

BILL ANALYSIS

Senate Research Center
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S.B. 1018
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In August 2015, two family residential centers (FRCs) were activated in Texas to house mothers with children while they were awaiting their immigration hearings seeking asylum in the United States.

Because of a 1997 federal ruling (*Flores v. Meese*), and a more recent extension of that ruling in July of 2015, children going through immigration proceedings may only be held in a facility that is licensed by the welfare agency in the state in which the facility is located. Following the activation of these FRCs, the Texas Department of Family and Protective Services (DFPS) determined that the facilities should be licensed by and under the oversight of DFPS while housing children.

DFPS created an emergency licensing program to address this need, but a state district court found that this licensing program was not supported by current state law. The ruling is currently being appealed by DFPS and the attorney general. S.B. 1018 helps protect the health and welfare of immigrant children who are awaiting immigration hearings by giving DFPS statutory authority to provide independent oversight and licensing for this type of facility, as required by the federal court ruling.

As proposed, S.B. 1018 amends current law relating to the licensing of family residential centers by the Department of Family and Protective Services and the detention of certain juveniles.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter C, Chapter 42, Human Resources Code, by adding Section 42.0538, as follows:

Sec. 42.0538. FAMILY RESIDENTIAL CENTERS. (a) Defines “family residential center.”

(b) Requires the Department of Family and Protective Services (DFPS), except as provided by Subsection (c), to license a family residential center (FRC) in the same manner as DFPS licenses a general residential operation under this chapter.

(c) Authorizes the executive commissioner of the Health and Human Services Commission to exempt an FRC from any rule applicable to a general residential operation as the executive commissioner determines necessary to allow members of a family to remain together in the same living space, allow a child’s parent or other adult family member who is housed with the child to supervise and care for the child at the FRC, or operate the FRC.

(d) Provides that DFPS's licensing and oversight of FRCs is consistent with the purposes of this chapter. Provides that this section does not authorize this state to enforce federal immigration law.

SECTION 2. Amends Section 54.011, Family Code, by amending Subsection (f) and adding Subsection (g), as follows:

(f) Prohibits a nonoffender, except as provided by Subsections (a) and (g), from being detained for any period of time in certain facilities. Deletes existing text prohibiting a nonoffender, including a person who has been taken into custody and is being held solely for deportation out of the United States, from being detained for any period of time in certain facilities, except as provided by Subsection (a).

(g) Authorizes a status offender or nonoffender who has been taken into custody, notwithstanding any other law, to be held solely for deportation out of the United States for any period of time in a publicly or privately operated, licensed, nonsecure facility, including an FRC, as defined by Section 42.0538, Human Resources Code.

SECTION 3. Effective date: upon passage or September 1, 2017.