

SUBJECT: Adding regulations for certain senior retirement communities

COMMITTEE: Human Services — committee substitute recommended

VOTE: 7 ayes — Frank, Rose, Campos, Hull, Manuel, Ramos, Shaheen
2 nays — Klick, Noble

WITNESSES: For — Glen Fitzmartin, Dallas County Criminal District Attorney John Creuzot; Cheryl Pangburn, Mary Jo Jennings, Secure Our Senior’s Safety (*Registered, but did not testify*: Andrea Earl, AARP Texas; Melissa Sanchez, Alzheimer’s Association; James Parnell, Dallas Police Association; Larry Young, Game Warden Peace Officers Association; Ray Hunt, HPOU; Loren Adair, Shannon Dion, Ellen French House, Secure Our Senior's Safety; John Wilkerson, Texas Municipal Police Association; AJ Louderback, Texas Sheriffs Regional Alliance; John Seago, Texas Right to Life; Ware Wendell, Texas Watch; June Haselton, Kim Monday, Susan Stewart)

Against — None

On — Alyse Meyer, LeadingAge Texas; Carmen Tilton, Texas Assisted Living Association

BACKGROUND: Some have suggested that additional regulations are needed to ensure the safety of residents at senior living facilities.

DIGEST: CSHB 1100 would require a senior retirement community to:

- conduct for each retirement community employee a criminal history record check using the criminal history system maintained by the Department of Public Safety (DPS);
- disclose in the senior retirement community contract whether the retirement community required each business that will provide services to the retirement community to have conducted a criminal history record check of each employee who will provide services at

- the community; and
- maintain a resident safety and communications policy regarding criminal activity that posed a risk to residents.

The bill would require the retirement community to send to each resident and post in a conspicuous manner at a location on the retirement community premises a written notice that contained information on:

- known reports of potential criminal activity made to law enforcement from or at the community no later than two business days after the date the report was made or the activity occurred; and
- known instances of trespassing at the community no later than two business days after the trespassing was reported or occurred.

For providing the written notice, the retirement community could provide for the removal of personal identifying information of an individual involved in the reportable incident, but could not refuse to provide the notice based solely on concerns related to disclosure of the individual's personal identifying information.

A senior retirement community would be liable to a resident for actual damages incurred from a violation of the bill. The retirement community could not be held civilly or criminally liable for the retirement community's compliance with provisions related to conducting criminal history record checks for each employee or providing a written notice.

A senior retirement community could not:

- prevent or inhibit a resident from, or penalize a resident for, communicating with a law enforcement officer, social worker, family member, or other interested person regarding the safety and security of the retirement community; or
- prevent a law enforcement officer or court officer from entering a common area of the retirement community to conduct a voluntary interview with a resident as part of an investigation into criminal

activity at the retirement community.

A lease, rental, or purchase agreement for a residential unit in a senior retirement community, or a senior retirement community contract with a resident, would be required to exclude provisions that:

- waived liability in an action brought due to actual damages incurred from a violation of the bill;
- required arbitration of a dispute under certain circumstances; or
- controlled the content or execution of the resident's advance directive or testamentary documents.

Civil Practice and Remedies code provisions related to medical liability would not apply to an action brought under the bill.

The remedies provided by the bill would not be exclusive and would be in addition to any other remedy provided by law.

The bill would not apply to:

- a health care institution;
- a boarding home facility;
- a supportive housing facility for elderly individuals;
- a center for independent living; or
- any other facility that was regulated by the Health and Human Services Commission, or was in accordance with the rules adopted by the Centers for Medicare and Medicaid services.

The bill would apply only to an agreement or contract entered into or renewed, or a cause of action that accrued, on or after the effective date of the bill.

The bill would take effect September 1, 2023.