

BILL ANALYSIS

S.B. 569
By: Huffman
Human Services
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Concerns have been raised regarding the lack of minimum standards for listed family homes as compared with licensed child-care centers. It has been reported that this lack of adequate regulation has resulted in substandard care for children and hundreds of high-risk violations. S.B. 569 seeks to address these concerns and to protect children in the care of such homes.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTIONS 1, 6, and 12 of this bill.

ANALYSIS

S.B. 569 amends the Human Resources Code to transfer regulatory authority concerning certain child-care facilities from the Department of Family and Protective Services to the Health and Human Services Commission (HHSC). The bill requires the executive commissioner of HHSC by rule to adopt minimum standards for listed family homes that do the following:

- promote the health, safety, and welfare of children attending a listed family home;
- promote safe, comfortable, and healthy listed family homes for children;
- ensure adequate supervision of children by capable, qualified, and healthy personnel; and
- ensure medication is administered in accordance with applicable statutory provisions.

The bill authorizes the executive commissioner to recognize and treat differently the types of services provided by listed family homes as distinct from certain other types of child-care facilities with regard to promulgating minimum standards for those facilities.

S.B. 569 includes listed family homes among the facilities that an authorized HHSC representative may visit during operating hours for the purposes of investigation, inspection, and evaluation and that HHSC is required to investigate when a complaint is received by HHSC and repeals provisions relating to the investigation of listed family homes specifically. The bill requires HHSC to provide a minimum of five years of investigative data for listed family homes as part of the inspection data authorized to be provided to the public on a determination that the data enhances consumer choice with respect to those homes. The bill sets out provisions relating to the removal of certain investigation information from the HHSC website relating to an anonymous complaint that is determined to be false or to lack factual foundation. The bill

requires an applicant for a listing to operate a family home to submit with the application proof of the applicant's successful completion of safe sleep training in accordance with HHSC rules. The bill revises provisions relating to the required listing for a listed family home and to requirements for the public advertising of a family home that is not a listed family home.

S.B. 569 sets out requirements for a listed family home to maintain liability insurance coverage in the amount of \$300,000 for each occurrence of negligence and notice requirements for a listed family home that is unable to secure a policy or contract. The bill prohibits HHSC from assessing an administrative penalty or suspending or revoking a family home's listing for violating the requirement to maintain liability insurance if the family home complies with those notice requirements. The bill establishes that this prohibition may not be construed to indemnify a family home for damages due to negligence.

S.B. 569 exempts a family home listed under statutory provisions relating to the listing of relative child-care providers from the following requirements:

- the rules and standards adopted under statutory provisions regulating certain facilities, homes, and agencies that provide child-care services; and
- the liability insurance requirements under the bill's provisions.

S.B. 569 requires the executive commissioner of HHSC to adopt rules necessary to implement the bill's provisions. The bill establishes that HHSC is required to implement a provision of the bill only if the legislature appropriates money specifically for that purpose and, if not, that HHSC may, but is not required to, implement such a provision using other appropriations available for that purpose.

S.B. 569 repeals Sections 42.044(c-1) and (c-2), Human Resources Code.

EFFECTIVE DATE

September 1, 2019.