

BILL ANALYSIS

H.B. 2789
By: Frank
Human Services
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The bill author has informed the committee that Texas lost more than 1,000 foster care beds between December 2020 and April 2021, increasing the number of children entering care without stable placements. The bill author has also informed the committee that the legislature's investigation into the placement crisis found a complex and inefficient system for licensing and overseeing the providers and families who are on the front lines taking care of the state's most vulnerable children. The 88th Texas Legislature enacted S.B. 593, which required an independent third party to conduct an audit of the rules and regulations governing the provision of foster care and adoptive services and to create a report with recommendations for how the state can simplify and streamline the regulatory landscape in a manner that prioritizes child safety. However, while the Department of Family and Protective Services and the Health and Human Services Commission are in the process of implementing many of the recommendations from the report, a few require statutory changes. H.B. 2789 seeks to address some of the issues that were noted in the report.

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 commissioner of the Department of Family and Protective Services in SECTION 10 of this bill.

ANALYSIS

H.B. 2789 amends the Human Resources Code to exempt a single source continuum contractor that is contracted by the Department of Family and Protective Services (DFPS) to provide community-based care, including the management and oversight of foster care and other child welfare services, consistent with DFPS's community-based care implementation plan from the requirement to obtain a child-placing agency license for the purpose of fulfilling its contractual obligations to DFPS. The bill establishes that the exemption does not relieve the contractor from compliance with other applicable laws, rules, or regulations governing the provision of foster care, adoption services, or other child welfare services, including requirements to ensure the health, safety, and well-being of children in its care. However, the bill authorizes the contractor to choose to obtain a child-placing agency license if it determines that obtaining such a license would facilitate the performance of its contractual obligations or provide additional operational flexibility but clarifies that obtaining a license is not a requirement for the contractor to fulfill its duties. The bill prohibits these provisions regarding the exemption from being construed to exempt any subcontractor or child-placing agency working under a contractor from applicable licensing requirements under statutory provisions relating to the regulation of certain facilities, homes, and agencies that provide child-care services.

H.B. 2789 removes the requirement that each child in certain state-regulated facilities, including child-care facilities, child-placing agencies, and continuum-of-care residential operations, at an appropriate age have a test for tuberculosis. The bill repeals provisions that require each licensed day-care center or group day-care home to maintain individual screening records for children attending the facility who are required to be screened for vision, hearing, and any other applicable special senses or communication disorders and provides for the inspection of those records at reasonable times and the coordination of inspections in compliance with protocol agreements adopted between applicable state agencies.

H.B. 2789 decreases from \$300,000 to \$100,000 the amount of liability insurance coverage the holder of a license or registration under statutory provisions relating to the regulation of certain facilities, homes, and agencies that provide child-care services and a listed family home are required to maintain for each occurrence of negligence. The bill removes the requirement for a listed family home to annually file with the Health and Human Services Commission a certificate or other evidence of coverage from an insurance company demonstrating that the listed family home has an unexpired and uncanceled insurance policy or contract that meets applicable requirements regarding liability insurance. These bill provisions relating to liability insurance take effect January 1, 2026.

H.B. 2789 extends the period during which an initial license for certain state-regulated facilities, including child-care facilities, child-placing agencies, and continuum-of-care residential operations, is valid from six months from the date of issuance to 12 months from that date. The bill removes provisions specifying the locations at which each general residential operation operating as a residential treatment center must post "No Trespassing" notices and removes provisions specifying certain requirements regarding the content and format of those notices.

H.B. 2789, with respect to the eligibility criteria for a child-care administrator's license or a child-placing agency administrator's license, replaces the requirements that a person have one year of full-time experience in management or supervision of child-care personnel and programs and have either a master's or doctoral degree in social work or other area of study or a bachelor's degree and two years' full-time experience in an applicable field with requirements for a person to have an experiential or educational equivalent to that of a bachelor's degree in social work, child development, or a similar field.

H.B. 2789, with respect to a person licensed under statutory provisions regulating child-care and child-placing agency administrators and whose license has been expired for longer than 90 days but less than one year, decreases the cost of renewing the license from two times the required renewal fee to one and one-half times the required renewal fee.

H.B. 2789 requires the commissioner of DFPS to adopt rules necessary to implement the bill's provisions not later than December 1, 2025. The bill requires rules adopted to implement its provisions relating to an exemption for single source continuum contractors to ensure that such contractors operate in a manner that continues to prioritize the safety and well-being of children in the foster care system.

H.B. 2789 repeals Section 42.0431(b), Human Resources Code.

EFFECTIVE DATE

Except as otherwise provided, September 1, 2025.