

BILL ANALYSIS

Senate Research Center

H.B. 3452
By: Hilderbran (Moncrief)
Human Services
5/13/1999
Engrossed

DIGEST

Currently, a licensed nursing home or convalescent home may elect arbitration in a dispute with its regulating state agency, the Texas Department of Human Services. The suit must relate to renewal of a license, suspension or revocation of a license, assessment of a civil penalty, or assessment of certain penalties. In a case that involves death, serious bodily injury, sexual abuse, or physical abuse of a resident related to a dispute concerning a license or certain penalties, the institution may elect arbitration, as well, as it would with less serious alleged violations. The election is made without approval or agreement from the department. H.B. 3452 would prohibit arbitration from being elected in certain lawsuits, and would authorize an affected institution and the department to elect arbitration by notifying the court.

PURPOSE

As proposed, H.B. 3452 amends regulations regarding the election of arbitration between the Texas Department of Human Services and a nursing home or convalescent home.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 242.252, Health and Safety Code, to authorize certain institutions to elect binding arbitration, except as provided by Subsection (d), by filing the election with the court in which the lawsuit is pending and sending notice of the election to the Texas Department of Human Services (department) and the office of the attorney general. Requires the election to be filed by a certain date. Requires the institution to elect the arbitration by a certain date if a penalty is sought. Authorizes the department to elect arbitration by filing the election with the court in which the lawsuit is pending and by notifying the institution of the election by a certain date. Prohibits arbitration from being used to resolve a dispute related to an affected institution that has had an award levied against it in the previous five years. Sets forth action for a court and the State Office of Administrative Hearings if arbitration is not permitted under this subchapter or election of arbitration is not timely filed. Makes conforming changes.

SECTION 2. Effective date: September 1, 1999.
Makes application of this Act prospective.

SECTION 3. Emergency clause.