

By: Kolkhorst, et al.
(Leach)

S.B. No. 760

A BILL TO BE ENTITLED

AN ACT

relating to an application for a ballot to be voted by mail submitted by certain residents of an assisted living facility, a nursing facility, or an intermediate care facility.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 84.014, Election Code, is amended to read as follows:

Sec. 84.014. ACTION BY EARLY VOTING CLERK ON CERTAIN APPLICATIONS. (a) In this section, "long-term care facility" means a facility licensed under Chapter 242, 247, or 252, Health and Safety Code.

(b) If an applicant provides a date of birth, driver's license number, or social security number on the applicant's application for an early voting ballot to be voted by mail that is different from or in addition to the information maintained by the voter registrar in accordance with Title 2, the early voting clerk shall notify the voter registrar. The voter registrar shall update the voter's record with the information provided by the applicant.

(c) An early voting clerk who receives an application for a ballot to be voted by mail that includes the address of a long-term care facility shall notify the Health and Human Services Commission of the application. The secretary of state in coordination with the Health and Human Services Commission may adopt rules and prescribe procedures for the notification required by this subsection.

SECTION 2. Subchapter A, Chapter 242, Health and Safety Code, is amended by adding Section 242.021 to read as follows:

Sec. 242.021. NOTIFICATION OF REQUEST FOR BALLOT BY MAIL TO CERTAIN RESIDENTS. (a) Following notification by an early voting clerk under Section 84.014, Election Code, the commission shall notify a nursing facility in writing of a request for a ballot by mail submitted for a facility resident.

(b) Upon receipt of the notification under Subsection (a), a nursing facility shall determine if the resident that requested the ballot by mail has a legal guardian or has appointed an agent by a statutory durable power of attorney or medical power of attorney. If a legal guardian or agent has been appointed, the facility shall, not later than the fifth business day after receiving the notification, notify the guardian or agent of the resident that a ballot by mail was requested on behalf of the resident.

(c) The commission shall conduct an audit to determine compliance with this section. The audit must:

(1) include at least 2.5 percent of all licensed facilities as of the date of each primary and general election for state and county officers; and

(2) be conducted not later than the 45th day after the date of each primary or general election for state and county officers.

(d) Nothing in this section may be construed to require a nursing facility to contact a person described by Subsection (b) who is not listed as a point of contact for a resident in the facility's records.

1 (e) The commission may adopt rules as necessary to
2 administer this section.

3 SECTION 3. Section 242.061(a-1), Health and Safety Code, is
4 amended to read as follows:

5 (a-1) The department, after providing notice and
6 opportunity for a hearing to the applicant or license holder, may
7 deny, suspend, or revoke a license if the department finds that the
8 applicant, the license holder, or any other person described by
9 Section 242.032(d) has:

10 (1) violated this chapter or a rule, standard, or
11 order adopted or license issued under this chapter in either a
12 repeated or substantial manner;

13 (2) committed any act described by Sections
14 242.066(a)(2)-(6); or

15 (3) failed to comply with Sections 242.021 and
16 [Section] 242.074.

17 SECTION 4. Section 247.041(a), Health and Safety Code, is
18 amended to read as follows:

19 (a) The department, after providing notice and opportunity
20 for a hearing to the applicant or license holder, may deny, suspend,
21 or revoke a license if the department finds that the applicant,
22 license holder, or a controlling person has:

23 (1) violated this chapter or a rule, standard, or
24 order adopted or license issued under this chapter in either a
25 repeated or substantial manner; ~~[or]~~

26 (2) committed any act described by Sections
27 247.0451(a)(2)-(6); or

1 (3) failed to comply with Section 247.073.

2 SECTION 5. Subchapter D, Chapter 247, Health and Safety
3 Code, is amended by adding Section 247.073 to read as follows:

4 Sec. 247.073. NOTIFICATION OF REQUEST FOR BALLOT BY MAIL TO
5 CERTAIN RESIDENTS. (a) Following notification by an early voting
6 clerk under Section 84.014, Election Code, the commission shall
7 notify an assisted living facility in writing of a request for a
8 ballot by mail submitted for a facility resident.

9 (b) Upon receipt of the notification under Subsection (a),
10 an assisted living facility shall determine if the resident that
11 requested the ballot by mail has a legal guardian or has appointed
12 an agent by a statutory durable power of attorney or medical power
13 of attorney. If a legal guardian or agent has been appointed, the
14 facility shall, not later than the fifth business day after
15 receiving the notification, notify the guardian or agent of the
16 resident that a ballot by mail was requested on behalf of the
17 resident.

18 (c) The commission shall conduct an audit to determine
19 compliance with this section. The audit must:

20 (1) include at least 2.5 percent of all licensed
21 facilities as of the date of each primary and general election for
22 state and county officers; and

23 (2) be conducted not later than the 45th day after the
24 date of each primary or general election for state and county
25 officers.

26 (d) Nothing in this section may be construed to require an
27 assisted living facility to contact a person described by

1 Subsection (b) who is not listed as a point of contact for a
2 resident in the facility's records.

3 (e) The commission may adopt rules as necessary to
4 administer this section.

5 SECTION 6. Subchapter A, Chapter 252, Health and Safety
6 Code, is amended by adding Section 252.012 to read as follows:

7 Sec. 252.012. NOTIFICATION OF REQUEST FOR BALLOT BY MAIL TO
8 CERTAIN RESIDENTS. (a) Following notification by an early voting
9 clerk under Section 84.014, Election Code, the commission shall
10 notify an intermediate care facility in writing of a request for a
11 ballot by mail submitted for a facility resident.

12 (b) Upon receipt of the notification under Subsection (a), a
13 facility shall determine if the resident that requested the ballot
14 by mail has a legal guardian or has appointed an agent by a
15 statutory durable power of attorney or medical power of attorney.
16 If a legal guardian or agent has been appointed, the facility shall,
17 not later than the fifth business day after receiving the
18 notification, notify the guardian or agent of the resident that a
19 ballot by mail was requested on behalf of the resident.

20 (c) The commission shall conduct an audit to determine
21 compliance with this section. The audit must:

22 (1) include at least 2.5 percent of all licensed
23 facilities as of the date of each primary and general election for
24 state and county officers; and

25 (2) be conducted not later than the 45th day after the
26 date of each primary or general election for state and county
27 officers.

1 (d) Nothing in this section may be construed to require an
2 intermediate care facility to contact a person described by
3 Subsection (b) who is not listed as a point of contact for a
4 resident in the facility's records.

5 (e) The commission may adopt rules as necessary to
6 administer this section.

7 SECTION 7. Section 252.035(a), Health and Safety Code, is
8 amended to read as follows:

9 (a) The department, after providing notice and opportunity
10 for a hearing to the applicant or license holder, may deny, suspend,
11 or revoke a license if the department finds that the applicant or
12 license holder has:

13 (1) substantially failed to comply with the
14 requirements established under this chapter; or

15 (2) failed to comply with Section 252.012.

16 SECTION 8. The changes in law made by this Act apply to an
17 application for a ballot to be voted by mail submitted on or after
18 the effective date of this Act. An application for a ballot to be
19 voted by mail submitted before the effective date of this Act is
20 governed by the law in effect on the date the application was
21 submitted.

22 SECTION 9. This Act takes effect September 1, 2025.