

1-1 By: Turner of Tarrant (Senate Sponsor - West) H.B. No. 1009
 1-2 (In the Senate - Received from the House May 8, 2023;
 1-3 May 9, 2023, read first time and referred to Committee on Health &
 1-4 Human Services; May 19, 2023, reported favorably by the following
 1-5 vote: Yeas 8, Nays 0; May 19, 2023, 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 criminal history record information reviews of certain
 1-20 individuals providing services to individuals with an intellectual
 1-21 or developmental disability under Medicaid; providing an
 1-22 administrative penalty.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Subchapter F, Chapter 411, Government Code, is
 1-25 amended by adding Section 411.11061 to read as follows:

1-26 Sec. 411.11061. ACCESS TO CRIMINAL HISTORY RECORD
 1-27 INFORMATION: CERTAIN MEDICAID PROVIDERS. (a) In this section,
 1-28 "residential caregiver" has the meaning assigned by Section
 1-29 531.02485.

1-30 (b) A Medicaid provider that provides community-based
 1-31 residential care services to Medicaid recipients through a group
 1-32 home or other residential facility licensed by or operated under
 1-33 the authority of the Health and Human Services Commission is
 1-34 entitled to obtain from the department criminal history record
 1-35 information maintained by the department that relates to an
 1-36 individual who is an applicant for employment or seeking a contract
 1-37 position with the provider as a residential caregiver or who is
 1-38 employed or contracted by the provider as a residential caregiver.

1-39 SECTION 2. Subchapter B, Chapter 531, Government Code, is
 1-40 amended by adding Section 531.02485 to read as follows:

1-41 Sec. 531.02485. REQUIRED REVIEW OF CRIMINAL HISTORY RECORD
 1-42 INFORMATION FOR CERTAIN RESIDENTIAL CAREGIVERS. (a) In this
 1-43 section, "residential caregiver" means an individual who provides,
 1-44 through a group home or other residential facility licensed by or
 1-45 operated under the authority of the commission, community-based
 1-46 residential care services:

1-47 (1) to not more than four individuals with an
 1-48 intellectual or developmental disability at any time; and

1-49 (2) at a residence other than the home of the
 1-50 individual providing the services.

1-51 (b) A Medicaid provider, including a provider providing
 1-52 services under a 1915(c) waiver program, that employs or contracts
 1-53 with a residential caregiver to provide community-based
 1-54 residential care services to Medicaid recipients shall review state
 1-55 and federal criminal history record information and obtain
 1-56 electronic updates from the Department of Public Safety of arrests
 1-57 and convictions for each residential caregiver the provider employs
 1-58 or contracts with to provide community-based residential care
 1-59 services to Medicaid recipients.

1-60 (c) An individual who has been convicted of an offense
 1-61 described by Section 250.006, Health and Safety Code, may not be

2-1 employed or contracted as a residential caregiver or otherwise
2-2 provide direct care to a Medicaid recipient with an intellectual or
2-3 developmental disability to the same extent and, if applicable, for
2-4 the same period of time prescribed by Section 250.006(a) or (b),
2-5 Health and Safety Code, as an individual similarly convicted under
2-6 those subsections. An individual who violates this subsection is
2-7 subject to disciplinary action by the commission.

2-8 (d) A Medicaid provider shall immediately discharge any
2-9 individual the provider employs or contracts with as a residential
2-10 caregiver who is convicted of an offense described by Section
2-11 250.006, Health and Safety Code.

2-12 (e) Notwithstanding any other law, the commission shall
2-13 take disciplinary action against a Medicaid provider that violates
2-14 this section, including imposing an administrative penalty or
2-15 vendor hold, terminating a contract or license, or any other
2-16 disciplinary action the commission determines appropriate. In
2-17 determining the appropriate disciplinary action to take against a
2-18 Medicaid provider under this subsection, the commission shall
2-19 consider:

2-20 (1) the nature and seriousness of the violation;

2-21 (2) the history of previous violations; and

2-22 (3) any other matter justice may require.

2-23 (f) The executive commissioner shall adopt rules necessary
2-24 to implement this section.

2-25 SECTION 3. If before implementing any provision of this Act
2-26 a state agency determines that a waiver or authorization from a
2-27 federal agency is necessary for implementation of that provision,
2-28 the agency affected by the provision shall request the waiver or
2-29 authorization and may delay implementing that provision until the
2-30 waiver or authorization is granted.

2-31 SECTION 4. This Act takes effect September 1, 2023.

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