

BILL ANALYSIS

Senate Research Center

H.B. 1418
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Health & Human Services
5/11/2001
Engrossed

DIGEST AND PURPOSE

According to the Senate Committee on Human Services, long-term care consumer advocates, provider representatives, and Texas Department of Human Services (DHS) staff have expressed concerns regarding the state's procedures for protecting facility residents from abuse, neglect, or exploitation. State law provides that long-term care facilities and home health agencies must obtain a state criminal history record for new unlicensed employees who provide direct care to residents or consumers. Facilities are prohibited from employing persons who have been convicted of certain offenses, such as homicide, sexual assault, or injury to a child or elderly or disabled person. Currently, facilities can obtain an instant criminal history check for a potential employee through the Department of Public Safety (DPS) via the Internet. However, since there is a \$4.29 charge per request, most facilities submit typewritten requests to DHS, which then forwards it to DPS, at no charge. A facility is permitted to hire an employee pending written notification from DHS regarding the background check, which can take up to eight weeks. Such delays can make residents of long-term care facilities vulnerable to theft, physical and mental abuse, and exploitation. H.B. 1418 modifies the provisions related to criminal background checks and drug testing of employees of a long-term care facility

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Board of Human Services in SECTION 2 (Section 242.050, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

H.B. 1418 amends the Health and Safety Code to authorize a regulatory or private agency that forwards criminal history record information to certain facilities that serve the elderly or disabled to use the Internet criminal history search services provided by the Texas Department of Public Safety to expedite requests for such information. The bill prohibits a person convicted of felony theft from being employed in a position that involves direct contact with a consumer in a facility before the fifth anniversary of the conviction date. The bill requires convalescent and nursing homes and related institutions (institutions) to prepare a written statement describing the institution's policy for conducting criminal history record checks of employees and applicants for employment, and to begin providing the statement no later than January 1, 2002, to each person applying for services from the institution or the person's next of kin and any person requesting the information. The bill requires the Texas Board of Human Services (board), by rule, to adopt a model drug testing policy no later than December 1, 2001, for use by institutions to ensure the safety of residents through appropriate drug testing of employees and to protect employee rights. The bill provides that the model policy must require at least one scheduled drug test each year and must authorize random, unannounced drug testing for an employee who has direct contact with a resident in the institution. The bill authorizes an institution to adopt the model drug testing policy adopted by the board or to establish another policy.

Effective date: September 1, 2001.

Makes application of various portions of this Act prospective to September 1, 2001; December 1, 2001; and January 1, 2002.