

BILL ANALYSIS

S.B. 781
By: Kolkhorst
Human Services
Committee Report (Unamended)

BACKGROUND AND PURPOSE

It has been noted that residential treatment centers provide supervision and treatment services to children with emotional disorders. It also has been suggested that certain recently passed federal legislation will have a significant impact on the foster care system in Texas. S.B. 781 seeks to ensure that the state's residential treatment centers meet these new federal standards by, among other things, strengthening the requirements for obtaining a license to open a new residential treatment center facility and requiring operational, community engagement, and educational plans.

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 1 and to the executive commissioner of the Health and Human Services Commission in SECTION 10 of this bill.

ANALYSIS

S.B. 781 amends the Human Resources Code to require the Department of Family and Protective Services (DFPS) to monitor and coordinate with general residential operations providing treatment services to children or young adults with emotional disorders to maintain and improve the quality of residential child-care services purchased by DFPS. The bill requires DFPS, in implementing such requirements, to consider any information DFPS determines relevant to assess the ability of a contractor or potential contractor to provide quality residential child-care services, including the following:

- the strength of the operational plan and all required components of the operational plan described by the bill's provisions;
- the regulatory history of the contractor; and
- the history of the contractor on satisfying certain performance measures.

S.B. 781 requires DFPS to develop a strategic plan regarding the placement of children in settings eligible for federal financial participation under the requirements of the federal Family First Prevention Services Act and sets out the required components of the plan. The bill requires DFPS, not later than September 1, 2020, to submit the plan to the Senate Health and Human Services Committee, the Senate Finance Committee, the House Committee on Human Services, the House Committee on Public Health, and the House Appropriations Committee.

S.B. 781 requires DFPS to provide for the regulation of a general residential operation that

provides care for seven or more children or young adults and provides treatment services for children or young adults with emotional disorders. The bill requires a person applying for a license to operate such an operation to submit an operational plan for the proposed center to the Health and Human Services Commission (HHSC).

S.B. 781 requires the executive commissioner of HHSC to adopt rules regarding the information that must be included in the operational plan, the HHSC review of the operational plan, and the basis of the HHSC determination on whether the plan is complete or incomplete and whether to deny or approve the plan. The bill sets out provisions relating to the contents of the operational plan and requires a person applying for a license to operate a general residential operation to state in the application if the proposed operation will provide services to children who are victims of human trafficking but does not require a person to include this information in the operational plan. The bill requires HHSC to approve the proposed center's operational plan before holding a hearing on the license application or granting a license to operate a general residential operation.

S.B. 781 sets out the factors HHSC may consider in evaluating an application for a license and sets out the circumstances under which HHSC may deny an application. The bill makes confidential and exempt from disclosure by HHSC any information relating to the provision of services to victims of human trafficking submitted by an applicant who will provide services to such victims and establishes that such an applicant is not required to disclose any such information at a hearing on the applicant's license application.

S.B. 781 requires HHSC to collaborate with the Texas Education Agency to determine best practices for educational services in a general residential operation, including the most effective educational plans and best practices for implementing those plans. The bill requires DFPS to make available on the DFPS website information and training regarding trauma-informed practices to assist school districts with training district employees by increasing staff awareness of trauma-informed care. The bill provides for hearings before the renewal of an operation's license.

S.B. 781 requires the commissioner of DFPS by rule to establish the DFPS strategy to develop trauma-informed protocols for reducing the number of incidents in which a child in DFPS conservatorship runs away from a residential treatment center and to balance measures aimed at protecting child safety with federal and state requirements related to normalcy and decision making under the reasonable and prudent parent standard prescribed by federal law and Family Code provisions relating to age-appropriate normalcy activities in child welfare services and a standard of care.

S.B. 781 establishes that the requirement to waive certain notice and hearing requirements imposed on an applicant who submits an application to provide trafficking victim services at the applicant's general residential operation does not apply with respect to an applicant who submits an application for a license for a general residential operation that provides services to children or young adults with emotional disorders.

S.B. 781 removes the option for an applicable child-care facility or family home found to be repeatedly noncompliant with standards that do not endanger the health and safety of children to be scheduled for evaluation rather than having the applicable license or registration revoked. The bill prohibits DFPS from issuing a license, listing, registration, or certification to a person who in lieu of disciplinary action voluntarily closed a facility or family home or relinquished the person's license, listing, registration, or certification before the fifth anniversary of the date on which:

- the revocation takes effect by DFPS or court order;
- the decision to deny the application is final;
- the facility or family home is closed; or

- the license, listing, registration, or certification is relinquished.

S.B. 781 establishes that DFPS and HHSC are 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, DFPS and HHSC may, but are not required to, implement a provision of the bill using other appropriations available for that purpose.

EFFECTIVE DATE

September 1, 2019.