

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.

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

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

5 SUBCHAPTER H. REGULATION OF RESIDENTIAL TREATMENT CENTERS

6 Sec. 42.251. DEFINITIONS. In this subchapter:

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

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

11 (B) the death of a child; or

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

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

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

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

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

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

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

1 (b) The operational plan must include:

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

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

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

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

17 (d) The commission must approve the proposed center's
18 operational plan and the Texas Education Agency must approve the
19 proposed center's educational plan before any hearing under Section
20 [42.0461](#) is held.

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

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

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

27 (A) the proposed center will provide for the

1 private or public education of school-age children residing in the
2 proposed center;

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

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

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

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

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

25 (A) the management of the proposed center; or

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

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

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

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

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

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

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

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

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

24 Sec. 42.253. CONFIDENTIALITY OF INFORMATION RELATING TO
25 SERVICES FOR HUMAN TRAFFICKING VICTIMS. (a) If an applicant for a
26 license to operate a residential treatment center will be providing
27 services to victims of human trafficking, any information relating

1 to the provision of services for victims of human trafficking is
2 confidential and the commission may not disclose that information.

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

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

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

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

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

23 (2) is accused of engaging in delinquent conduct or
24 conduct indicating a need for supervision, as defined by Section
25 51.03, Family Code; or

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

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

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

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

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

26 Sec. 42.259. COMMUNITY ENGAGEMENT PLAN. (a) Each
27 residential treatment center licensed under this chapter shall

1 develop a community engagement plan to improve relations between
2 the center and the community where the center is located.

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

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

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

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

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

26 (b) The commission shall publish the quality rating for each
27 residential treatment center licensed under this chapter on the

1 commission's Internet website.

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

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

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

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

23 (c) This section expires September 1, 2023.

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