

## **BILL ANALYSIS**

Senate Research Center

S.B. 68  
By: Nelson  
Health & Human Services  
9/29/2009  
Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

S.B. 68 relates to licensing and inspection requirements of the Department of Family and Protective Services for certain facilities and homes providing child care, and provides penalties.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission (executive commissioner) in SECTION 6 (Section 42.042, Human Resources Code), and SECTION 11 (Section 42.056, Human Resources Code) of this bill.

Rulemaking authority previously granted to the executive commissioner is modified in SECTION 11 of this bill.

Rulemaking authority previously granted to the Department of Family and Protective Services (DFPS) is modified in SECTION 11 (Section 42.056, Human Resources Code) of this bill.

Rulemaking authority previously granted to DFPS is transferred to the executive commissioner in SECTION 11 and SECTION 13 of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 40.006, Human Resources Code, as follows:

Sec. 40.006. APPLICATION OF OTHER LAWS. (a) Provides that the Department of Family and Protective Services (DFPS) is subject to Chapters 551 (Open Meetings), 2001 (Administrative Procedure), and 2002 (Texas Register and Administrative Code), Government Code.

(b) Provides that DFPS is not required to comply with Chapter 53 (Consequences of Criminal Conviction), Occupations Code, in issuing a license or conducting a background check under Chapter 42 (Regulation of Certain Facilities, Homes, and Agencies That Provide Child-Care Services) or 43 (Regulation of Child-Care and Child-Placing Agency Administrators).

SECTION 2. Amends Section 42.002, Human Resources Code, by amending Subdivisions (4), (7), (8), (17), and (19), and adding Subdivisions (20) and (21), as follows:

(4) Defines "general residential operation." Deletes existing definition of "child-care institution."

(7) Redefines "day-care center."

(8) Redefines "group day-care home."

(17) Redefines "regular care."

(19) Redefines "residential child-care facility."

(20) Defines "before-school and after-school program."

(21) Defines "school-age program."

SECTION 3. Amends Subchapter A, Chapter 42, Human Resources Code, by adding Section 42.003, as follows:

Sec. 42.003. REFERENCE TO CHILD-CARE INSTITUTION. Provides that a reference in law to a "child-care institution" means a general residential operation.

SECTION 4. Amends the heading to Section 42.041, Human Resources Code, to read as follows:

Sec. 42.041. REQUIRED LICENSE.

SECTION 5. Amends Sections 42.041(b) and (c), Human Resources Code, as follows:

(b) Provides that this section does not apply to:

(1)-(2) Makes no changes to these subdivisions;

(3) a facility that is operated in connection with a shopping center, business, religious organization, or establishment where children are cared for during short periods while parents or persons responsible for the children are attending religious services, shopping, or engaging in other activities, including retreats or classes for religious instruction, on or near the premises, that does not advertise as a child-care facility or day-care center, and that informs parents that it is not licensed by the state. Deletes existing text providing that a facility that is operated in connection with a shopping center, business, religious organization, or establishment where children are cared for during short periods while parents or persons responsible for the children are attending religious services, shopping, or engaging in other activities on or near the premises, including but not limited to retreats or classes for religious instruction;

(4)-(6) Makes no changes to these subdivisions;

(7) an educational facility that is accredited by the Texas Education Agency (TEA), the Southern Association of Colleges and Schools, or an accreditation body that is a member of the Texas Private School Accreditation Commission and that operates primarily for educational purposes for prekindergarten, rather than in grades kindergarten, and above, a before-school or after-school program operated directly by an accredited educational facility, or a before-school or after-school program operated by another entity under contract with the educational facility, if TEA, the Southern Association of Colleges and Schools, or the other accreditation body, as applicable, has approved the curriculum content of the before-school or after-school program operated under the contract. Deletes existing text providing that this subdivision is subject to Section (b-1) (regarding specific exemptions that apply only to an educational facility that operates in a county that has a population of less than 25,000). Makes nonsubstantive changes;

(8) an educational facility that operates solely for educational purposes for prekindergarten through at least grade two, rather than in grades kindergarten through at least grade two, that does not provide custodial care for more than one hour during the hours before or after the customary school day, and that is a member of an organization that promulgates, publishes, and requires compliance with health, safety, fire, and sanitation standards equal to standards required by state, municipal, and county codes;

(9)-(10) Makes no changes to these subdivisions;

(11) an educational facility that is integral to and inseparable from its sponsoring religious organization or an educational facility both of which do not provide custodial care for more than two hours maximum per day, and that offers an

educational program, rather than programs for children age four and above, in one or more of the following: prekindergarten through at least grade three, elementary grades, or secondary grades, rather than preschool, kindergarten through at least grade three, elementary grades, or secondary grades. Deletes existing text making this subdivision subject to Subsection (b-1). Makes a conforming change;

(12)-(16) Makes no changes to these subdivisions;

(17) a child-care facility that operates for less than three consecutive weeks and less than 40 days in a period of 12 months;

(18) a program in which the child receives direct instruction in a single skill, talent, ability, expertise, or proficiency; that does not provide services or offerings that are not directly related to the single talent, ability, expertise, or proficiency; that does not advertise or otherwise represent that the program is a child-care facility, day-care center, or licensed before-school or after-school program, or that the program offers child-care services; that informs the parent or guardian that the program is not licensed by the state, and about the physical risks a child may face while participating in the program; and that conducts background checks for all program employees and volunteers who work with children in the program using information that is obtained from the Department of Public Safety of the State of Texas (DPS);

(19) an elementary-age (ages 5-13) recreation program that follows certain guidelines for operation and meets certain criteria;

(20) a living arrangement in a caretaker's home involving one or more children or a sibling group, excluding children who are related to the caretaker, in which the caretaker had a prior relationship with the child or sibling group or other family members of the child or sibling group; does not care for more than one unrelated child or sibling group; does not receive compensation or solicit donations for the care of the child or sibling group; and has a written agreement with the parent to care for the child or sibling group;

(21) a living arrangement in a caretaker's home involving one or more children or a sibling group, excluding children who are related to the caretaker, in which DFPS is the managing conservator of the child or sibling group; DFPS placed the child or sibling group in the caretaker's home; and the caretaker had a long-standing and significant relationship with the child or sibling group before the child or sibling group was placed with the caretaker; or

(22) a living arrangement in a caretaker's home involving one or more children or a sibling group, excluding children who are related to the caretaker, in which the child is in the United States on a time-limited visa under the sponsorship of the caretaker or of a sponsoring organization.

(c) Authorizes a single license that lists addresses and the appropriate facilities to be issued to a general residential operation, rather than a child-care institution, that operates noncontiguous facilities that are across the street from, in the same city block as, or on the same property as one another and that are demonstrably a single operation as indicated by patterns of staffing, finance, administrative supervision, and programs.

SECTION 6. Amends Section 42.042, Human Resources Code, by amending Subsections (f), (g), and (i), and adding Subsections (g-1) and (g-2), as follows:

(f) Requires DFPS, in promulgating minimum standards for the provision of child-care services, to recognize the various categories of services, including services for specialized care, the various categories of children and their particular needs, and the differences in the organization and operation of child-care facilities and general residential operations, rather than institutions. Requires that standards for general residential operations require an intake study before a child is placed in an operation.

Authorizes the intake study to be conducted at a community mental health and mental retardation center. Makes conforming changes.

(g) Authorizes DFPS, in promulgating minimum standards, to recognize and treat differently the types of services provided by certain entities, including general residential operations, before-school or after-school programs, and school-age programs. Makes conforming and nonsubstantive changes.

(g-1) Requires DFPS, in determining and enforcing minimum standards for a school-age program, to consider commonly accepted training methods for the development of a skill, talent, ability, expertise, or proficiency that are implemented with the consent of the parent or guardian of the participant and that are fundamental to the core purpose of the program.

(g-2) Requires the executive commissioner of the Health and Human Services Commission (executive commissioner) to adopt specific rules and minimum standards, including standards relating to background check information, for a child-care facility that is located in a temporary shelter, including a family violence shelter or homeless shelter, in which an adult, accompanied by a child related to the adult or a child for whom the adult is the managing conservator, may temporarily reside and that provides care for less than 24 hours a day for a child accompanying an adult temporarily residing in the shelter while the adult is not present at the shelter. Requires the executive commissioner, in adopting the rules and minimum standards under this subsection, to:

- (1) consider the special circumstances and needs of families that seek temporary shelter;
- (2) consider the role of the shelter in assisting and supporting families in crisis; and
- (3) distinguish between a child-care facility that provides care only for children temporarily residing in the shelter and a child-care facility that also provides care for children who are not temporarily residing in the shelter.

(i) Requires DFPS, before adopting minimum standards, to:

(1) convene a temporary work group to advise DFPS regarding the proposed standards, composed of at least six members who represent the diverse geographic regions of this state, including:

- (A) a DFPS official designated by the commissioner of DFPS to facilitate the work group's activities;
- (B) a person with demonstrated expertise or knowledge regarding the different types and classifications of child-care facilities, homes, agencies, or programs that will be covered by the proposed standards;
- (C) a parent with experience related to one of the different types or classifications of child-care facilities, homes, agencies, or programs that will be covered by the proposed standards; and
- (D) a representative of a nonprofit entity licensed under this chapter; and

(2) send a copy of the proposed standards to each licensee covered by the proposed standards at least 60 days before the standards take effect to provide the licensee an opportunity to review and to send written suggestions to DFPS. Deletes existing text requiring DFPS before adopting minimum standards, to present the proposed standards to the State Advisory Committee on Child-Care Facilities for review and comment, and to provide the licensee an opportunity to review and send written suggestions to the committee and DFPS.

SECTION 7. Amends Section 42.0422, Human Resources Code, as follows:

Sec. 42.0422. RESTRAINT AND SECLUSION. Requires a person providing services to a resident of a general residential operation, including a state-operated facility that is a residential treatment center or a general residential operation serving children with mental retardation, to comply with Chapter 322 (Use of Restraint and Seclusion in Certain Health Care Facilities), Health and Safety Code, and the rules adopted under that chapter. Makes conforming changes.

SECTION 8. Amends Section 42.044(b), Human Resources Code, to require DFPS to investigate a listed family home when DFPS receives a complaint of abuse or neglect of a child, as defined by Section 261.401 (Agency Investigation), Family Code, rather than Section 261.001 (Definitions), Family Code.

SECTION 9. Amends Subchapter C, Chapter 42, Human Resources Code, by adding Section 42.04412, as follows:

Sec. 42.04412. INTERFERENCE WITH INSPECTION; COURT ORDER. (a) Prohibits a person from interfering with an investigation or inspection of a facility or family home conducted by DFPS under this chapter.

(b) Requires the facility or family home, during an investigation or inspection of a facility or family home under this chapter, to cooperate with DFPS and to allow DFPS to access the records of the facility or family home, access any part of the premises of the facility or family home, and interview any child, employee, or other person who is present at the facility or family home and who may have information relevant to the investigation or inspection.

(c) Requires a district court in Travis County or in the county in which the facility or family home is located, if access to the records or premises of the facility or family home cannot be obtained, for good cause shown and without prior notice or a hearing, to issue an order granting DFPS access to the records or premises of the facility or family home in order to conduct the inspection, investigation, or interview.

(d) Authorizes a district court in Travis County or in the county in which the suspected facility or family home is located, to assist DFPS in investigating whether a person is operating a facility or family home without a required license, certification, registration, or listing, for good cause shown and without prior notice or hearing, to issue an order allowing DFPS to enter the suspected facility or family home at a time when DFPS's evidence shows that the suspected facility or home may be providing child care subject to regulation under this chapter.

SECTION 10. Amends Section 42.0461(a), Human Resources Code, as follows:

(a) Requires the applicant for the license, certificate, or expansion, before DFPS is authorized to issue a license or certification for the operation or the expansion of the capacity of a foster group home or foster family home that is located in a county with a population of less than 300,000 and that provides child care for 24 hours a day at a location other than the actual residence of a child's primary caretaker or of a general residential operation, to conduct a public hearing and publish notice of the application at the applicant's expense. Deletes existing text authorizing DFPS to issue a license for an applicant to operate under Subchapter E. Makes a conforming change.

SECTION 11. Amends Section 42.056, Human Resources Code, by amending Subsections (a), (a-2), (b), (b-1), (c), (f), (g), (h), (i), and (j) and adding Subsections (a-3), (a-4), and (a-5), as follows:

(a) Requires the director, owner, or operator of a child-care facility, child-placing agency, or family home, in accordance with rules adopted by the executive commissioner, rather than DFPS, when applying to operate a child-care facility or child-

placing agency or when listing or registering a family home and at least once during each 24 months after receiving a license, listing, registration, or certification of approval, to submit to DPFS for use in conducting background and criminal history checks the name of:

- (1) the director, the owner, and operator of the facility, agency, or home;
- (2) each person employed at the facility, agency, or home;
- (3) each prospective employee of the facility, agency, or home;
- (4) each current or prospective foster parent providing foster care through a child-placing agency;
- (5) each prospective adoptive parent seeking to adopt through a child-placing agency;
- (6) each person at least 14 years of age, other than a client in care, who:
  - (A) is counted in child-to-caregiver ratios in accordance with the minimum standards of DFPS;
  - (B) will reside in a prospective adoptive home if the adoption is through a child-placing agency;
  - (C) has unsupervised access to children in care at the facility or family home; or
  - (D) resides in the facility or family home; or
- (7) each person 14 years of age or older, other than a client in care, who will regularly or frequently be staying or working at a facility, family home, or prospective adoptive home, while children are being provided care.

Makes nonsubstantive changes.

(a-2) Requires the director, owner or operator of a day-care center, in accordance with rules adopted by the executive commissioner, to submit a complete set of fingerprints of each person whose name is required to be submitted by the director, owner, or operator under Subsection (a), unless the person is only required to have the person's name submitted based on criteria specified by Subsection (a)(7).

(a-3) Requires the director, owner, or operator of a child-placing agency, foster home, or foster group home, in accordance with rules adopted by the executive commissioner, before a child for whom DFPS is the managing conservator is placed with the agency or in the home, to submit a complete set of fingerprints of the following persons:

- (1) a person who applies to be a foster or adoptive parent, including a person who has previously adopted a child unless the person is also verified as a foster or adoptive home; and
- (2) a person who is 18 years of age or older and who lives in the home of a person who applies to be a foster or adoptive parent.

(a-4) Requires the director, owner, or operator of a child-care facility or family home, in accordance with rules adopted by the executive commissioner, to submit a complete set of fingerprints of each person whose name is required to be submitted by the director, owner, or operator under Subsection (a) if:

- (1) the person resided in another state during the five years preceding the date the person's name was required to be submitted under Subsection (a); or

(2) the director, owner, or operator has reason to suspect that the person has a criminal history in another state.

(a-5) Creates this subsection from existing text. Provides that the rules adopted by the executive commissioner under Subsections (a-2), (a-3), and (a-4):

(1) are required to require that the fingerprints be submitted in a form and of a quality acceptable to DPS and the Federal Bureau of Investigation (FBI) for conducting a criminal history check;

(2) are authorized to require that the fingerprints be submitted electronically through an applicant fingerprinting service center; and

(3) are authorized to allow DFPS to waive the submission of fingerprints required by this section if:

(A) the person for whom the submission is required has a fingerprint-based criminal history record check on file with DFPS or a fingerprint-based criminal history clearinghouse record, as provided by Section 411.0845 (Criminal History Clearinghouse), Government Code, that is accessible to DFPS through DPS; and

(B) the date on which the current submission of fingerprints is required occurs before the second anniversary of a previous name-based criminal history check of the person. Makes nonsubstantive changes.

(b) Requires DFPS to conduct background and criminal history checks using:

(1) the information provided under Subsection (a), rather than Subsection (a) and (a-1);

(2) the information made available by DPS under Section 411.114 (Access to Criminal History Record Information: Department of Protective and Regulartoy Services), Government Code, or by the FBI or other criminal justice agency under Section 411.087 (Access to Criminal History Record Information Maintained by FBI or Local Criminal Justice Agency), Government Code; and

(3) DFPS's records of reported abuse and neglect.

(b-1) Requires DFPS to conduct a state and FBI criminal history check, in addition to any other background or criminal history check conducted under Subsection (b), for each person whose fingerprints are, rather than whose name is, submitted under Subsection (a-2), (a-3), or (a-4), rather than by the director, owner, or operator of a day-care center, under Subsection (a), by:

(1) submitting the person's fingerprints, or causing the fingerprints to be submitted electronically, to DPS for the purpose of conducting a state and federal criminal history check; and

(2) using the resulting information made available by DPS under Section 411.114, Government Code, and by FBI and any other criminal justice agency under Section 411.087, Government Code. Makes nonsubstantive changes.

(c) Requires DFPS by rule to require a child-care facility, child-placing agency, or registered family home to pay to DFPS a fee in an amount not to exceed the administrative costs DFPS incurs in conducting a background and criminal history check under this section.

(f) Requires DFPS, as part of a background check under this section, to provide any relevant information available in DFPS's records regarding a person's previous

employment in a facility or family home, rather than a residential child-care facility, to the person submitting the request.

(g) Prohibits a person whose name is submitted under Subsection (a), rather than by the director, owner, or operator of a day-care center, except as otherwise provided by this subsection, from providing direct care or having direct access to a child in a facility or family home, rather than a day-care center, before the person's background and criminal history checks under Subsections (b) and (b-1) are completed. Authorizes a person to be employed at a facility or family home and to be provided direct care or have direct access to a child in the facility or family home, rather than day-care center, before the person's criminal history check under Subsection (b-1) is completed if:

(1) the facility or family home is experiencing a staff shortage;

(2) the state criminal history check and the background check using DFPS's records of reported abuse and neglect have been completed under Subsection (b), and the resulting information does not preclude the person from being present at the facility or family home, rather than day-care center; and

(3) the person's fingerprints are submitted as soon as possible, but not later than the 30th day after the earliest of the date on which the person first:

(A) provides direct care to a child;

(B) has direct access to a child; or

(C) is hired. Deletes existing text authorizing a person to be employed at a day-care center before the person's criminal history check is completed, if the day-care center is experiencing a staffing shortage that, if the day-care center were not allowed to employ the person until completion of the federal criminal history check, would result in a staff-to-child ratio that violates DFPS's minimum standards. Makes nonsubstantive changes.

(h) Requires the director, owner, or operator of the facility or family home to immediately terminate the person's employment if the results of a criminal history check under Subsection (b-1) for a person employed by a facility or family home during a staffing shortage as authorized by Subsection (g) preclude the person from being present at the facility or family home. Makes conforming changes.

(i) Provides that a director, owner, or operator of a facility or family home commits an offense if the director, owner, or operator knowingly:

(1) fails to submit to DFPS information about a person as required by this section and DFPS rules for use in conducting background and criminal history checks with respect to the person; and

(2) employs the person at the facility or family home or otherwise allows the person to regularly or frequently stay or work at the facility or family home while children are being provided care.

Makes conforming changes.

(j) Provides that a director, owner, or operator of a facility or family home commits an offense if, after the date the director, owner, or operator receives notice from DFPS that, based on the results of a person's background or criminal history check, the person is precluded from being present at the facility or family home, the director, owner, or operator knowingly:

(1) employs the person at the facility or family home; or

(2) otherwise allows the person to regularly or frequently stay or work at the facility or family home while children are being provided care.

Makes conforming changes.

SECTION 12. Amends Section 42.063(d), Human Resources Code, to require an employee or volunteer of a general residential operation, child-placing agency, foster home, or foster group home to report any serious incident directly to DFPS if the incident involves a child under the care of the operation, agency, or home.

SECTION 13. Amends Sections 42.072(c) and (e), Human Resources Code, as follows:

(c) Deletes existing text prohibiting DFPS from issuing a license, listing, registration, or certification to a person whose license, listing, registration, or certification is revoked or whose application for a license, listing, registration, or certification is denied for a substantive reason under this chapter before the fifth anniversary of the date on which the revocation takes effect by DFPS or court order or the decision to deny the application is final, if facility is a residential child-care facility, or before the second anniversary of the date on which the revocation takes effect by DFPS or court order or the decision to deny the application is final, if the facility is not a residential child-care facility.

(e) Authorizes a person to continue to operate a facility or family home during an appeal of a license, listing, or registration denial or revocation unless the operation of the facility or family home poses a risk to the health or safety of children, rather than unless the revocation or denial is based on a violation which poses a risk to the health or safety of children. Requires the executive commissioner, rather than DFPS, by rule to establish the criteria for determining whether the operation of a facility or family home poses a risk to the health or safety of children. Requires DFPS to notify the facility or family home of the criteria DFPS used to determine that the operation of the facility or family home poses a risk to health or safety and that the facility or family home is prohibited from operating. Makes conforming changes.

SECTION 14. Amends Section 42.073(c), Human Resources Code, as follows:

(c) Provides that an order is valid for 30 days after the effective date of the order. Deletes existing text providing that an order is valid for 10 days after the effective date of the order, except that an order relating to a residential child-care facility is valid for 30 days after the effective date of the order.

SECTION 15. Amends Section 42.074(a), Human Resources Code, as follows:

(a) Authorizes DFPS to file suit in a district court in Travis County or in the county in which a facility or family home is located for assessment and recovery of a civil penalty under Section 42.075 (Civil Penalty), for injunctive relief, including a temporary restraining order, or for both a civil penalty and injunctive relief when it appears that a person has violated, is violating, or is threatening to violate the licensing, certification, listing, or registration requirements of this chapter or DFPS's licensing, certification, listing, or registration rules and standards, or knowingly fails to meet or maintain an exemption authorized under Section 42.041 and engages in activities that require a license or registration. Deletes existing text authorizing DFPS to file suit in a district court in Travis County or in the county where the facility or family home is located for assessment and recovery of civil penalties under Section 42.075, for injunctive relief, including a temporary restraining order, or for both injunctive relief and civil penalties. Makes nonsubstantive changes.

SECTION 16. Amends Section 42.075(a), Human Resources Code, to provide that a person is subject to a civil penalty of not less than \$50 nor more than \$100 for each day of violation and for each act of violation if the person knowingly fails to meet or maintain any criterion of an exemption authorized under Section 42.041 and engages in activities that require a license or registration, or fails to inform DFPS of a change in status and the person knows the change in

status requires the person to be licensed or registered under this chapter. Makes nonsubstantive changes.

SECTION 17. Amends Section 42.077, Human Resources Code, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Requires DFPS to publish notice of a revocation or suspension of a facility's license or family home's listing or registration on DFPS's Internet website along with other information regarding child-care services. Makes nonsubstantive changes.

(a-1) Requires that a newspaper, if notice is published in the newspaper under Subsection (a), place the notice in the section in which advertisements for day-care services are normally published. Makes a nonsubstantive change.

SECTION 18. Amends Section 261.401(b), Family Code, to require a state agency that operates, licenses, certifies, registers, or lists a facility in which children are located or provides oversight of a program that serves children to make a prompt, thorough investigation of a report that a child has been or may be abused, neglected, or exploited in the facility or program.

SECTION 19. Repealer: Section 42.041(b-1) (regarding specific exemptions that apply only to an educational facility that operates in a county that has a population of less than 25,000), Human Resources Code.

Repealer: Section 42.0431(c) (providing that the enforcement of screening requirements relating to vision, hearing, and other special senses and communication disorders does not apply to a day-care center or group day-care home operating under a certificate issued by DFPS under Subchapter E), Human Resources Code.

Repealer: Section 42.056(a-1) (requiring the director, owner, or operator of a residential child-care facility to submit to DFPS for use in conducting background and criminal history checks the name of each prospective employee who will provide direct care or have direct access to a child in the residential child-care facility), Human Resources Code.

Repealer: Section 42.056(d) (prohibiting certain persons from providing direct care or having direct access to a child in a residential child-care facility before completion of the person's background check and criminal history check), Human Resources Code.

Repealer: Section 42.056(e) (authorizing the child-care facility to obtain certain information for the facility's employee, subcontractor, or volunteer directly from DPS), Human Resources Code.

SECTION 20. Makes application of the change in law made by this Act to Sections 42.056(i) and (j), Human Resources Code, prospective.

SECTION 21. (a) Makes application of the change in law made by this Act to Section 42.072(c), Human Resources Code, prospective.

(b) Makes application of Sections 42.074 and 42.075, Human Resources Code, as amended by this Act, prospective.

SECTION 22. (a) Provides that the change in law made by this Act by which a school-age program is required to be licensed under Chapter 42, Human Resources Code, as amended by this Act, takes effect on the later of the date on which DFPS adopts minimum standards for school-age programs in accordance with Section 42.042 (Rules and Standards), Human Resources Code, as amended by this Act, or September 1, 2010.

(b) Provides that the change in law made by this Act by which a before-school or after-school program is required to be licensed under Chapter 42, Human Resources Code, as amended by this Act, takes effect on the later of the date on which DFPS adopts

minimum standards for before-school or after-school programs in accordance with Section 42.042, Human Resources Code, as amended by this Act, or September 1, 2010.

(c) Requires DFPS to adopt minimum standards as provided by Section 42.042, Human Resources Code, as amended by this Act, as soon as practicable after the effective date of this Act, but not later than September 1, 2010.

(d) Provides that the change in law made by this Act by which a child-care facility located in a temporary shelter that provides care only for children temporarily residing in the shelter is required to be licensed under Chapter 42, Human Resources Code, as amended by this Act, takes effect on the later of the date on which the executive commissioner adopts minimum standards for those child-care facilities under Section 42.042(g-2), Human Resources Code, as added by this Act, or September 1, 2010.

(e) Provides that the change in law made by this Act by which a child-care facility located in a temporary shelter that provides care for children temporarily residing in the shelter and other children is required to be licensed under Chapter 42, Human Resources Code, as amended by this Act, takes effect on the effective date of this Act.

(f) Requires the executive commissioner to adopt rules and minimum standards as required by Section 42.042(g-2), Human Resources Code, as added by this Act, as soon as practicable after the effective date of this Act, but not later than September 1, 2010.

SECTION 23. Effective date, except as otherwise provided by this Act: September 1, 2009.