

## **BILL ANALYSIS**

Senate Research Center

H.B. 877  
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Health & Human Services  
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Engrossed

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

The Department of Family and Protective Services (DFPS) is required to investigate complaints of child abuse and neglect or lack of compliance with standards that are made against child care facilities and registered family homes. Many of these complaints are made anonymously and, when investigated, are found to be without basis in fact. Investigating these anonymous complaints consumes a great deal of staff resources, and DFPS needs to establish an effective process to screen out invalid complaints and direct staff resources toward valid complaints.

Currently, all complaints regarding noncompliance with DFPS standards remain part of a facility's or family home's record, regardless of whether they are found to be invalid after investigation. Retaining invalid complaints in the record may create an unfair impression of the facility or home. DFPS needs to develop a procedure to remove unfounded complaints from its records.

Finally, some complaints of noncompliance with standards are made maliciously and with knowledge that the complaint is false. Establishing criminal penalties would serve as a deterrent against such conduct.

H.B. 877 is intended to address the problems described above and provide effective solutions.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 (Section 42.042, Human Resources Code) and SECTION 2 (Section 42.0446, Human Resources Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

[While the statutory reference in this bill is to the Department of Protective and Regulatory Services, the following amendments affect the Department of Family and Protective Services, as the successor agency to the Department of Protective and Regulatory Services.]

SECTION 1. Amends Section 42.042(c), Human Resources Code, to require the executive commissioner of the Health and Human Services Commission (executive commissioner) to adopt rules regarding the receipt of anonymous complaints made regarding child-care facilities and family homes to limit the number of anonymous complaints investigated by the Department of Protective and Regulatory Services (department).

SECTION 2. Amends Subchapter C, Chapter 42, Human Resources Code, by adding Sections 42.0446 and 42.0447, as follows:

Sec. 42.0446. REMOVAL OF CERTAIN INVESTIGATION INFORMATION FROM INTERNET WEBSITE. Requires the executive commissioner to adopt rules providing a procedure by which the department removes from the department's Internet website information with respect to a child-care facility or registered family home that relates to an anonymous complaint alleging that the facility or family home failed to comply with the department's minimum standards if, at the conclusion of the investigation, the department determines that the complaint is false or lacks factual foundation.

Sec. 42.0447. FALSE REPORT; CRIMINAL PENALTY. (a) Provides that a person commits an offense if the person knowingly or intentionally files a complaint alleging that a child-care facility or registered family home failed to comply with the department's minimum standards and the person knows that the allegation is false or lacks factual foundation.

(b) Provides that an offense under this section is a Class A misdemeanor unless it is shown on trial of the offense that the person has previously been convicted under this section, in which case the offense is a state jail felony.

SECTION 3. Amends Section 42.072(b), Human Resources Code, to provide that an action under this section (regarding disciplinary action for a facility or family home) is a contested case as defined by Chapter 2001 (Administrative Procedure), Government Code, and is subject to judicial review under the substantial evidence rule in accordance with that chapter.

SECTION 4. Makes application of Section 42.0446, Human Resources Code, as added by this Act, prospective to complaints with respect to a child-care facility or registered family home that are pending on or filed on or after the effective date of this Act.

SECTION 5. Effective date: September 1, 2005.