

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of child-care facilities and family homes.

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

SECTION 1. This Act may be cited as Ellie's Law.

SECTION 2. Section 42.025, Human Resources Code, is amended to read as follows:

Sec. 42.025. SEARCHABLE DATABASE. (a) The department shall maintain on the department's Internet website a searchable database that includes:

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

(A) previously had a license, registration, or listing involuntarily suspended or revoked under this chapter with a permanent notation indicating the involuntary suspension or revocation and the year in which the suspension or revocation took effect or was final under this chapter; or

(B) violated the commission's minimum standards as determined by the commission; and

(2) the name of each employee of a child-care facility or family home:

(A) whom the commission has determined to be responsible for a violation of the minimum standards of any

1 facility regulated by the commission, including a family home;

2 (B) who has had a license, registration, or other
3 occupational authorization revoked by a state agency; or

4 (C) who has been convicted of a felony.

5 (b) The commission shall collaborate with licensing
6 authorities to determine the most efficient method for identifying
7 child-care facility or family home employees who have had a license
8 revoked by the licensing authority.

9 (c) The commission shall include the name of the individual
10 associated with the license, registration, or listing in any
11 database entry made under this section.

12 (d) The executive commissioner may adopt rules as necessary
13 to implement this section.

14 (e) In this section:

15 (1) "License" means a license, registration,
16 certificate, permit, or other authorization issued by a licensing
17 authority that a person must obtain to practice or engage in a
18 particular business, occupation, or profession.

19 (2) "Licensing authority" means a department,
20 commission, board, office, or other agency of the state that issues
21 a license.

22 SECTION 3. Section 42.046(a), Human Resources Code, is
23 amended to read as follows:

24 (a) An applicant for a license to operate a child-care
25 facility, child-placing agency, or continuum-of-care residential
26 operation or for a listing or registration to operate a family home
27 shall submit to the commission [~~department~~] the appropriate fee

1 prescribed by Section 42.054 and a completed application on a form
2 provided by the commission [~~department~~]. The commission shall
3 require the applicant to provide the applicant's name on the
4 application form.

5 SECTION 4. Section 42.048, Human Resources Code, is amended
6 by adding Subsection (a-1) to read as follows:

7 (a-1) The commission shall associate a license issued under
8 this chapter with the applicant's name as stated in the applicant's
9 license application.

10 SECTION 5. Section 42.049, Human Resources Code, is amended
11 by amending Subsections (c) and (c-1) and adding Subsections (c-2)
12 and (c-3) to read as follows:

13 (c) A [~~Should the~~] license or registration holder shall
14 obtain [~~for financial reasons or for lack of availability of an~~
15 ~~underwriter willing to issue a policy be unable to secure~~] the
16 insurance required by [~~under~~] Subsection (a) not later than the
17 60th day after the date the commission issues a license or
18 registration to the holder [~~or should the policy limits be~~
19 ~~exhausted, the holder shall timely notify the parent or guardian of~~
20 ~~each child for whom the holder provides care a written notice that~~
21 ~~the liability coverage is not provided and there will not be a~~
22 ~~ground for an administrative penalty or suspension or revocation of~~
23 ~~the holder's license or registration under this chapter. The holder~~
24 ~~shall also notify the commission that the coverage is not provided~~
25 ~~and provide the reason for same. In no case shall the inability to~~
26 ~~secure coverage serve to indemnify the holder for damages due to~~
27 ~~negligence~~].

1 (c-1) If a child is enrolled at a child-care facility
2 before the date the license or registration holder obtains the
3 insurance required by Subsection (a) or the policy limits become
4 exhausted, the holder shall timely provide the parent or guardian
5 of each child for whom the holder provides care written notice that
6 the insurance coverage has not yet been secured or that the policy
7 limits have been exhausted. The commission shall prescribe a form
8 that a license or registration holder may use to provide the notice
9 required by this subsection [~~notify a parent or guardian in~~
10 ~~accordance with Subsection (c) that liability coverage is not~~
11 ~~provided~~]. The commission shall post the form on the commission's
12 Internet website.

13 (c-2) A license or registration holder who enrolls a child
14 at a child-care facility before the date the holder obtains the
15 insurance required by Subsection (a) shall timely provide written
16 notice to the commission that the holder has not yet secured the
17 insurance required by Subsection (a) and the reason the insurance
18 has not been secured.

19 (c-3) The commission may not assess an administrative
20 penalty or suspend or revoke the holder's license or registration
21 for violating Subsection (a) during the 60-day period after the
22 date the commission issues the license or registration. This
23 subsection may not be construed to indemnify the holder for damages
24 due to negligence.

25 SECTION 6. Sections [42.0495](#)(c), (d), and (e), Human
26 Resources Code, are amended to read as follows:

27 (c) A [~~If a~~] listed family home shall obtain the insurance

1 ~~[is unable to secure a policy or contract]~~ required by Subsection
 2 (a) not later than the 60th day after the date the commission
 3 approves the listing. If a child is enrolled at a listed family home
 4 before the date the home secures the insurance required by
 5 Subsection (a) ~~[under this section for financial reasons or for~~
 6 lack of availability of an underwriter willing to issue a policy or
 7 contract] or the home's policy or contract limits are exhausted,
 8 the home shall timely provide written notice to the parent or
 9 guardian of each child attending the home that the insurance has
 10 ~~[liability coverage is]~~ not yet been secured or that the home's
 11 policy or contract limits have been exhausted ~~[provided]~~.

12 (d) A listed family home that enrolls a child at the home
 13 before the date the home obtains the insurance required ~~[described]~~
 14 by Subsection (a) ~~[(c)]~~ shall timely provide written notice to the
 15 commission that the home has not yet secured the ~~[is unable to~~
 16 secure liability] insurance required by Subsection (a) and the
 17 reason the insurance has ~~[could]~~ not been ~~[be]~~ secured.

18 (e) The ~~[If a listed family home complies with the notice~~
 19 requirements under this section, the] commission may not assess an
 20 administrative penalty or suspend or revoke the family home's
 21 listing for violating Subsection (a) during the 60-day period after
 22 the date the commission approves the listing. This subsection may
 23 not be construed to indemnify a family home for damages due to
 24 negligence.

25 SECTION 7. Section 42.050(c), Human Resources Code, is
 26 amended to read as follows:

27 (c) The commission shall evaluate the application for

1 renewal of a license to determine if all licensing requirements are
2 met and whether the facility has been cited for repeated violations
3 or has established a pattern of violations during the preceding
4 five [~~two~~] years. The evaluation may include a specified number of
5 visits to the facility and must include a review of all required
6 forms and records. If the commission determines the facility has
7 repeated violations or an established pattern of violations, before
8 the commission renews the license the commission may place
9 restrictions, conditions, or additional requirements on the
10 license to ensure the violations cease.

11 SECTION 8. Section 42.052, Human Resources Code, is amended
12 by adding Subsection (1) to read as follows:

13 (1) The commission shall associate a listing or
14 registration of a family home issued under this chapter with the
15 applicant's name as stated in the applicant's listing or
16 registration application.

17 SECTION 9. Subchapter C, Chapter 42, Human Resources Code,
18 is amended by adding Section 42.0562 to read as follows:

19 Sec. 42.0562. REQUIRED DISCLOSURE REGARDING EMPLOYEE
20 CONVICTED OF FELONY. Before the date a child-care facility or
21 family home enrolls a child, the facility or home shall, in
22 accordance with rules adopted by the executive commissioner, inform
23 the prospective child's parent or guardian that an employee at the
24 facility or home has been convicted of a felony.

25 SECTION 10. This Act takes effect September 1, 2021.