

## **BILL ANALYSIS**

Senate Research Center

S.B. 1159  
By: Carona  
Health & Human Services  
3-19-97  
As Filed

### **DIGEST**

Currently, personal care and assisted living settings have become the accommodation of choice for consumers who live at home with security risks, but do not need continuous medical intervention. Because of the growing need and demand for this type of care, many unlicensed accommodations are springing up around the state. The Department of Human Services (DHS) identified the existence of 3,000 to 4,000 unlicensed facilities in 1995, and reports of exploitation of consumers in unlicensed accommodations have raised serious concern. In an effort to better protect the quality of care provided to persons in these homes, S.B. 1159 authorizes DHS to petition for a temporary restraining order if a facility is operating without a license; requires a personal care facility to use its license number in all advertisements and promotional materials; requires greater cooperation among agencies with personal care facility oversight; and provides civil penalties for the operation of a facility without a license.

### **PURPOSE**

As proposed, S.B. 1159 provides for regulation of personal care facilities and establishes a civil penalty.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the Department of Protective and Regulatory Services in SECTION 4 (Section 247.046, Health and Safety Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 247.026(b), Health and Safety Code, to require minimum standards to require a personal care facility to use its license number in all advertisements, solicitations, and promotional materials. Makes conforming changes.

SECTION 2. Amends Section 247.044(a), Health and Safety Code, to authorize the Texas Department of Human Services (department) to petition a district court for a temporary restraining order if the department finds that the facility is operating without a license. Makes conforming changes.

SECTION 3. Amends Section 247.045, Health and Safety Code, to provide that a person is subject to a civil penalty if the person is in violation of Section 247.021, regarding license requirements; or has been determined to be in violation of Section 247.021 and violates any other provision of this chapter or fails to comply with a rule adopted under this chapter. Prohibits the amount of a civil penalty under Subsection (b) from being less than \$1,000 or more than \$10,000 for each act of violation, with each day of a continuing violation constituting a separate ground of recovery. Makes a conforming change.

SECTION 4. Amends Section 247.046, Health and Safety Code, as amended by Chapter 76, Acts of the 74th Legislature, Regular Session, 1995, to set forth the terms by which the Texas Board of Human Services, the Department of Protective and Regulatory Services, and the attorney general are required to adopt, by rule, a memorandum of understanding regarding cooperation among agencies.

SECTION 5. Effective date: September 1, 1997.

SECTION 6. Emergency clause.