

1-1 By: Perry S.B. No. 270  
 1-2 (In the Senate - Filed December 29, 2020; March 3, 2021,  
 1-3 read first time and referred to Committee on State Affairs;  
 1-4 March 17, 2021, reported favorably by the following vote: Yeas 9,  
 1-5 Nays 0; March 17, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED  
 1-18 AN ACT

1-19 relating to civil liability of a nursing facility resident's  
 1-20 responsible payor for misappropriation of the resident's funds.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Subchapter A, Chapter 242, Health and Safety  
 1-23 Code, is amended by adding Section 242.020 to read as follows:

1-24 Sec. 242.020. CIVIL LIABILITY RELATED TO MISAPPROPRIATION  
 1-25 OF RESIDENT'S FUNDS. (a) In this section:

1-26 (1) "Misappropriate" means the taking, secretion,  
 1-27 misapplication, deprivation, transfer, or attempted transfer to  
 1-28 any person not entitled to receive any real or personal property or  
 1-29 anything of value belonging to or under the legal control of a  
 1-30 resident without the effective consent of the resident or other  
 1-31 appropriate legal authority.

1-32 (2) "Responsible payor" means a person who:

1-33 (A) has legal access to the resident's income or  
 1-34 resources available to pay for nursing facility care; and

1-35 (B) has signed an admission agreement or other  
 1-36 contract with the facility in which the person agrees to provide  
 1-37 payment for the resident's facility care from the resident's income  
 1-38 or resources.

1-39 (b) A nursing facility may file an action against a  
 1-40 resident's responsible payor for an amount owed by the resident to  
 1-41 the facility if:

1-42 (1) before admission of the resident, the facility  
 1-43 obtains financial information from the resident or responsible  
 1-44 payor demonstrating the amount of financial resources that the  
 1-45 resident has available to pay for nursing facility care; and

1-46 (2) after the resident begins to reside at the  
 1-47 facility, the responsible payor misappropriates the resident's  
 1-48 resources to a degree that the resident is unable to afford to pay  
 1-49 for the resident's care.

1-50 (c) A nursing facility may file an action for injunctive  
 1-51 relief against a resident's responsible payor who engages in  
 1-52 conduct described by Subsection (b). The court may grant any  
 1-53 appropriate injunctive relief to prevent or abate the conduct,  
 1-54 including a temporary restraining order, temporary injunction, or  
 1-55 permanent injunction.

1-56 (d) Subject to Subsection (e), the prevailing party in an  
 1-57 action filed under this section may recover attorney's fees.

1-58 (e) In an action filed under this section, a nursing  
 1-59 facility may not recover a total amount, including damages and  
 1-60 attorney's fees, that exceeds the amount the responsible payor has  
 1-61 misappropriated from the resident.

2-1 SECTION 2. Section 242.020, Health and Safety Code, as  
2-2 added by this Act, applies only to a cause of action that accrues on  
2-3 or after the effective date of this Act.

2-4 SECTION 3. This Act takes effect September 1, 2021.

2-5

\* \* \* \* \*