

By: Huffman

S.B. No. 569

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of listed family homes.

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

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

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

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

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

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

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

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

(1) listed family homes;

(2) registered family homes;

(3) [~~2~~] child-care facilities, including general 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. Sections [42.044](#)(a) and (c), Human Resources  
8 Code, are amended to read as follows:

9       (a) An authorized representative of the commission  
10 ~~[department]~~ may visit a facility regulated under this chapter or a  
11 registered or listed family home during operating hours to  
12 investigate, inspect, and evaluate.

13       (c) The commission ~~[department]~~ must investigate a facility  
14 regulated under this chapter or a registered or listed family home  
15 when a complaint is received by the commission. The representative  
16 of the commission ~~[department]~~ must notify the operator of a  
17 registered or listed family home or the director or authorized  
18 representative of a regulated facility when a complaint is being  
19 investigated and report in writing the results of the investigation  
20 to the family home's operator or to the regulated facility's  
21 director or the director's authorized representative.

22       SECTION 3. Section [42.04425](#), Human Resources Code, is  
23 amended by adding Subsection (d) to read as follows:

24       (d) The commission shall provide with the inspection data  
25 described by Subsection (c) a minimum of five years of  
26 investigative data for listed family homes regulated under this  
27 chapter to enhance consumer choice with respect to those homes.

SECTION 4. Section 42.0446, Human Resources Code, is amended to read as follows:

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

SECTION 5. Section 42.0447(a), Human Resources Code, is amended to read as follows:

(a) A person commits an offense if the person knowingly or intentionally files a complaint alleging that a child-care facility or registered or listed family home failed to comply with the commission's ~~[department's]~~ minimum standards and the person knows the allegation is false or lacks factual foundation.

SECTION 6. Section 42.046, Human Resources Code, is amended by adding Subsection (f) to read as follows:

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

SECTION 7. Subchapter C, Chapter 42, Human Resources Code,

1 is amended by adding Section 42.0495 to read as follows:

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

8       (b) A listed family home shall annually file with the  
9 commission a certificate or other evidence of coverage from an  
10 insurance company demonstrating that the listed family home has an  
11 unexpired and uncanceled insurance policy or contract that meets  
12 the requirements of this section.

13       (c) If a listed family home is unable to secure a policy or  
14 contract required under this section for financial reasons or for  
15 lack of availability of an underwriter willing to issue a policy or  
16 contract or the home's policy or contract limits are exhausted, the  
17 home shall timely provide written notice to the parent or guardian  
18 of each child attending the home that the liability coverage is not  
19 provided.

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

24       (e) If a listed family home complies with the notice  
25 requirements under this section, the commission may not assess an  
26 administrative penalty or suspend or revoke the family home's  
27 listing for violating Subsection (a). This subsection may not be

1 construed to indemnify a family home for damages due to negligence.

2 SECTION 8. Sections 42.052(f) and (i), Human Resources  
3 Code, are amended to read as follows:

4 (f) To remain listed or registered with the commission  
5 ~~[department]~~, a family home must comply with the commission's  
6 ~~[department's]~~ rules and standards~~[, if applicable,]~~ and any  
7 provision of this chapter that applies to a listed or registered  
8 family home.

9 (i) The commission ~~[department]~~ shall provide to a listed  
10 family home a copy of the listing. A listing must contain a  
11 provision that states: "THIS HOME IS A LISTED FAMILY HOME. IT IS  
12 NOT LICENSED OR REGISTERED WITH THE HEALTH AND HUMAN ~~[DEPARTMENT OF~~  
13 ~~FAMILY AND PROTECTIVE]~~ SERVICES COMMISSION. A LISTED FAMILY HOME  
14 HAS LIMITED MINIMUM STANDARDS AND IS NOT ~~[IT HAS NOT BEEN INSPECTED~~  
15 ~~AND WILL NOT BE]~~ INSPECTED UNLESS A COMPLAINT IS FILED WITH THE  
16 COMMISSION." The operator of a listed family home is not required  
17 to display the listing in a prominent place at the home but shall  
18 make the listing available for examination. ~~[The executive~~  
19 ~~commissioner by rule shall provide for a sufficient period to allow~~  
20 ~~operators of family homes to comply with the listing requirement of~~  
21 ~~this section.]~~

22 SECTION 9. Section 42.0522(b), Human Resources Code, is  
23 amended to read as follows:

24 (b) A family home may not place a public advertisement that  
25 uses the title "listed family home" or any variation of that phrase  
26 unless the home is listed as provided by this chapter. Any public  
27 advertisement for a listed family home that uses the title "listed

1 family home" must contain a provision in bold type stating: "THIS  
2 HOME IS A LISTED FAMILY HOME. IT IS NOT LICENSED OR REGISTERED WITH  
3 THE HEALTH AND HUMAN ~~[DEPARTMENT OF FAMILY AND PROTECTIVE]~~ SERVICES  
4 COMMISSION. A LISTED FAMILY HOME HAS LIMITED MINIMUM STANDARDS AND  
5 IS NOT ~~[IT HAS NOT BEEN INSPECTED AND WILL NOT BE]~~ INSPECTED UNLESS  
6 A COMPLAINT IS FILED WITH THE COMMISSION."

7 SECTION 10. Section [42.0523](#), Human Resources Code, is  
8 amended by adding Subsection (e) to read as follows:

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

11 (1) the minimum standards adopted under Section  
12 [42.042](#); and

13 (2) the liability insurance requirement under Section  
14 [42.0495](#).

15 SECTION 11. Sections [42.044](#)(c-1) and (c-2), Human Resources  
16 Code, are repealed.

17 SECTION 12. As soon as practicable after the effective date  
18 of this Act, the executive commissioner of the Health and Human  
19 Services Commission shall adopt rules necessary to implement  
20 Chapter [42](#), Human Resources Code, as amended by this Act.

21 SECTION 13. The Health and Human Services Commission is  
22 required to implement a provision of this Act only if the  
23 legislature appropriates money specifically for that purpose. If  
24 the legislature does not appropriate money specifically for that  
25 purpose, the commission may, but is not required to, implement a  
26 provision of this Act using other appropriations available for that  
27 purpose.

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