

BILL ANALYSIS

Senate Research Center
87R3445 SCL-D

S.B. 504
By: Miles
Local Government
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, the Government Code allows state fire marshals, but not county fire marshals, to enter into group homes and assisted living facilities to determine the existence of dangerous conditions. In fact, Section 417.008, Government Code, authorizes state fire marshals, on the complaint of any person, at any reasonable time, to enter any building or premises in the state.

Group homes and assisted living facilities house many vulnerable people who are subject to abuse and mistreatment. Last year in Harris County, 35 adults in a group home were found without food or medication. At least two people were taken to the hospital, and another person was treated at the scene with a visible gaping wound to the abdomen.

County fire marshals need the same authority as state fire marshals to provide immediate relief to vulnerable people in grave danger. S.B. 504 amends Chapter 352, Local Government Code, to grant local fire marshals similar access authority to state fire marshals, except limiting the power to enter and inspect group homes and assisted living facilities to determine the existence of dangerous conditions.

As proposed, S.B. 504 amends current law relating to authority of a county fire marshal to inspect group homes and assisted living facilities, authorizes a fee, and creates a criminal offense.

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 B, Chapter 352, Local Government Code, by adding Section 352.0165, as follows:

Sec. 352.0165. INSPECTION OF GROUP HOMES AND ASSISTED LIVING FACILITIES; FEE. (a) Defines "assisted living facility," "group home," and "residential care services."

(b) Authorizes the county fire marshal, on the complaint of any person and at any reasonable time, to enter:

(1) a building in the county in which a group home or assisted living facility is operated; and

(2) the premises of a building described by Subdivision (1).

(c) Requires the county fire marshal to order the removal of a building in which a group home or assisted living facility is located, the removal of a structure located on the premises of a building in which a group home or assisted living facility is located, or other remedial action if the marshal finds that:

(1) the building or structure, because of lack of repair, age, dilapidated condition, or other reason, is susceptible to fire and is so located or occupied that fire would endanger persons or property in the building or structure or on the premises of the building or structure;

(2) a dangerous condition is created by:

(A) an improper arrangement of stoves, ranges, furnaces, or other heating appliances, including chimneys, flues, and pipes with which they are connected, or by their lighting systems or devices; or

(B) the manner of storage of explosives, compounds, petroleum, gasoline, kerosene, dangerous chemicals, vegetable products, ashes, or combustible, flammable, or refuse materials; or

(3) any other condition exists that is dangerous or is liable to cause or promote fire or create danger for firefighters, occupants, or other buildings or structures.

(d) Requires the person to whom an order under Subsection (c) is directed to immediately comply with the order. Authorizes the marshal to, if necessary, apply to a court of competent jurisdiction for writs or orders necessary to enforce this section, and authorizes the court to grant appropriate relief. Provides that the marshal is not required to give a bond.

(e) Authorizes the commissioners court of a county to adopt any appropriate standard developed by a nationally recognized standards-making association under which the county fire marshal may enforce this section, except that standards adopted under this subsection do not apply in a municipality that has adopted fire protection ordinances.

(f) Requires the commissioners court of a county to prescribe a reasonable fee for an inspection performed by the county fire marshal that may be charged to a property owner or occupant who requests the inspection, as the commissioners court considers appropriate. Requires the commissioners court, in prescribing the fee, to consider the overall cost to the marshal to perform the inspections, including the approximate amount of time the staff of the marshal needs to perform an inspection, travel costs, and other expenses.

SECTION 2. Amends Section 352.022, Local Government Code, to provide that an owner or occupant who is subject to an order issued under Section 352.0165 commits an offense if that person fails to comply with the order.

SECTION 3. Makes application of Section 352.022, Local Government Code, as amended by this Act, prospective.

SECTION 4. Effective date: September 1, 2021.