

## **BILL ANALYSIS**

Senate Research Center  
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C.S.S.B. 1018  
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4/26/2017  
Committee Report (Substituted)

### **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. (Original Author's / Sponsor's Statement of Intent)

C.S.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**

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 (Section 42.0538, Human Resources Code) of this bill.

### **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" to mean a facility that:

- (1) is operated by or under a contract with United States Immigration and Customs Enforcement to enforce federal immigration laws;
- (2) houses children with a parent or other adult family member who remains with the child at the center or children who are not accompanied by a parent or other adult family member; and
- (3) provides care for children for at least part of a day.

(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 (executive commissioner), by rule, to exempt an FRC from any minimum standard or 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 Subsection (c) does not prohibit DFPS from granting a waiver or variance on a case-by-case basis as authorized by other law.

(e) Provides that this section does not waive sovereign immunity or create a cause of action.

(f) Provides that this section expires September 1, 2019.

SECTION 2. Effective date: upon passage or September 1, 2017.