

BILL ANALYSIS

S.B. 1208
By: Schwertner
Human Services
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Concerns have been raised regarding the capacity of the state's foster care system. Interested stakeholders have reexamined the current child-care licensing process and have made recommendations regarding the licensure of certain facilities, homes, and agencies that provide child-care services to build appropriate capacity statewide and to improve outcomes for children. S.B. 1208 seeks to implement those recommendations.

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 18 and 32 and to the Department of Family and Protective Services in SECTION 30 of this bill.

ANALYSIS

S.B. 1208 amends the Human Resources Code to revise statutory provisions relating to the regulation of certain facilities, homes, and agencies that provide child-care services by removing from those provisions references to foster group homes, foster homes, and agency foster group homes, by clarifying certain references to agency foster homes, and by providing for the regulation under those provisions and under rules adopted under those provisions, as applicable, of certain continuum-of-care residential operations, cottage home operations, cottage family homes, and specialized child-care homes, as those terms are defined by the bill. The bill changes the number of children in a child-care facility that provides care for those children 24 hours a day, for purposes of that facility's consideration as a general residential operation, from more than 12 children to seven or more children and removes children's homes, halfway houses, and therapeutic camps from the specified examples of facilities considered a general residential operation. The bill includes continuum-of-care residential operations among the entities that use an agency foster home and among the entities considered facilities for purposes of those statutory provisions. The bill includes among the specified examples of facilities considered to be a residential child-care facility a specialized child-care home, cottage home operation, and continuum-of-care residential operation.

S.B. 1208 requires, with respect to a continuum-of-care operation, a reference in the Human Resources Code or in any other law to a type of residential child-care facility that is a part of a continuum-of-care operation to be construed as a reference to that portion of the continuum-of-care operation and authorizes the Department of Family and Protective Services (DFPS) to take all regulatory action with respect to the continuum-of-care operation that DFPS could take with respect to the type of residential child-care facility, as further specified in DFPS

rule.

S.B. 1208 exempts a facility that provides respite care exclusively for a local mental health authority under a contract with the local mental health authority from the prohibition against a person operating a child-care facility or child-placing agency without a license issued by DFPS. The bill requires a continuum-of-care residential operation to ensure that each residential child-care facility operating under the operation's license complies with applicable statutory provisions regulating the facility and any applicable standards and rules adopted under those provisions. The bill authorizes the executive commissioner of the Health and Human Services Commission (HHSC) to prescribe by rule the actions a continuum-of-care residential operation must take to comply with the minimum standards for each facility type. The bill requires the executive commissioner to adopt minimum standards related to continuum-of-care operations, cottage home operations, and specialized child-care homes as provided by the bill's provisions, subject to an appropriation of funds for that purpose.

S.B. 1208 removes the rights and responsibilities of DFPS from the required contents of the foster parent rights and responsibilities statement developed by DFPS. The bill subjects a cottage home operation and a continuum-of-care residential operation that is located in a county with a population of less than 300,000 applying for a license or certificate for the operation or the expansion of capacity of the operation to certain public notice and hearing requirements, limits the applicability of those requirements for a general residential operation to an operation located in a county with a population of less than 300,000, and specifies that the information DFPS is required to consider before issuing such a license or certificate to a general residential operation or a continuum-of-care residential operation is written information provided by an interested party directly to a representative of DFPS at a public hearing. The bill specifies that a determination by DFPS to deny such an application must be based on that written information. The bill repeals statutory provisions relating to certain public notice and hearing requirements for a child-placing agency that proposes to verify certain agency foster homes or agency foster group homes and relating to the authority of DFPS to prohibit or invalidate such verification. The bill authorizes DFPS to develop, by rule, criteria to determine when it may be appropriate to exclude children who are related to a caretaker in determining a residential child-care facility's total capacity and to issue an exception in accordance with DFPS rules allowing an agency foster home, cottage family home, or specialized child-care home to expand its capacity and care for not more than eight children. The bill authorizes DFPS to include children who are related to a caretaker when determining whether a residential child-care facility complies with the standards relating to total capacity or child-to-caregiver ratios for the facility.

S.B. 1208 prohibits a residential child-care facility operating under the license of a continuum-of-care residential operation that changes location from continuing to operate under that license unless DFPS approves the new location after the continuum-of-care residential operation meets all requirements related to the new location. The bill authorizes a child-placing agency, before verifying an agency foster home, to issue a provisional verification to the home and authorizes the executive commissioner by rule to establish the criteria for a child-placing agency to issue a provisional verification to a prospective agency foster home. The bill establishes that relative and other designated caregivers with whom a child-placing agency under contract with the division of DFPS designated to regulate certain facilities, homes, and agencies that provide child-care services to provide services as an integrated care coordinator places children are not considered a part of a child-placing agency for licensing purposes. The bill specifies that the facilities for which the executive commissioner by rule is required to develop a process by which a child-placing agency must report to DFPS certain information regarding the closure of a facility are agency foster homes. The bill changes a criterion for consideration as a dependent child for purposes of eligibility for assistance under the temporary assistance for needy families program from a child who has been placed in a foster home or child-care institution by DFPS to a child who has been placed in a residential child-care facility by DFPS.

S.B. 1208 amends the Alcoholic Beverage Code to make statutory provisions relating to sales

near a day-care center or child-care facility inapplicable to specialized child-care homes and to specify that the agency homes to which those provisions do not apply are agency foster homes.

S.B. 1208 amends the Education Code to include a student who is under 26 years of age and who resided in the preceding school year or resides in the current school year in a cottage home operation, a specialized child-care home, or a general residential operation in the public school district among the students considered to be at risk of dropping out of school for purposes of the provision of compensatory, intensive, and accelerated instructional services.

S.B. 1208 amends the Family Code to specify that the facilities that are required to provide a copy of the foster children's bill of rights to a foster child on the child's request are agency foster homes or other residential child-care facilities. The bill specifies that the facility in which a child for whom DFPS has been appointed managing conservator has been placed by DFPS, for purposes of triggering the child's entitlement to keep any money earned by the child during the time of the child's placement, is a residential child-care facility. The bill clarifies certain provisions with regard to the relative and other designated caregiver placement program and the permanency care assistance program.

S.B. 1208 amends the Government Code to update certain agency references to reflect the consolidation and transformation of the health and human services system in provisions relating to permanency planning and to specify that the foster homes at which a residential service provider under a Medicaid waiver program provides services for purposes of being designated as an institution under those provisions are agency foster homes.

S.B. 1208 requires the executive commissioner to develop and implement a procedure by which a residential child-care facility that holds a license or certification issued under certain Human Resources Code provisions may convert the license or certification to a new type of residential child-care facility license or certification created by the bill's provisions. The bill authorizes HHSC with respect to that conversion to waive requirements for an initial inspection, an initial background and criminal history check, or a family violence report, or for notice and hearing if HHSC determines that previous such inspections, checks, reports, or notice and hearing, as applicable, were conducted and are sufficient to ensure the safety of children receiving care at the residential child-care facility converting such a license or certification.

S.B. 1208 requires the executive commissioner to develop and implement a procedure that requires a foster home or a foster group home that holds a license issued by DFPS before September 1, 2017, to convert the license to another residential child-care facility license issued under certain Human Resources Code provisions or relinquish the license. The bill authorizes HHSC with respect to that conversion to waive requirements for an initial inspection, an initial background and criminal history check, or a family violence report, or for notice and hearing if HHSC determines that previous such inspections, checks, reports, or notice and hearing, as applicable, were conducted and are sufficient to ensure the safety of children receiving care at the foster home or foster group home converting a license or certification. The bill prohibits DFPS from issuing a license or certification to a foster home or foster group home after August 31, 2017. The bill authorizes a foster home or a foster group home that was licensed by DFPS before September 1, 2017, to continue to operate under the law as it existed immediately before the bill's effective date and continues that law in effect for that purpose, until each foster home and foster group home has been converted to another residential child-care facility license or the license has been relinquished.

S.B. 1208 requires the executive commissioner to develop and implement a procedure that requires a child-placing agency that verified, before September 1, 2017, an agency foster group home according to the Minimum Standards for Child-Placing Agencies to convert the agency foster group home to an agency foster home or to close the agency foster group home. The bill authorizes HHSC with respect to that conversion to waive requirements for an initial inspection, an initial background and criminal history check, or a family violence report if HHSC

determines that previous such inspections, checks, or reports, as applicable, were conducted and are sufficient to ensure the safety of children receiving care at the agency foster home. The bill prohibits a child-placing agency from verifying an agency foster group home after August 31, 2017. The bill authorizes an agency foster group home that was verified by a child-placing agency before September 1, 2017, to continue to operate under the child-placing agency that verified the home and under the law as it existed immediately before the bill's effective date, and continues that law in effect for that purpose, until each agency foster group home has been converted to a verified foster home or has been closed.

S.B. 1208 repeals Sections 42.0461(f) and (g), Human Resources Code.

EFFECTIVE DATE

September 1, 2017.