

## **BILL ANALYSIS**

Senate Research Center  
78R6733 DLF-D

S.B. 1074  
By: West  
Health & Human Services  
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### **DIGEST AND PURPOSE**

A recent federal report revealed that 39 percent of Texas nursing homes had a violation of federal quality of care requirements that caused actual harm to nursing home residents, including dehydration, physical abuse, and sexual assault, or placed residents at risk of death or serious injury. As proposed, S.B. 1074 requires a nursing home owner or employee to report abuse or neglect to the Texas Department of Human Services (DHS) and to law enforcement. It also expands the conditions under which DHS is required to investigate reports of abuse or neglect within 24 hours to include allegations of certain sexual offenses and bodily injury, and enhances the interview and investigation processes related to abuse or neglect.

### **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 242.125, Health and Safety Code, by requiring a report of abuse or neglect made by an owner or employee of an institution to be made to the Texas Department of Human Services (DHS) and the law enforcement agency described by Section 242.135(a). Includes an exception as provided by Section 242.135 to the requirement that a local or state law enforcement agency receiving a report of abuse or neglect refer the report to DHS or the designated agency.

SECTION 2. Amends Section 242.126, Health and Safety Code, by amending Subsections (c), (e), and (g), and adding Subsection (l), as follows:

- (c) Requires the agency to begin the investigation within 24 hours of receipt of the report or other allegation if the report of abuse or neglect or other complaint alleges that a resident has been a victim of any act or attempted act described by Section 21.11 (Indecency With a Child), 22.011 (Sexual Assault), 22.021 (Aggravated Sexual Assault), or 25.02 (Prohibited Sexual Conduct), Penal Code; or a resident has suffered bodily injury as defined by Section 1.07 (Definitions), Penal Code, as a result of abuse or neglect.
- (e) Requires an investigator or investigating agency that is investigating a report of abuse or neglect or other complaint to interview each available witness, including the resident that suffered the alleged abuse or neglect; to make a photographic record of any injury to a resident, after obtaining any consent required under state or federal law; and to include the statement of the resident that suffered the alleged abuse or neglect in a summary of each witness statement.
- (g) Requires DHS to delete photographs of any injury to the resident from any copy of the investigation report made available to the public.
- (l) Requires DHS or the designated agency to report each report of abuse or neglect or other complaint described by Subsection (c)(1) to the law enforcement agency described by Section

242.135(a) and to cooperate with that law enforcement agency in the investigation of the report or complaint.

SECTION 3. Amends Section 242.127, Health and Safety Code, to require the report, record, or working paper, and the name, address, and phone number of the person making the report, to be disclosed to a law enforcement agency as necessary to permit the law enforcement agency to investigate a report of abuse or neglect or other complaint in accordance with Section 242.135.

SECTION 4. Amends Chapter 242E, Health and Safety Code, by adding Section 242.135, as follows:

Sec. 242.135. DUTIES OF LAW ENFORCEMENT. (a) Requires a law enforcement department or designated agency to investigate a report of abuse or neglect or other complaint described by Section 242.126(c)(1) jointly with the municipal law enforcement agency or the sheriff's department of the county as appropriate.

(b) Requires the law enforcement agency described by Subsection (a) to investigate the report of abuse or neglect or other complaint, cooperate with DHS or the designated agency, and report to DHS or the designated agency the results of the investigation.

SECTION 5. Effective date: September 1, 2003.