

BILL ANALYSIS

Senate Research Center

S.B. 225
By: Paxton
Health & Human Services
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Millions of Texans must decide where to entrust the care of their children, and to aid in this decision, the legislature directed the Health and Human Services Commission (HHSC) to provide a searchable database on its website. Yet after a tragic event, a family in our district was frustrated to learn license and registration numbers are associated with the address of the facility. So if the caregiver moves to a different address and receives a new license, then any past deficiencies or violations are unknown to the parent unless the caregiver chooses to provide all past license or registration numbers.

In order to best safeguard children, parents and guardians need complete and accurate information about caregivers and to that end, S.B. 225 makes certain past violations and deficiencies remain associated with the individual caregiver. Additionally, S.B. 225 increases the number of years considered by HHSC from two years to five years when evaluating past violations, requires parents be informed if a caregiver has been convicted of a felony, and ensures liability insurance be obtained within 60 days.

As proposed, S.B. 225 amends current law relating to the regulation of child-care facilities and family homes.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the executive commissioner of the Health and Human Services Commission is modified in SECTION 2 (Section 42.025, Human Resources Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Provides that this Act may be cited as Ellie's Law.

SECTION 2. Amends Section 42.025, Human Resources code, as follows:

Sec. 42.025. **SEARCHABLE DATABASE.** (a) Requires the Department of Family and Protective Services (DFPS) to maintain on its Internet website a searchable database that includes:

(1) the name, address, and any identification number, as applicable, of each child-care facility or family home licensed, registered, or listed under this chapter that:

(A) makes a conforming change; or

(B) violated the minimum standards of the Health and Human Services Commission (HHSC) as determined by HHSC; and

(2) the name of each employee of a child-care facility or family home whom HHSC has determined to be responsible for a violation of the minimum standards of any facility regulated by HHSC, including a family home, who has had a license, registration, or other occupational

authorization revoked by a state agency, or who has been convicted of a felony.

(b) Requires HHSC to collaborate with licensing authorities to determine the most efficient method for identifying child-care facility or family home employees who have had a license revoked by the licensing authority.

(c) Requires HHSC to include the name of the individual associated with the license, registration, or listing in any database entry made under this section.

(d) Creates this subsection from existing text and makes no further changes.

(e) Defines "license" and "licensing authority" for purposes of this section.

SECTION 3. Amends Section 42.046(a), Human Resources Code, to require an applicant for a license to operate a child-care facility, child-placing agency, or continuum-of-care residential operation or for a listing or registration to operate a family home to submit to HHSC, rather than DFPS, the appropriate fee prescribed by Section 42.054 (Fees) and a completed application on a form provided by HHSC. Requires HHSC to require the applicant to provide the applicant's name on the application form.

SECTION 4. Amends Section 42.048, Human Resources Code, by adding Subsection (a-1), to require HHSC to associate a license issued under Chapter 42 (Regulation of Certain Facilities, Home, and Agencies That Provide Child-Care Services) with the applicant's name as stated in the applicant's license application.

SECTION 5. Amends Section 42.049, Human Resources Code, by amending Subsections (c) and (c-1) and adding Subsections (c-2) and (c-3), as follows:

(c) Requires a license or registration holder to obtain the insurance required by Subsection (a) (relating to liability insurance coverage for license or registration holders) not later than the 60th day after the date HHSC issues a license or registration to the holder. Deletes existing text prohibiting the inability to secure coverage from indemnifying the holder for damages due to negligence and requiring the holder to provide certain information to HHSC. Makes conforming changes.

(c-1) Requires the license or registration holder, if a child is enrolled at a child-care facility before the date the holder obtains the insurance required by Subsection (a) or the policy limits become exhausted, to timely provide the parent or guardian of each child for whom the holder provides care written notice that the insurance coverage has not yet been secured or that the policy limits have been exhausted. Makes a conforming change.

(c-2) Requires a license or registration holder who enrolls a child at a child-care facility before the date the holder obtains the insurance required by Subsection (a) to timely provide written notice to HHSC that the holder has not yet secured the insurance required by Subsection (a) and the reason the insurance has not been secured.

(c-3) Prohibits HHSC from assessing an administrative penalty or suspending or revoking the holder's license or registration for violating Subsection (a) during the 60-day period after the date HHSC issues the license or registration. Prohibits this subsection from being construed to indemnify the holder for damages due to negligence.

SECTION 6. Amends Sections 42.0495(c), (d), and (e), Human Resources Code, as follows:

(c) Requires a listed family home to obtain the insurance required by Subsection (a) (relating to liability insurance coverage for listed family homes) not later than

the 60th day after the date HHSC approves the listing. Requires the family home, if a child is enrolled at a listed family home before the date the home secures the insurance required by Subsection (a) or the home's policy or contract limits are exhausted, to timely provide written notice to the parent or guardian of each child attending the home that the insurance has not yet been secured or that the home's policy or contract limits have been exhausted. Makes conforming changes.

(d) Requires a listed family home that enrolls a child at the home before the date the home obtains the insurance required by Subsection (a) to timely provide written notice to HHSC that the home has not yet secured the insurance required by Subsection (a) and the reason the insurance has not been secured. Makes nonsubstantive and conforming changes.

(e) Prohibits HHSC from assessing an administrative penalty or suspending or revoking the family home's listing for violating Subsection (a) during the 60-day period after the date HHSC approves the listing. Makes a conforming change.

SECTION 7. Amends Section 42.050(c), Human Resources Code, to increase from two years to five years the number of preceding years HHSC is required to evaluate when determining if all licensing requirements are met and whether a facility that submits an application for the renewal of a license has been cited for repeated violations or has established a pattern of violations.

SECTION 8. Amends Section 42.052, Human Resources Code, by adding Subsection (1), to require HHSC to associate a listing or registration of a family home issued under this chapter with the applicant's name as stated in the applicant's listing or registration application.

SECTION 9. Amends Subchapter C, Chapter 42, Human Resources Code, by adding Section 42.0562, as follows:

Sec. 42.0562. **REQUIRED DISCLOSURE REGARDING EMPLOYEE CONVICTED OF FELONY.** Requires a child-care facility or family home, before the date the facility or home enrolls a child, to, in accordance with rules adopted by the executive commissioner of HHSC, inform the prospective child's parent or guardian that an employee at the facility or home has been convicted of a felony.

SECTION 10. Effective date: September 1, 2021.