

BILL ANALYSIS

Senate Research Center
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S.B. 781
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Residential treatment centers (RTCs) are a type of congregate care facility that provides around-the-clock supervision and treatment services exclusively to children with emotional disorders. These operations are regulated by both the Health and Human Services Commission (HHSC) and the Department of Family and Protective Services (DFPS).

In February 2018, President Trump signed the Family First Prevention Services Act (FFPSA) into law. It will become effective in 2021. This new law will drastically impact the foster care system in Texas and where the state places our most vulnerable at risk youth. S.B. 781 seeks to ensure Texas' RTCs are ready to meet the higher standards of this federal law. This bill encourages the state to support the provider community in building capacity towards federal accreditation for Qualified Residential Treatment Programs in compliance with the FFPSA.

This bill strengthens the requirements necessary to obtain a license to open a new RTC facility and allows for a public hearing process for license renewals. It also clarifies the enforcement provisions of the Human Resources Code to specify what types of violations will lead to a facility's license suspension or revocation. Furthermore, it increases participation with the surrounding community by requiring new RTC applicants to thoughtfully compile a community engagement plan. This plan must include both an operational plan and an educational plan that take into consideration local community review and feedback. S.B. 781 would require collaboration between the Texas Education Agency (TEA) and HHSC to create and implement best practices for educating students living in RTCs.

As proposed, S.B. 781 amends current law relating to the regulation of residential treatment centers.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of the Department of Family and Protective Services in SECTION 1 (Section 40.043, Human Resources Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 40, Human Resources Code, by adding Section 40.043, as follows:

Sec. 40.043. CHILD SAFETY AND RUNAWAY PREVENTION PROCEDURES. Requires the commissioner of the Department of Family and Protective Services (DFPS) by rule to establish procedures to reduce the number of incidents in which a child in the conservatorship of DFPS runs away from a residential treatment center and to ensure the safety of a child who leaves a residential treatment center.

SECTION 2. Amends Section 42.0462, Human Resources Code, as follows:

Sec. 42.0462. WAIVER OF NOTICE AND HEARING REQUIREMENTS. (a) Creates this subsection from existing text. Requires the Health and Human Services Commission (HHSC), rather than DFPS, subject to Subsection (b), to protect the safety and well-being of residents and employees of a general residential operation that provides

comprehensive residential services to children who are victims of trafficking, to waive the notice and hearing requirements imposed under Section 42.0461 (Public Notice and Hearing: Residential Child Care) for an applicant who submits to HHSC, rather than DFPS, an application to provide trafficking victim services at the applicant's general residential operation.

(b) Provides that this section does not apply to an applicant who submits an application for a residential treatment center license.

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

SUBCHAPTER H. REGULATION OF RESIDENTIAL TREATMENT CENTERS

Sec. 42.251. DEFINITIONS. Defines "life or safety incident" and "residential treatment center" for purposes of this subchapter.

Sec. 42.252. LICENSING PROCEDURES. (a) Requires a person applying for a license to operate a residential treatment center, in addition to the applicable requirements to obtain a license under Subchapter C (Regulation of Certain Facilities, Homes, and Agencies that Provide Child-care Services), to submit an operational plan for the proposed center to HHSC and an educational plan describing the applicant's plan to provide for the educational needs of the children at the proposed center to the Texas Education Agency (TEA).

(b) Requires the operational plan to include certain information.

(c) Provides that a person applying for a license to operate a residential treatment center is not required to include in the operational plan whether the proposed residential treatment center will provide services to children who are victims of human trafficking.

(d) Requires HHSC to approve the proposed center's operational plan and requires TEA to approve the proposed center's educational plan before any hearing under Section 42.0461 is held.

(e) Authorizes HHSC, in evaluating an application for a license to operate a residential treatment center, to consider certain criteria.

(f) Requires HHSC to approve or deny an application for a proposed residential treatment center based on the merits of the application. Requires HHSC, in making the decision, to heavily weigh any public comment HHSC receives relating to the licensing of the proposed center and consider documented evidence gathered through the application review process.

(g) Authorizes HHSC to deny an application for a license to operate a residential treatment center if HHSC determines that the community has insufficient resources to support children proposed to be served by the applicant, that granting the license would significantly increase the ratio in the local school district of students enrolled in a special education program to students enrolled in a regular education program and the increase would adversely affect the children proposed to be served by the applicant, or that granting the license would have a significant adverse impact on the community and would limit opportunities for social interaction for the children proposed to be served by the applicant.

Sec. 42.253. CONFIDENTIALITY OF INFORMATION RELATING TO SERVICES FOR HUMAN TRAFFICKING VICTIMS. (a) Provides that if an applicant for a license to operate a residential treatment center will be providing services to victims of human trafficking, any information relating to the provision of services for victims of human trafficking is confidential and prohibits HHSC from disclosing that information.

(b) Provides that if a hearing is required under 42.0461 for an application for a license to operate a residential treatment center and the proposed center will be providing services to victims of human trafficking, any information relating to the

provision of services for victims of human trafficking is confidential and prohibits HHSC from disclosing that information.

Sec. 42.254. SCHOOL YEAR; REPORT. (a) Provides that a residential treatment center that provides for the education of school-age children residing in the proposed center must have an academic school year that begins not earlier than August 1 or later than September 1 of each year.

(b) Provides that children receiving educational services from a residential treatment center must be reported in the fall semester Public Education Information Management System (PEIMS) submission.

Sec. 42.255. REPORTING REQUIREMENT. Requires a residential treatment center, in addition to the applicable requirements of Subchapter C, to immediately report to HHSC and DFPS any incident in which a child in the care of the center leaves the center without authorization for any period of time, is accused of engaging in delinquent conduct or conduct indicating a need for supervision, as defined by Section 51.03 (Delinquent Conduct; Conduct Indicating a Need for Supervision), Family Code, or is charged with a criminal offense or convicted of a criminal offense.

Sec. 42.256. PROCEDURES FOR CIRCUMSTANCES REQUIRING RELOCATION OF CHILDREN. Requires DFPS, if HHSC or DFPS finds that a residential treatment center has violated the requirements of this chapter (Regulation of Certain Facilities, Homes, and Agencies That Provide Child-Care Services) or a standard or rule adopted under this chapter two times within a 24-month period and the violations are classified as a life or safety incident, to develop a plan for the temporary relocation of children in the care of the residential treatment center on the revocation of the center's license.

Sec. 42.257. REVOCATION OF LICENSE. Requires HHSC to revoke the license of a residential treatment center if HHSC or DFPS finds that the license holder has violated the requirements of this chapter or a standard or rule adopted under this chapter three times within a 24-month period and the violations are classified as a life or safety incident.

Sec. 42.258. HEARING BEFORE RENEWAL OF LICENSE. (a) Requires HHSC, on request of the commissioners court of a county where a residential treatment center is located, to hold a public hearing to obtain public input regarding the renewal of the center's license.

(b) Requires HHSC to adopt procedures that provide the public with a reasonable opportunity to appear before HHSC and to speak on any issue related to renewal of the residential treatment center's license, including procedures relating to the conduct of the hearing, the order of witnesses, and the conduct of participants at the hearing.

Sec. 42.259. COMMUNITY ENGAGEMENT PLAN. (a) Requires each residential treatment center licensed under this chapter to develop a community engagement plan to improve relations between the center and the community where the center is located.

(b) Prohibits DFPS from contracting with a residential treatment center unless the center has a community engagement plan required by Subsection (a).

Sec. 42.260. QUALITY-BASED PAYMENT SYSTEM. (a) Requires DFPS to develop quality-based outcome and process measures that promote the provision of high-quality services by residential treatment centers licensed under this chapter, including measures that advance quality improvement and innovation.

(b) Authorizes DFPS to change measures developed under this section to promote continuous system reform and improved quality of services provided by residential treatment centers.

(c) Requires DFPS, after consulting with appropriate stakeholders, using quality-based outcomes and process measures developed under Subsection (a), to

develop and implement quality-based payment systems for compensating residential treatment centers.

Sec. 42.261. RESIDENTIAL TREATMENT CENTER QUALITY RATING SYSTEM.

(a) Requires HHSC to develop and implement a quality rating system to evaluate residential treatment centers licensed under this chapter. Requires HHSC, in developing the rating system, to select relevant and appropriate criteria on which to evaluate a residential treatment center.

(b) Requires HHSC to publish the quality rating for each residential treatment center licensed under this chapter on HHSC's Internet website.

Sec. 42.262. DUTIES OF TEXAS EDUCATION AGENCY. (a) Requires TEA, before TEA approves any educational services provided at a residential treatment center, including the accreditation of a charter school at the center, to evaluate each licensing violation for which the center has been cited by HHSC to determine whether the violation would impair the education of the children at the center.

(b) Requires TEA to notify HHSC of any possible licensing violation at a residential treatment center of which the agency becomes aware.

Sec. 42.263. APPLICATION OF FEDERAL LAW. (a) Requires DFPS to develop a plan to ensure that, not later than December 31, 2021, each residential treatment center is in compliance with the requirements of Title VII of the Bipartisan Budget Act of 2018 (Pub. L. No. 115-123) relating to the accreditation of residential treatment centers.

(b) Requires DFPS, not later than December 31, 2019, to submit the plan to the lieutenant governor, the speaker of the house of representatives, and the standing committees of each house of the legislature with primary jurisdiction over child protective services.

(c) Provides that this section expires September 1, 2023.

SECTION 4. Effective date: September 1, 2019.