

- SUBJECT:** Requiring minimum standards for listed family homes
- COMMITTEE:** Human Services — favorable, without amendment
- VOTE:** 8 ayes — Frank, Hinojosa, Clardy, Deshotel, Klick, Meza, Miller, Noble
0 nays
1 absent — Rose
- SENATE VOTE:** On final passage, April 16 — 29-2 (Hall, Hughes)
- WITNESSES:** *On House companion bill, HB 4259:*
For — (*Registered, but did not testify:* Jason Sabo, Children at Risk; Chris Masey, Coalition of Texans with Disabilities; Melanie Rubin, Dallas Early Education Alliance; David Feigen, Texans Care for Children; Kimberly Kofron, Texas Association for the Education of Young Children; Jennifer Lucy, TexProtects; Ashley Harris, United Ways of Texas)
Against — None
On — Jean Shaw, Health and Human Services Commission
- BACKGROUND:** Human Resources Code ch. 42 governs the certification, registration, and listing of child care facilities by the Department of Family and Protective Services.
40 TAC part 19, ch. 745, subch. B, sec. 745.37 defines listed family homes as adult caregivers that provide care in their own home for compensation for up to three children unrelated to the caregiver. The total number of children in care, including children related to the caregiver, may not exceed 12.
- DIGEST:** SB 569 would transfer regulatory authority for listed family homes from the Department of Family and Protective Services (DFPS) to the Health

and Human Services Commission (HHSC). The bill would require HHSC to adopt minimum standards for listed family homes, require liability insurance unless it was cost-prohibitive, and require certain trainings for operators of listed family homes.

Regulation. The bill would require the executive commissioner of HHSC by rule to establish minimum standards for listed family homes. These standards would have to:

- promote the health, safety, and welfare of children attending those homes;
- promote safe, comfortable, and healthy listed family homes for children;
- ensure adequate supervision of children by capable, qualified, and healthy personnel; and
- ensure medication was administered in accordance with state law.

In promulgating minimum standards, the executive commissioner could recognize and treat listed family homes differently than other types of regulated child care.

Applicants for listings to operate family homes would have to submit proof of successful completion of safe sleep training with their applications.

HHSC would provide each listed family home with a copy of the listing, which the operator of a listed family home would have to make available for examination. Such listings would have to include certain provisions as specified in the bill.

Investigations. The bill would add listed family homes to the facilities that an authorized HHSC representative could visit during operating hours to investigate, inspect, and evaluate. HHSC would have to investigate a listed family home when the commission received a complaint.

The bill also would include listed family homes in statutes governing

complaint procedures and related offenses that apply to registered family homes.

HHSC would be required to provide at least five years of investigative data for listed family homes from the inspection information database maintained by DFPS to enhance consumer choice with respect to those homes.

Liability insurance. SB 569 would require listed family homes to maintain liability insurance coverage in the amount of \$300,000 for each occurrence of negligence. Required insurance policies or contracts would have to cover injury to a child while the child was on the premises of or in the care of the listed family home.

A listed family home would have to annually file evidence of coverage with HHSC that demonstrated that the home had an active insurance policy that met the bill's requirements.

If a listed family home could not secure a policy or contract for financial reasons, for lack of an underwriter willing to issue the policy, or because the home's policy or contract limits were exhausted, the home would have to timely provide written notice to the parent or guardian of each child attending the home that the liability coverage was not provided. Such homes also would have to timely provide notice to HHSC that the home was unable to secure liability insurance and the reason that the insurance could not be secured.

If a listed family home complied with the notice requirements, HHSC could not assess an administrative penalty or suspend or revoke the home's listing for violating the insurance requirements. These provisions could not be used to indemnify a family home for damages due to negligence.

Implementation. As soon as practicable after the effective date, the executive commissioner of HHSC would have to adopt necessary rules to implement the bill. HHSC would be required to implement the bill only if

specific appropriations were made by the Legislature. If no specific appropriation were made, HHSC could, but would not be required to, implement the provisions of the bill using other appropriations.

The bill would take effect September 1, 2019.

**SUPPORTERS
SAY:**

SB 569 would ensure that all child care centers, including listed family homes, were held accountable and liable for the safety of the children they served. A lack of regulation of listed family homes has resulted in substandard care for children and reports of high-risk violations, putting children in danger of abuse and neglect.

The bill would require the Health and Human Services Commission to inspect listed family homes whenever the commission received a complaint. SB 569 also would require family homes operators to provide proof that they had completed safe sleep training and require family homes to provide either liability insurance or clear notification to families of a lack of insurance if it were cost-prohibitive. These provisions would help ensure that listed family homes met certain standards without burdening small in-home businesses.

**OPPONENTS
SAY:**

SB 569 would unnecessarily regulate in-home businesses and create an administrative burden by requiring training and liability insurance in certain circumstances.

NOTES:

According to estimates from the Legislative Budget Board, the bill would have a negative impact of \$1.3 million to general revenue related funds through fiscal 2020-21.