with the listing requirement of this section.

4-31 (j) The operator of a listed family home shall undergo
 4-32 initial and subsequent background and criminal history checks
 4-33 required under Section 42.056. If the operator of a listed family
 4-34 home fails to submit the information required by Section 42.056 for
 4-35 a subsequent background and criminal history check, the commission
 4-36 [~~department~~] shall automatically:

4-37 (1) suspend the home's listing until the required
 4-38 information is submitted; and

4-39 (2) revoke the home's listing if the required
 4-40 information is not submitted within six months after the date the
 4-41 automatic suspension begins.

4-42 (k) The commission [~~department~~] shall issue a listing or
 4-43 registration to a family home, as appropriate, in both English and
 4-44 Spanish when the most recent federal census shows that more than
 4-45 one-half of the population in a municipality or in a commissioners
 4-46 precinct in a county in which the family home is located is of
 4-47 Hispanic origin or Spanish-speaking.

4-48 SECTION 7. Section 42.063, Human Resources Code, is amended
 4-49 by amending Subsections (b), (d), and (g) and adding Subsections
 4-50 (b-1) and (b-2) to read as follows:

4-51 (b) A person licensed under this chapter shall report to the
 4-52 commission [~~department~~] each serious incident involving a child who
 4-53 receives services from the person, regardless of whether the
 4-54 department is the managing conservator of the child.

4-55 (b-1) A person licensed or registered under this chapter
 4-56 shall notify in accordance with commission rule a parent or
 4-57 guardian of a child in the care of the person of an incident of
 4-58 abuse, neglect, or exploitation of the child, injury of the child
 4-59 that requires treatment by a medical professional or
 4-60 hospitalization, or illness of the child that requires
 4-61 hospitalization.

4-62 (b-2) A person licensed or registered under this chapter
 4-63 shall notify in accordance with commission rule a parent or
 4-64 guardian of each child in the care of the person of a violation that
 4-65 constitutes abuse, neglect, or exploitation of a child. The
 4-66 commission shall prescribe the form for the notice required under
 4-67 this subsection and post the form on the commission's Internet
 4-68 website only if the legislature appropriates money specifically for
 4-69 that purpose.

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

5-7 (g) Except as provided by Subsection (b-2), the commission
 5-8 [~~The department~~] shall implement this section using existing
 5-9 appropriations.

5-10 SECTION 8. Sections 42.072(a), (b), (c), (e), (f), and (g),
 5-11 Human Resources Code, are amended to read as follows:

5-12 (a) The commission [~~department~~] may suspend, deny, revoke,
 5-13 or refuse to renew the license, listing, registration, or
 5-14 certification of approval of a facility or family home that does not
 5-15 comply with the requirements of this chapter, commission
 5-16 [~~department~~] standards and rules, or the specific terms of the
 5-17 license, listing, registration, or certification. The commission
 5-18 [~~department~~] may revoke the probation of a person whose license,
 5-19 listing, or registration is suspended if the person violates a term
 5-20 of the conditions of probation.

5-21 (b) If the commission [~~department~~] proposes to take an
 5-22 action under Subsection (a), the person is entitled to a hearing
 5-23 conducted by the State Office of Administrative Hearings.
 5-24 Proceedings for a disciplinary action are governed by the
 5-25 administrative procedure law, Chapter 2001, Government Code. An
 5-26 action under this section, including a revocation of a person's
 5-27 license, is a contested case as defined by Chapter 2001, Government
 5-28 Code, and is subject to judicial review under the substantial
 5-29 evidence rule in accordance with that chapter. Rules of practice
 5-30 adopted by the executive commissioner under Section 2001.004,
 5-31 Government Code, applicable to the proceedings for a disciplinary
 5-32 action may not conflict with rules adopted by the State Office of
 5-33 Administrative Hearings.

5-34 (c) The commission [~~department~~] may not issue a license,
 5-35 listing, registration, or certification to a person whose license,
 5-36 listing, registration, or certification is revoked or not renewed
 5-37 or whose application for a license, listing, registration, or
 5-38 certification is denied for a substantive reason under this chapter
 5-39 before the fifth anniversary of the date on which the revocation or
 5-40 nonrenewal takes effect by commission [~~department~~] or court order
 5-41 or the decision to deny the application is final. The commission is
 5-42 required to limit issuance based on nonrenewal under this
 5-43 subsection only if the legislature appropriates money specifically
 5-44 for that purpose.

5-45 (e) A person may continue to operate a facility or family
 5-46 home during an appeal of a [~~license, listing, or registration~~]
 5-47 revocation or refusal to renew a license, certification, or
 5-48 registration unless the operation of the facility or family home
 5-49 poses a risk to the health or safety of children. The executive
 5-50 commissioner shall by rule establish the criteria for determining
 5-51 whether the operation of a facility or family home poses a risk to
 5-52 the health or safety of children. The commission [~~department~~]
 5-53 shall notify the facility or family home of the criteria the
 5-54 commission [~~department~~] used to determine that the operation of the
 5-55 facility or family home poses a risk to health or safety and that
 5-56 the facility or family home may not operate. A person who has been
 5-57 notified by the commission [~~department~~] that the facility or home
 5-58 may not operate under this section may seek injunctive relief from a
 5-59 district court in Travis County or in the county in which the
 5-60 facility or home is located to allow operation during the pendency
 5-61 of an appeal. The court may grant injunctive relief against the
 5-62 commission's [~~department's~~] action only if the court finds that the
 5-63 child-care operation does not pose a health or safety risk to
 5-64 children. A court granting injunctive relief under this subsection
 5-65 shall have no other jurisdiction over an appeal of final commission
 5-66 [~~department~~] action unless conferred by Chapter 2001, Government
 5-67 Code.

5-68 (f) The commission [~~department~~] shall deny an application
 5-69 or renewal for listing or registering a family home or shall revoke

6-1 a family home's listing or registration if the results of a
6-2 background or criminal history check conducted by the commission
6-3 [~~department~~] under Section 42.056 show that a person has been
6-4 convicted of an offense under Title 5 or 6, Penal Code, or Chapter
6-5 43, Penal Code.

6-6 (g) Notwithstanding Subsection (c), the commission
6-7 [~~department~~] may refuse to issue a license, listing, registration,
6-8 or certification to:

6-9 (1) a person whose license, listing, registration, or
6-10 certification for a facility or family home was revoked by the
6-11 commission [~~department~~] or by court order;

6-12 (2) a person who was a controlling person of a facility
6-13 or family home at the time conduct occurred that resulted in the
6-14 revocation of the license, listing, registration, or certification
6-15 of the facility or family home;

6-16 (3) a person who voluntarily closed a facility or
6-17 family home or relinquished the person's license, listing,
6-18 registration, or certification after:

6-19 (A) the commission [~~department~~] took an action
6-20 under Subsection (a) in relation to the facility, family home, or
6-21 person; or

6-22 (B) the person received notice that the
6-23 commission [~~department~~] intended to take an action under Subsection
6-24 (a) in relation to the facility, family home, or person; or

6-25 (4) a person who was a controlling person of a facility
6-26 or family home at the time conduct occurred that resulted in the
6-27 closure of the facility or family home or relinquishment of the
6-28 license, listing, registration, or certification in the manner
6-29 described by Subdivision (3).

6-30 SECTION 9. Section 42.078, Human Resources Code, is amended
6-31 by amending Subsections (a), (a-2), (e), (f), (g), (h), (i), (m),
6-32 (n), and (r) and adding Subsections (e-1), (e-2), and (e-3) to read
6-33 as follows:

6-34 (a) The commission [~~department~~] may impose an
6-35 administrative sanction or an administrative penalty against a
6-36 facility or family home licensed, registered, or listed under this
6-37 chapter that violates this chapter or a rule or order adopted under
6-38 this chapter. In addition, the commission [~~department~~] may impose
6-39 an administrative penalty against a facility or family home or a
6-40 controlling person of a facility or family home if the facility,
6-41 family home, or controlling person:

6-42 (1) violates a term of a license or registration
6-43 issued under this chapter;

6-44 (2) makes a statement about a material fact that the
6-45 facility or person knows or should know is false:

6-46 (A) on an application for the issuance of a
6-47 license or registration or an attachment to the application; or

6-48 (B) in response to a matter under investigation;

6-49 (3) refuses to allow a representative of the
6-50 commission [~~department~~] to inspect:

6-51 (A) a book, record, or file required to be
6-52 maintained by the facility; or

6-53 (B) any part of the premises of the facility;

6-54 (4) purposefully interferes with the work of a
6-55 representative of the commission [~~department~~] or the enforcement of
6-56 this chapter; or

6-57 (5) fails to pay a penalty assessed under this chapter
6-58 on or before the date the penalty is due, as determined under this
6-59 section.

6-60 (a-2) The commission [~~department~~] may impose an
6-61 administrative penalty without first imposing a nonmonetary
6-62 administrative sanction for violating a minimum standard
6-63 applicable to a facility or family home under this chapter that is
6-64 determined by the commission [~~department~~] to be a high-risk
6-65 standard, including standards for a violation constituting abuse,
6-66 neglect, or exploitation of a child, background check standards,
6-67 safety hazard standards, standards establishing times for
6-68 reporting information to a parent or guardian or the commission,
6-69 and supervision standards.

7-1 (e) If the commission [~~department~~] determines that a
 7-2 violation has occurred, the commission [~~department~~] may issue a
 7-3 recommendation on the imposition of a penalty, including a
 7-4 recommendation on the amount of the penalty.

7-5 (e-1) Notwithstanding the amounts required by Subsections
 7-6 (b) and (c) and except as provided by Subsection (e-3), the
 7-7 commission shall recommend the penalty for the following violations
 7-8 by a facility or family home to be assessed in the following
 7-9 amounts:

7-10 (1) \$1,000 for a violation that constitutes abuse,
 7-11 neglect, or exploitation of a child;

7-12 (2) \$500 for failure to report to a parent or guardian
 7-13 of a child or the commission within the time required by commission
 7-14 standards an injury of a child in the care of the facility or home
 7-15 that requires treatment by a medical professional or
 7-16 hospitalization or an illness of a child that requires
 7-17 hospitalization;

7-18 (3) \$50 for failure to report to a parent or guardian
 7-19 of each child in the care of the facility or home within the time
 7-20 required by commission standards that the commission cited the
 7-21 facility or home for a violation:

7-22 (A) that constitutes abuse, neglect, or
 7-23 exploitation of a child; or

7-24 (B) of a safe sleeping standard; and

7-25 (4) \$50 for failure to report to a parent or guardian
 7-26 of each child in the care of the facility or home within the time
 7-27 required by commission standards that the facility or home does not
 7-28 maintain liability insurance coverage.

7-29 (e-2) For purposes of Subsections (e-1)(3) and (4), the
 7-30 commission shall recommend a penalty of \$50 for the initial
 7-31 violation and an additional penalty of \$50 for each day the
 7-32 violation continues or occurs.

7-33 (e-3) The commission is required to implement Subsection
 7-34 (e-1) only if the legislature appropriates money specifically for
 7-35 that purpose.

7-36 (f) Within 14 days after the date the recommendation is
 7-37 issued, the commission [~~department~~] shall give written notice of
 7-38 the recommendation to the person owning or operating the facility
 7-39 or family home or to the controlling person, if applicable. The
 7-40 notice may be given by certified mail. The notice must include a
 7-41 brief summary of the alleged violation and a statement of the amount
 7-42 of the recommended penalty and must inform the person that the
 7-43 person has a right to a hearing on the occurrence of the violation,
 7-44 the amount of the penalty, or both the occurrence of the violation
 7-45 and the amount of the penalty.

7-46 (g) Within 20 days after the date the person receives the
 7-47 notice, the person in writing may accept the determination and
 7-48 recommended penalty of the commission [~~department~~] or may make a
 7-49 written request for a hearing on the occurrence of the violation,
 7-50 the amount of the penalty, or both the occurrence of the violation
 7-51 and the amount of the penalty.

7-52 (h) If the person accepts the determination and recommended
 7-53 penalty of the commission [~~department~~] or fails to respond to the
 7-54 notice in a timely manner, the commission [~~department~~] shall issue
 7-55 an order and impose the recommended penalty.

7-56 (i) If the person requests a hearing, the commission
 7-57 [~~department~~] shall set a hearing and give notice of the hearing to
 7-58 the person. The hearing shall be held by an administrative law
 7-59 judge of the State Office of Administrative Hearings. The
 7-60 administrative law judge shall make findings of fact and
 7-61 conclusions of law and issue a final decision finding that a
 7-62 violation has occurred and imposing a penalty or finding that no
 7-63 violation occurred.

7-64 (m) On receipt of a copy of an affidavit under Subsection
 7-65 (1)(2), the commission [~~department~~] may file with the court, within
 7-66 five days after the date the copy is received, a contest to the
 7-67 affidavit. The court shall hold a hearing on the facts alleged in
 7-68 the affidavit as soon as practicable and shall stay the enforcement
 7-69 of the penalty on finding that the alleged facts are true. The

8-1 person who files an affidavit has the burden of proving that the
8-2 person is financially unable to pay the amount of the penalty and to
8-3 give a supersedeas bond.

8-4 (n) If the person does not pay the amount of the penalty and
8-5 the enforcement of the penalty is not stayed, the commission
8-6 [~~department~~] may refer the matter to the attorney general for
8-7 collection of the amount of the penalty.

8-8 (r) A penalty collected under this section shall be sent to
8-9 the comptroller for deposit in the safety training account
8-10 established under Section 42.04215 [~~general revenue fund~~].

8-11 SECTION 10. As soon as practicable after the effective date
8-12 of this Act, the executive commissioner of the Health and Human
8-13 Services Commission shall adopt the rules necessary to implement
8-14 the changes in law made by this Act.

8-15 SECTION 11. This Act takes effect September 1, 2019.

8-16

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