

- SUBJECT:** Feasibility study for registration of smaller assisted living facilities.
- COMMITTEE:** Human Services — committee substitute recommended
- VOTE:** 7 ayes — Hupp, Eissler, A. Allen, J. Davis, Gonzalez Toureilles, Naishtat, Paxton
- 0 nays
- 1 present not voting — Goodman
- 1 absent — Reyna
- WITNESSES:** For — Jim Caldwell, Texas Silver Haired Legislature; Aaryce Hayes, Advocacy Incorporated, AARP; Carlos Higgins, Self and Texas Silver Haired Legislature; Sid Rich, Texas Association of Residential Care Communities; (*Registered, but did not testify*: Michael Crowe, Texas Assisted Living Association; Roger Curme, Texas Senior Advocacy Coalition; Beth Ferris, Texas Advocates for Nursing Home Residents; Tim Graves, Texas Health Care Association).
- Against — None
- On — Carol Ahmed, Department of Aging and Disability Services; Marc Mullins, Department of Family and Protective Services.
- BACKGROUND:** The Health and Safety Code contains provisions for the regulation of assisted living facilities. An assisted living facility is a facility that furnishes food, shelter, and personal care services to four or more people unrelated to the proprietor of the facility. The Department of Aging and Disability Services (DADS) is responsible for protecting residents of assisted living facilities by adopting rules relating to quality of care and life and monitoring factors relating to the health, safety, welfare, and dignity of each resident. A facility can obtain and maintain a license to operate only by complying with health and safety standards set out by DADS.

DIGEST:

CSHB 669 would require the commissioner of DADS to appoint a work group to study the feasibility of requiring facilities that furnish food, shelter, and personal care services to fewer than four people unrelated to the proprietor of the facility to register with DADS. The work group would study the best method to identify these facilities. The workgroup would include:

- representatives from DADS;
- a representative from the Department of Family and Protective Services;
- a resident of an assisted living facility;
- an advocate for persons with disabilities;
- an advocate for the elderly;
- representatives of provider associations representing assisted living facilities; and
- representatives of local governmental entities, with at least one representative from a rural area and one from an urban area of the state.

By January 1, 2006, the commissioner would appoint the members of the work group. No member of the work group would be entitled to additional compensation for service on the work group. The work group would submit its findings to the state leadership by January 1, 2007, the date this legislation would expire.

The bill would take effect September 1, 2005.

SUPPORTERS  
SAY:

Because facilities with fewer than four people are not subject to DADS licensing or to enforcement regulations required of assisted living facilities, the threat and incidence of abuse, neglect and exploitation are believed to be higher in these unlicensed facilities. Because these facilities are not registered, the state is unsure how many are in business and how many of them are experiencing instances of abuse, neglect and exploitation.

There could be anywhere from 4,000 to 40,000 of these unregistered facilities in the state. Problems with tracking arise because these facilities open in neighborhoods and immediately start bringing people in as residents. If the state happens to learn of a facility, and if it has more than three unrelated persons living there, the state will order the removal of residents until the number is reduced to fewer than four residents.

However, these facilities often bring people back in, making it hard to keep track of how many are living there. The state should find out where these facilities are and if they are complying with health and safety standards.

According to the accounts of social workers and emergency care workers, instances of physical and mental abuse, as well as financial exploitation, are occurring. Residents often sign over their social security checks to the facilities. Some have mental health problems. Residents may not be fed, bathed, or cared for properly, and there may be little oversight of whether residents are taking their medications. Residents may not feel safe making complaints against a proprietor or moving if they know that the facility has control of their one source of income.

Although it is difficult to find these facilities, some mental health services and social and emergency services know where they are. However, there is a reluctance to investigate the facilities because if they are closed down, some residents may not have anywhere else to go and could end up homeless. CSHB 669 would provide for a study that would determine whether registration of these facilities was feasible. If so, the facilities would have to abide by licensing and enforcement regulations, which should reduce instances of abuse, neglect, and exploitation. This study would be a first step by locating these places and determining the feasibility of requiring registration.

OPPONENTS  
SAY:

The bill should maintain its original form and require registration of these assisted living facilities. Studies have been conducted before, and changes have not been made. Although the cost of registering and regulating these facilities might be high, it would be outweighed by the need to end abuse, neglect, and exploitation now allowed to run rampant. Until the state makes it mandatory for these facilities to come forward and be accountable, they will continue to provide inhumane service to residents in need of good health and mental care.

OTHER  
OPPONENTS  
SAY:

If the state has not received many reports of abuse, neglect, and exploitation, there may not be a significant problem and the study may not be necessary. It would not be wise to expend time and energy on an effort that would reproduce results already known.

If certain assisted living facilities were required to remove residents or closed, some residents would be forced to live on the streets. The bill

should require the work group to determine the feasibility of providing alternative housing for residents, possibly in the form of housing vouchers.

NOTES:

The original bill would have required the executive commissioner of Health and Human Services Commission to establish a classification and registration system for facilities furnishing food, shelter, and personal care to fewer than four persons unrelated to the proprietor. The committee substitute instead would require a work group to study the feasibility of such a registration.