

BILL ANALYSIS

Senate Research Center
77R2217 MCK-D

S.B. 1242
By: Moncrief
Health & Human Services
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DIGEST AND PURPOSE

Currently, state law mandates that long-term care facilities and home health agencies obtain a state criminal history record on new unlicensed employees who provide direct care to residents or consumers. As proposed, S.B. 1242 streamlines the background check process by allowing long-term care employers to use electronic means for obtaining instant background checks and increases resident and consumer protection by requiring a background check of all long-term care employees with potential access to residents.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 250.002, Health and Safety Code, as follows:

Sec. 250.002. New heading: INFORMATION OBTAINED BY FACILITY, REGULATORY AGENCY, OR PRIVATE AGENCY. (a) Provides that a facility, a regulatory agency, or a private agency on behalf of a facility is entitled to obtain from the Department of Public Safety of the State of Texas (department) criminal history record information maintained by the department that relates to a person who is an applicant for employment at the facility or an employee of the facility. Deletes language regarding a facility licensed, certified, or under contract with the agency and to an employee's duties involving direct contact with a consumer at the facility.

(b) Provides that a facility may obtain the information directly from the department. Deletes language regarding a regulatory agency obtaining information.

(c) Deletes language regarding a regulatory agency.

SECTION 2. Amends Section 250.003, Health and Safety Code, as follows:

(a) Deletes language regarding direct contact with a consumer and a person being exempt if licensed under another law of this state.

(b) Prohibits the facility from employing an applicant covered by Subsection (a), except that in an emergency requiring immediate employment, a facility can hire on a temporary or interim basis a person not listed in the registry pending the results of a criminal conviction check, which must be obtained, rather than requested, within 72 hours of employment. Deletes language regarding a request and delivery of that request.

(c) Requires a facility to immediately discharge any employee who is designated in the nurse aide registry or the employee misconduct registry as having committed an act of abuse, neglect,

or mistreatment of a consumer of a facility, or misappropriation of a consumer's property, or whose criminal history check reveals conviction of a crime that bars employment or that the facility determines is a contraindication to employment as provided by this chapter. Deletes language regarding contact with a consumer.

SECTION 3. Amends Section 250.004(a), Health and Safety Code, to require that identifying information of an employee in a covered facility to be submitted electronically, on disk, or on a typewritten form to the department to obtain the person's criminal conviction record when the person applies for employment and at other times as the facility may determine appropriate. Deletes language regarding direct contact with a consumer.

SECTION 4. Amends Section 250.006, Health and Safety Code, to include in the provisions of this section a person who has been convicted under the laws of another state, federal law, or the Uniform Code of Military Justice for an offense containing elements that are substantially similar to the elements of an offense listed under Subdivisions (1)-(13). Makes a conforming change.

SECTION 5. Effective date: upon passage or September 1, 2001.