

## **BILL ANALYSIS**

Senate Research Center

S.B. 504  
By: Miles  
Local Government  
5/31/2021  
Enrolled

### **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.

(Original Author's / Sponsor's Statement of Intent)

S.B. 504 amends current law relating to authority of certain county fire marshals to inspect group homes, 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 IN CERTAIN COUNTIES; FEE. (a) Defines "group home" and "residential care services."

(b) Provides that this section applies only to a county with a population of 3.3 million or more.

(c) Provides that this section does not apply to a building owned or operated by:

(1) a person that is required to be licensed under Chapter 142 (Home and Community Support Services), 242 (Convalescent and Nursing Facilities and Related Institutions), 246 (Continuing Care Facilities), 247 (Assisted Living Facilities), or 252 (Intermediate Care Facilities for Individuals With an Intellectual Disability), Health and Safety Code;

(2) a person that is exempt from licensing under Section 142.003(a)(19) (relating to a person that provides home health, hospice, habilitation, or

personal assistance services to persons receiving benefits under certain programs), 242.003(3) (relating to certain establishments conducted by or for the adherents of a well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend exclusively on prayer or spiritual means for healing), or 247.004(4) (relating to a facility that provides personal care services only to persons enrolled in certain programs), Health and Safety Code;

(3) a hotel as defined by Section 156.001 (Definitions), Tax Code;

(4) a retirement community;

(5) a monastery or convent;

(6) a child-care facility as defined by Section 42.002 (Definitions), Human Resources Code;

(7) a family violence shelter center as defined by Section 51.002 (Definitions), Human Resources Code; or

(8) a sorority or fraternity house or other dormitory associated with an institution of higher education.

(d) 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 is operated; and

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

(e) Requires the county fire marshal to order the removal of a building in which a group home is located, the removal of a structure located on the premises of a building in which a group home 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.

(f) Requires the person to whom an order under Subsection (e) 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.

(g) 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.

(h) 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 (Penalty for Failure to Comply With Order), Local Government Code, as amended by this Act, prospective.

SECTION 4. Effective date: September 1, 2021.