

## **BILL ANALYSIS**

S.B. 1049  
By: Uresti  
Human Services  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Interested parties have expressed a need for a process by which conflicts between local and state safety requirements for assisted living facilities may be resolved. S.B. 1049 seeks to create a more uniform regulatory environment across Texas by requiring the Health and Human Services Commission to issue technical memorandums providing interpretive guidance on certain minimum safety standards for such facilities.

### **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 2 of this bill.

### **ANALYSIS**

S.B. 1049 amends the Health and Safety Code to require the Health and Human Services Commission (HHSC), at least twice each year, to issue a technical memorandum providing guidance on the interpretation of minimum life safety code standards prescribed under the Assisted Living Facility Licensing Act and by HHSC rule. The bill requires any new requirement that relates to an existing standard to first appear in a technical memorandum. The bill requires HHSC to solicit comments from interested parties and experts to assist in determining which standards need to be addressed in such a memorandum and to post the memorandum on the HHSC website. The bill establishes that such a memorandum is binding and must be followed by a person conducting a life safety code survey under the Assisted Living Facility Licensing Act. These provisions expressly do not affect the HHSC rulemaking process.

S.B. 1049 establishes that the Texas Department of Licensing and Regulation (TDLR) governs the interpretation and enforcement of accessibility standards in assisted living facilities as provided by Government Code provisions relating to the elimination of architectural barriers. The bill prohibits an assisted living facility that during initial licensing passed an on-site inspection by TDLR relating to the facility's compliance with the accessibility standards from being cited by HHSC for a violation relating to those standards. The bill requires HHSC to rescind a citation relating to compliance with accessibility standards issued to a facility that has not been inspected by TDLR for such compliance on the facility's passage of the on-site inspection by TDLR.

S.B. 1049 adds a temporary provision set to expire September 1, 2021, to require the executive commissioner of HHSC by rule to specify an edition of the Life Safety Code of the National Fire Protection Association to be used in establishing the life safety requirements for an assisted living facility licensed under the Assisted Living Facility Licensing Act and to require those

rules to specify an edition of the Life Safety Code of the National Fire Protection Association issued on or after August 1, 2011.

S.B. 1049 establishes that a governmental unit that has the authority to adopt a building code or fire code and that adopts such a code governs the interpretation and enforcement of that building code or fire code. The bill prohibits HHSC from issuing a citation for a violation of a building code or fire code adopted by a governmental unit to an assisted living facility that presents evidence of the governmental unit's determination that the assisted living facility is compliant with the code. The bill requires HHSC, if HHSC cites an assisted living facility for a building code or fire code violation and the assisted living facility subsequently provides evidence of that determination of compliance, to rescind the citation. These provisions expressly do not restrict the authority of HHSC to issue a citation to an assisted living facility for a violation of any National Fire Protection Association codes or standards adopted under the Assisted Living Facility Licensing Act. The bill requires the executive commissioner to adopt the rules necessary to implement the bill's provisions.

**EFFECTIVE DATE**

September 1, 2017.