

BILL ANALYSIS

Senate Research Center
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S.B. 627
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State Affairs
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 2003, the 78th Legislature passed H.B. 705, which created Chapter 145 (Liability for Negligent Hiring by In-Home Service Companies and Residential Delivery Companies) of the Texas Civil Practice and Remedies Code. Chapter 145 requires in-home service companies and residential delivery companies to perform criminal history background checks on any employee whose job duties require the employee to enter another person's home. Chapter 145 also gives an in-home service company or residential delivery company a rebuttable presumption of no-negligence in any action against the company for negligent hiring if the action arises out of an alleged criminal act or omission by an employee of the company on whom the company is required to obtain a criminal history background check. The company is entitled to the presumption if the company performed the background check at the time the employee was hired and the check did not reveal that the employee had been convicted of any felony in the past 20 years or any misdemeanor in the last 10 years for crimes against the person or property. Many in-home service companies and residential delivery companies are required by law to obtain a license, registration, or certification in order to perform their services. Often the licensing, registration, or certification process involves the performance of criminal history background checks by the state agency from which the company is required to obtain the license, registration or certification. When this is the case, criminal history background checks are required to be performed twice; the first in connection with the licensing, registration, or certification process, and the second under the requirements of Chapter 145.

As proposed, S.B. 627 revises Chapter 145 to make the presumption of no-negligence available to an in-home service company or residential delivery company that is required by state law to be licensed, registered, or certified by a state agency and the licensing, registration, or certification process requires that state agency to obtain criminal history record information. The in-home service company or residential delivery company would be entitled to the presumption only if the company has complied with the licensing, registration, or certification requirements. S.B. 627 eliminates the dual requirement that results in criminal history background checks, in some instances, being performed twice.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 145.003(b), Civil Practice and Remedies Code, to provide that an in-home service company or residential delivery company, in an action to which this section applies, is rebuttably presumed to have not acted negligently if an officer or employee of the company is required by state law to be licensed, registered, or certified by a state agency; the licensing, registration, or certification process requires the state agency to obtain the officer's or employee's criminal history record information; and the license, registration, or certificate renewal requirements have been complied with by the officer or employee. Makes nonsubstantive changes.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: upon passage or September 1, 2009.