

## **BILL ANALYSIS**

S.B. 932  
By: Schwertner  
Human Services  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Interested stakeholders recommend certain changes to the state's long-term care system with regard to methods for issuing informational letters, policy updates, and other related materials to certain long-term care facilities, tracking the scope and severity of violations of statutory provisions governing such facilities, enforcement actions for such violations, and certain licensing requirements. S.B. 932 seeks to implement these recommendations.

### **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 executive commissioner of the Health and Human Services Commission in SECTION 10 of this bill.

### **ANALYSIS**

S.B. 932 amends the Government Code, Health and Safety Code, and Human Resources Code to update certain agency references to reflect the consolidation and transformation of the health and human services system in provisions relating to certain long-term care facilities.

S.B. 932 amends the Government Code to require the executive commissioner of the Health and Human Services Commission (HHSC) to review HHSC methods for issuing informational letters, policy updates, policy clarifications, and other related materials to an entity licensed under the Day Activity and Health Services Act, statutory provisions relating to convalescent and nursing facilities and related institutions, the Assisted Living Facility Licensing Act, statutory provisions relating to prescribed pediatric extended care centers, or statutory provisions relating to intermediate care facilities for individuals with an intellectual disability. The bill requires the executive commissioner to develop and implement more efficient methods to issue those materials as appropriate. The bill removes the condition that an appropriate disinterested person with whom HHSC is required to contract as part of an informal dispute resolution process for certain long-term care facilities be a nonprofit organization and extends the applicability of that requirement to the adjudication of disputes involving a licensed assisted living facility.

S.B. 932 amends the Health and Safety Code to require HHSC to develop and use a system to record and track the scope and severity of each violation of statutory provisions relating to convalescent and nursing facilities and related institutions, the Assisted Living Facility Licensing Act, statutory provisions relating to prescribed pediatric extended care centers, and statutory provisions relating to intermediate care facilities for individuals with an intellectual disability or a rule, standard, or order adopted or issued under those provisions, as applicable, for the purpose of assessing an administrative penalty for the violation or taking some other enforcement action

against the appropriate entity to deter future violations. The bill requires the system to be comparable to the system used by the Centers for Medicare and Medicaid Services to categorize the scope and severity of violations for nursing homes and authorizes the system to be modified, as appropriate, to reflect changes in industry practice or changes made to the system used by the Centers for Medicare and Medicaid Services. The bill revises the nature of violations under statutory provisions relating to convalescent and nursing facilities and related institutions, the Assisted Living Facility Licensing Act, and statutory provisions relating to intermediate care facilities for individuals with an intellectual disability excepted from provisions providing for the right to correct the violation before HHSC may collect an administrative penalty.

S.B. 932 changes the date on which a license issued under the Assisted Living Facility Licensing Act expires from the second anniversary of the date of issuance to the third anniversary of the date of issuance. The bill replaces the authorization for the executive commissioner to adopt by rule a system under which such licenses expire on various dates during the two-year period with a requirement to adopt by rule a system under which such licenses expire on staggered dates during each three-year period. The bill removes provisions relating to prorated license fees and the payment of license fees and instead requires HHSC to prorate the license fee as appropriate if the expiration date of a license changes as a result of these provisions. The bill raises from \$1,500 to \$2,250 the cap on license fees under the Assisted Living Facility Licensing Act and replaces the authorization for HHSC to inspect an assisted living facility annually with a requirement to inspect each assisted living facility at least every two years following the initial licensing inspection of the facility. The bill raises the cap from \$1,000 to \$5,000 the penalty for each violation under the Assisted Living Facility Licensing Act, except as provided by provisions relating to the right to correct certain violations, that represents a pattern of violation that results in actual harm or is widespread in scope and results in actual harm or constitutes an immediate threat to the health or safety of a resident.

S.B. 932 changes the date on which an initial or renewal prescribed pediatric extended care center license expires from the second anniversary of the date of issuance to the third anniversary of the date of issuance and requires the executive commissioner by rule to adopt a system under which such licenses expire on staggered dates during each three-year period. The bill requires HHSC to prorate the license fee as appropriate if the expiration date of a license changes as a result of these provisions.

S.B. 932 changes the date on which a license issued under statutory provisions relating to intermediate care facilities for individuals with an intellectual disability is renewable from the second anniversary of issuance or renewal of the license to the third anniversary of issuance or renewal of the license. The bill requires the executive commissioner by rule to adopt a system under which such licenses expire on staggered dates during each three-year period and HHSC prorates the license fee as appropriate if the expiration date of a license changes as a result of that system. The bill raises the cap on the fee for a license issued for an intermediate care facility for individuals with an intellectual disability from \$150 plus \$5 for each unit of capacity or bed space for which the license is sought to \$225 plus \$7.50 for each unit of capacity or bed space for which the license is sought. The bill increases from two to three the number of unannounced inspections of each such facility HHSC must conduct each licensing period. The bill removes a provision capping an administrative penalty under statutory provisions relating to intermediate care facilities for individuals with an intellectual disability on certain facilities based on the number of beds at the facility for a violation continuing or occurring on separate days.

S.B. 932 amends the Human Resources Code to change the date on which a license issued under the Day Activity and Health Services Act expires from two years from the date of issuance to three years from the date of issuance. The bill replaces the authorization for the executive commissioner to adopt by rule a system under which such licenses expire on various dates during the two-year period with a requirement to adopt by rule a system under which such licenses expire on staggered dates during the three-year period. The bill removes provisions relating to prorated license fees and the payment of license fees and instead requires HHSC to

prorate the license fee as appropriate if the expiration date of a license changes as a result of these provisions. The bill increases from \$50 to \$75 the fee for a license to operate a day activity and health services facility for the elderly. The bill removes the authorization for HHSC to enter the premises of such a facility at reasonable times and make an inspection necessary to issue or renew a license and instead requires HHSC to inspect each such facility every two years following the initial licensing inspection of the facility and authorizes HHSC to inspect the facility at other reasonable times as necessary to ensure compliance with the Day Activity and Health Services Act. The bill requires HHSC to develop and use a system to record and track the scope and severity of each violation of the act or a rule, standard, or order adopted under the act for the purpose of assessing an administrative penalty for the violation or taking some other enforcement action against the appropriate facility to deter future violations. The bill requires the system to be comparable to the system used by the Centers for Medicare and Medicaid Services to categorize the scope and severity of violations for nursing homes and authorizes the system to be modified, as appropriate, to reflect changes in industry practice or changes made to the system used by the Centers for Medicare and Medicaid Services. The bill revises the nature of violations under the Day Activity and Health Services Act excepted from provisions providing for the right to correct the violation before HHSC may collect an administrative penalty.

S.B. 932 repeals Section 247.0025, Health and Safety Code, establishing the circumstances under which an immediate threat to the health or safety of a resident of an assisted living facility exists or a situation is considered to put the health or safety of a resident in immediate jeopardy.

**EFFECTIVE DATE**

September 1, 2017.