

BILL ANALYSIS

C.S.S.B. 504
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County Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Group homes house many vulnerable people who may be subject to abuse and mistreatment. For example, last year in Harris County 37 adults were found in a group home in overcrowded and unsafe conditions and without food or medication, including several who needed emergency medical attention. Nonetheless, while current law authorizes the state fire marshal to enter buildings or premises to investigate a complaint, a county fire marshal does not have that authority with respect to a group home. Providing county fire marshals with inspection authority for those facilities similar to that granted to the state fire marshal could help provide immediate relief to vulnerable people who may be in danger. C.S.S.B. 504 seeks to address this issue by providing that authority to certain county fire marshals and creating a criminal offense for an owner's or occupant's failure to comply with a county fire marshal order.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.S.B. 504 amends the Local Government Code to authorize the county fire marshal of a county with a population of 3.3 million or more, on the complaint of any person and at any reasonable time, to enter a building in the county in which a group home is operated and the premises of such a building for purposes set out by the bill. The bill defines the following:

- "group home" as an establishment in which three or more individuals who are unrelated to the establishment's owner or operator reside, that provides residential care services to residents, and that receives payment or other compensation from a local, state, or federal governmental entity for providing those services; and
- "residential care services" as shelter, protection, meals, health care, mobility assistance, and personal care services, including bathing, dressing, and eating.

C.S.S.B. 504 exempts a building owned or operated by the following from its provisions:

- a person that is required to be licensed as one of the following:
 - a home and community support services provider;
 - a convalescent or nursing facility or related institution;
 - a continuing care facility;
 - an assisted living facility; or
 - an intermediate care facility for individuals with an intellectual disability;

- certain persons that are exempt from licensing under provisions relating to the following:
 - home and community support services;
 - convalescent and nursing facilities and related institutions; or
 - the Assisted Living Facility Licensing Act;
- an applicable hotel;
- a retirement community;
- a monastery or convent;
- a certified, registered, or licensed child-care facility;
- a family violence shelter center; or
- a sorority or fraternity house or other dormitory associated with an institution of higher education.

C.S.S.B. 504 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 such a building, or other remedial action if the marshal finds the following:

- that 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;
- that a dangerous condition is created by the following:
 - an improper arrangement of stoves, ranges, furnaces, or other heating appliances or by their lighting systems or devices; or
 - the manner of storage of explosives, compounds, petroleum, gasoline, kerosene, dangerous chemicals, vegetable products, ashes, or combustible, flammable, or refuse materials; or
- 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.

C.S.S.B. 504 requires the person to whom such an order is directed to immediately comply with the order. The bill authorizes the fire marshal, if necessary, to apply to a court of competent jurisdiction for writs or orders necessary to enforce the bill's provisions relating to the fire marshal's authority and authorizes the court to grant appropriate relief. The marshal is not required to give a bond. The bill creates a Class B misdemeanor offense for an owner or occupant who fails to comply with a county fire marshal order relating to a group home, establishes that each such failure is a separate offense, and enhances the penalty to a state jail felony for a third or subsequent conviction of the offense.

C.S.S.B. 504 authorizes the commissioners court to adopt any appropriate standard developed by a nationally recognized standards-making association under which the county fire marshal may enforce the bill's applicable provisions, but excludes a municipality that has adopted fire protection ordinances from the application of such a standard. The bill requires the commissioners court to prescribe a reasonable fee for a county fire marshal inspection that may be charged to a property owner or occupant who requests the inspection, as the commissioners court considers appropriate. The bill requires the commissioners court, in prescribing the fee, to consider the overall cost to the marshal to perform the inspections.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 504 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute exempts buildings owned or operated by certain entities from the bill's provisions, whereas the engrossed did not include any of those exemptions.