

By: West

S.B. No. 589

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the establishment of an interim registry for certain
3 persons who have been accused of employee misconduct and are
4 employed by a facility that provides care to individuals with an
5 intellectual disability.

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

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

9 (d) If the employee notified of the violation makes a timely
10 request for a hearing on the determination, the commission shall
11 record the reportable conduct in the interim registry under Section
12 253.0035 in a manner that is consistent with that section.

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

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

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

24 (1) the employee's name;

1 (2) the employee's address;

2 (3) the employee's social security number;

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

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

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

9 (7) a description of the reportable conduct.

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

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

20 (2) may include:

21 (A) additional monitoring;

22 (B) reassignment; or

23 (C) suspension.

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

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

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

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

11 (d) If the employee notified of the violation makes a timely
12 request for a hearing on the finding, the commission shall record
13 the reportable conduct in the interim registry under Section
14 253.0035, Health and Safety Code, in a manner that is consistent
15 with that section.

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

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