

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1242
By: Moncrief
Health & Human Services
3/30/2001
Committee Report (Substituted)

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. C.S.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 a facility or an employee of a 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.

(b) 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 prohibit a person for whom the facility is entitled to obtain criminal history record information from being employed in a facility if the person has been convicted of an offense listed in this section. Includes 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.

SUMMARY OF COMMITTEE CHANGES

SECTION 1. Amends As Filed S.B. 1242 by setting forth the conditions under which certain entities on behalf of a facility are entitled to obtain from the Department of Public Safety of the State of Texas (department) criminal history record information maintained by the department.

SECTION 2. Amends As Filed S.B. 1242 by retaining language originally proposed to be deleted regarding a person's exemption if licensed under another law of this state. Allows certain information to be requested, rather than obtained, within 72 hours of employment of certain applicants.

SECTION 3. No change.

SECTION 4. Amends As Filed S.B. 1242 by prohibiting a person for whom the facility is entitled to obtain criminal history record information from being employed in a facility if the person has been convicted of an offense in this section.

SECTION 5. No change.