87R3789 JG-D

By:  West S.B. No. 589

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of an interim registry for certain persons who have been accused of employee misconduct and are employed by a facility that provides care to individuals with an intellectual disability.

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

SECTION 1.  Section 253.003, Health and Safety Code, is amended by adding Subsection (d) to read as follows:

(d)  If the employee notified of the violation makes a timely request for a hearing on the determination, the commission shall record the reportable conduct in the interim registry under Section 253.0035 in a manner that is consistent with that section.

SECTION 2.  Chapter 253, Health and Safety Code, is amended by adding Section 253.0035 to read as follows:

Sec. 253.0035.  INTERIM REGISTRY. (a) In this section and Section 253.003, "commission" means the Health and Human Services Commission.

(b)  The commission shall establish an interim registry of employees against whom a determination or finding of reportable conduct is made and who have made a timely request for a hearing on the determination or finding under Section 253.003 of this code or Section 48.404, Human Resources Code. The information included in the interim registry must include:

(1)  the employee's name;

(2)  the employee's address;

(3)  the employee's social security number;

(4)  the name of the facility or individual employer of the employee;

(5)  the address of the facility or individual employer of the employee;

(6)  the date on which the reportable conduct occurred; and

(7)  a description of the reportable conduct.

(c)  The executive commissioner shall allow providers participating in the home and community-based services (HCS) waiver program or the Texas home living (TxHmL) waiver program direct access to the interim registry. The executive commissioner by rule shall require a provider to take necessary actions regarding an employee who is included in the interim registry. The actions taken by a provider under this subsection:

(1)  must be based on the seriousness of the reportable conduct for which the employee is included in the interim registry; and

(2)  may include:

(A)  additional monitoring;

(B)  reassignment; or

(C)  suspension.

(d)  The commission immediately shall remove an employee from the interim registry after a final decision on the reportable conduct is made and all rights to appeal the decision have been exhausted.

(e)  Information contained in the interim registry is confidential and not subject to disclosure under Chapter 552, Government Code. Confidential information contained in the interim registry may be disclosed to appropriate persons only in accordance with commission rules.

(f)  A provider is not civilly liable for failing to hire an employee who was, at the time the provider made the hiring decision, included in the interim registry.

SECTION 3.  Section 48.404, Human Resources Code, is amended by adding Subsection (d) to read as follows:

(d)  If the employee notified of the violation makes a timely request for a hearing on the finding, the commission shall record the reportable conduct in the interim registry under Section 253.0035, Health and Safety Code, in a manner that is consistent with that section.

SECTION 4.  As soon as practicable after the effective date of this Act, the executive commissioner of the Health and Human Services Commission shall adopt rules as necessary to implement the changes in law made by this Act.

SECTION 5.  This Act takes effect September 1, 2021.