

SUBJECT: Requiring background checks for certain residential caregivers

COMMITTEE: Human Services — committee substitute recommended

VOTE: 8 ayes — Frank, Rose, Campos, Hull, Klick, Manuel, Noble, Shaheen
0 nays
1 absent — Ramos

WITNESSES: For — Hannah Gill, NAMI Texas (*Registered, but did not testify*: Dennis Borel, Coalition of Texans with Disabilities; M Paige Williams, Dallas County Criminal District Attorney John Creuzot; Bill Kelly, Mayor’s Office City of Houston; Greg Hansch, National Alliance on Mental Illness Texas; Ashley Ford, The Arc of Texas; Stephanie Deroy; Don Moore)

Against — None

On — Sandra Batton, Providers Alliance for Community Services of Texas; Isabel Casas, Texas Council of Community Centers and Private Providers Association of Texas (*Registered, but did not testify*: Dana Collins, Corey Kintzer, Health and Human Services Commission)

BACKGROUND: Concerns have been raised that background checks for caregivers of individuals with intellectual or developmental disabilities do not review crimes committed in other states.

DIGEST: CSHB 1009 would define “residential caregiver” as an individual who provided community-based residential care services through a group home or other residential facility licensed by or operated under the authority of the Health and Human Services Commission (HHSC) to no more than four individuals with an intellectual or developmental disability at any time and at a residence other than the individual’s home.

Medicaid providers, including providers operating under a home and community-based services waiver program, would have to review state

and federal criminal history record information and obtain electronic updates from the Department of Public Safety (DPS) of arrests and convictions for each residential caregiver the provider employed or contracted with to provide community-based residential care services to Medicaid recipients.

Medicaid providers that provided community-based residential care services to Medicaid recipients through a group home or other residential facility licensed by or operated under the authority of HHSC would be entitled to obtain criminal history record information from DPS that related to an individual who was applying for a position with or employed or contracted by the provider as a residential caregiver.

An individual who had been convicted of an offense barring employment at certain health facilities could not be employed as a residential caregiver or otherwise provide direct care to a Medicaid recipient with an intellectual or developmental disability. An individual who violated the bill's provisions would be subject to disciplinary action by HHSC.

Medicaid providers would be required to immediately discharge any residential caregiver who was convicted of an offense barring employment at certain health facilities. HHSC would disenroll any Medicaid provider who violated the bill's provisions from participation in Medicaid. The HHSC executive commissioner would adopt rules necessary to implement the bill.

If a state agency determined that a waiver or authorization from a federal agency was necessary to implement the bill, the agency would be required to request the waiver and could delay implementation until the waiver or authorization was granted.

The bill would take effect September 1, 2023.