

BILL ANALYSIS

Senate Research Center
88R22014 MCF-D

C.S.S.B. 188
By: Miles
Health & Human Services
4/13/2023
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Chapter 260 of the Health and Safety Code authorizes counties and cities to locally regulate boarding home facilities. These are defined as establishments that furnish lodging to three or more persons with disabilities or elderly persons who are unrelated to the owner of the establishment, and provide assistance, but not personal care services.

However, many cities and counties, both rural and urban, are plagued with unscrupulous boarding home operators who evade local regulation and operate without oversight while having control over some of Texas' most vulnerable residents. The Harris County Sheriff's Office (HCSO) estimates at least 140 such facilities operate in unincorporated Harris County alone.

In September of 2020, a 911 response to one of these rogue boarding homes in Harris County revealed that a three bedroom, one bathroom, single family residence was housing almost 40 individuals in poor condition.

S.B. 188 addresses this by requiring group home owners and operators to obtain criminal history background checks on employees and not hire anyone with certain crimes on their record. The bill also creates a Class A misdemeanor offense for group home owners or operators who employ individuals with such criminal histories.

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

The committee substitute clarifies that only criminal convictions resulting in a Class A misdemeanor under Chapter 48 of the Penal Code would prohibit one from being hire at a group home. Those convicted of other criminal offense under Chapter 48 are not affected.

The bill exempts state licensed facilities that already conduct background checks.

C.S.S.B. 188 amends current law relating to criminal history record information checks for applicants for employment and employees of group homes 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 Subtitle A, Title 9, Health and Safety Code, by adding Chapter 769, as follows:

CHAPTER 769. REGULATION OF CERTAIN GROUP HOMES

Sec. 769.001. DEFINITION. Defines "group home."

Sec. 769.002. EXEMPTIONS. Provides that this chapter does not apply to:

(1) a person who holds a license issued 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);

(2) a person, establishment, or facility exempt from licensing under Section 142.003(a)(19) (relating to providing that a person who provides certain home health, hospice, habilitation, or personal assistance services does not need to be licensed), 242.003(3) (relating to exemptions for an establishment 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), or 247.004(4) (related to exemptions for a facility that provides personal care services to persons enrolled in certain programs);

(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.

Sec. 769.003. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR APPLICANTS AND EMPLOYEES; CRIMINAL PENALTY. (a) Requires an owner or operator of a group home to obtain criminal history record information maintained by the Department of Public Safety of the State of Texas on each individual who is an applicant for employment with or an employee of the group home.

(b) Prohibits an owner or operator of a group home from hiring or continuing to employ an individual for whom the owner or operator obtains criminal history record information on the applicant's or employee's conviction of an offense under Chapter 19 (Criminal Homicide), 20 (Kidnapping, Unlawful Restraint, and Smuggling of Persons), 20A (Trafficking of Persons), 21 (Sexual Offenses), 22 (Assaultive Offenses), 25 (Offenses Against the Family), 28 (Arson, Criminal Mischief, and Other Property Damage or Destruction), 29 (Robbery), 30 (Burglary and Criminal Trespass), 31 (Theft), 32 (Fraud), 33 (Computer Crimes), 33A (Telecommunications Crimes), 34 (Money Laundering), 35 (Insurance Fraud), 35A (Health Care Fraud), or 71 (Organized Crime), Penal Code, or Section 48.015 (Prohibitions Relating to Certain Cigarettes), 48.02 (Prohibition of the Purchase and Sale of Human Organs), 48.03 (Prohibition on Purchase and Sale of Human Fetal Tissue), or 48.04 (Prohibition on Purchase and Sale of Adult Stem Cells for Certain Investigational Treatments), Penal Code, or any other offense punishable as a Class A misdemeanor or a felony.

(c) Provides that an owner or operator of a group home who violates Subsection (b) commits an offense. Provides that an offense under this section is a Class A misdemeanor.

SECTION 2. Makes application of Section 769.003, Health and Safety Code, as added by this Act, prospective.

SECTION 3. Effective date: September 1, 2023.