

BILL ANALYSIS

S.B. 568
By: Huffman
Human Services
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Data made available by the state indicates that dozens of children have died due to abuse or neglect at child-care facilities in Texas in recent years, with hundreds of cases of serious injury having been reported as well. There are concerns that these figures are inaccurate and obfuscate the real scope of the problem as child-care facilities have failed to report to the state and to parents hundreds of cases of injuries requiring medical attention. S.B. 568 seeks to strengthen regulations relating to child-care facilities and family homes to better protect children from harmful practices and ensure facilities are held responsible for operating recklessly.

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 1, 2, 5, 7, and 10 of this bill.

ANALYSIS

S.B. 568 amends the Human Resources Code to transfer certain regulatory authority concerning certain child-care facilities from the Department of Family and Protective Services to the Health and Human Services Commission (HHSC). The bill requires the executive commissioner of HHSC by rule to establish safe sleeping standards for certain licensed facilities that provide child-care services and registered family homes and requires each such facility or home to comply with the established standards. The bill requires a facility or home HHSC has determined to have violated an established standard to provide written notice in the form and manner required by the executive commissioner to the parent or legal guardian of each child attending the facility or home. The bill requires the executive commissioner to prescribe the form for the notice and to post the form on the HHSC website.

S.B. 568 clarifies that the requirement for HHSC to include in the computerized database relevant inspection information on licensed and registered family homes obtained from other state agencies and political subdivisions applies to inspection information on all licensed facilities. The bill removes the authorization for HHSC to provide inspection data to the public if HHSC determines that providing that data enhances consumer choice with respect to those facilities and instead requires HHSC to provide a minimum of five years of inspection data for all entities contained in the database.

S.B. 568 makes certain liability insurance requirements applicable to licensees and registrants and specifies that proof of liability insurance must be filed annually with HHSC. The bill revises

the notification requirement applicable if the insurance cannot be secured for financial reasons or for lack of availability of an underwriter willing to issue a policy and requires HHSC to prescribe a form to be used to notify a parent or guardian that liability coverage is not provided. The bill requires HHSC to post the form on its website.

S.B. 568 requires HHSC to evaluate an application for license renewal to determine whether the facility has been cited for repeated violations or has established a pattern of violations during the preceding two years. The bill requires HHSC to evaluate an application for renewal of a facility certification or family home registration to determine if all requirements are met and to determine whether the applicant has been cited for repeated violations or has established a pattern of violations during the preceding two years. The bill authorizes the evaluation of an application to renew a certification or registration to include a specified number of site visits and requires the evaluation to include a review of all required forms and records. The bill authorizes HHSC to place restrictions, conditions, or additional requirements on the license, certification, or registration of a facility or home that HHSC has determined to have committed repeated violations or an established pattern of violations before renewal to ensure the violations cease. The bill prohibits HHSC from renewing the license, certification, or registration if a cited violation is not corrected by the required compliance date unless the violation is pending an administrative review under HHSC rules or pending review as a contested case under the Administrative Procedure Act.

S.B. 568 requires a licensee or registrant to notify in accordance with HHSC rule a parent or guardian of a child in the person's care of the following:

- an incident of abuse, neglect, or exploitation of the child;
- an injury of the child that requires treatment by a medical professional or hospitalization;
- an illness of the child that requires hospitalization; or
- a violation that constitutes abuse, neglect, or exploitation of a child.

S.B. 568 authorizes a person to continue to operate a facility or family home during an appeal of a refusal to renew a license, certification, or registration unless the facility or home poses a risk to the health or safety of children. The bill specifies that standards for a violation constituting abuse, neglect, or exploitation of a child and standards establishing times for reporting information to a parent or guardian or HHSC are considered high-risk standards for purposes of an administrative penalty being imposed without a nonmonetary administrative sanction being first imposed.

S.B. 568 requires HHSC to recommend the assessment of administrative penalties for the following violations in the following amounts:

- \$1,000 for violations constituting abuse, neglect, or exploitation of a child;
- \$500 for failure to report certain injuries of a child to a parent or guardian within a certain time frame;
- \$50 for failure to report citations by HHSC for certain violations to a parent or guardian within a certain time frame; and
- \$50 for failure to report the lack of liability insurance coverage to a parent or guardian within a certain time frame.

The bill provides for the recommendation of a penalty for initial and continuing violations relating to failures to report certain citations and the lack of applicable insurance coverage. The bill excepts a residential child-care facility from the penalty schedule.

S.B. 568 creates the safety training account as a dedicated account in the general revenue fund

for purposes of appropriating money to HHSC to provide safety training materials at no cost to a registered or listed family home or to a licensed facility, which includes a child-care facility, child-placing agency, or continuum-of-care residential operation. The bill sets out the composition of the account, exempts the account from the application of statutory provisions governing the reallocation of interest accrued on certain dedicated revenue, and authorizes HHSC to contract with a third party to create the applicable training materials. The bill requires the executive commissioner to adopt rules necessary to implement these provisions.

S.B. 568 requires the executive commissioner to adopt the rules necessary to implement the changes in law made by the bill. HHSC is required to implement a provision of the bill only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, HHSC may, but is not required to, implement a provision of the bill using other appropriations available for that purpose.

EFFECTIVE DATE

September 1, 2019.