

By: Uresti

H.B. No. 3189

Substitute the following for H.B. No. 3189:

By: Olivo

C.S.H.B. No. 3189

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the inspection of, and enforcement of laws relating to,
3 nursing homes and intermediate care facilities.

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

5 SECTION 1. Section 242.016, Health and Safety Code, is
6 amended to read as follows:

7 Sec. 242.016. FEES AND PENALTIES. (a) In this section,
8 "reasonable expenses and costs" include expenses incurred by the
9 department or attorney general to investigate, initiate, and
10 prosecute an action, including reasonable investigative costs,
11 witness fees, deposition expenses, and court costs.

12 (b) Except as expressly provided by this chapter, a fee or
13 penalty collected by or on behalf of the department under this
14 chapter must be deposited to the credit of the general revenue fund
15 and may be appropriated only to the department to administer and
16 enforce this chapter.

17 (c) Investigation and attorney's fees may not be assessed or
18 collected by or on behalf of the department or other state agency
19 unless the department or other state agency assesses and collects a
20 penalty described under this chapter.

21 (d) If the attorney general brings an action to enforce this
22 chapter under Section 242.063 or 242.094, and the court grants an
23 injunction or temporary restraining order or appoints a trustee to
24 operate the home, the attorney general may recover attorney's fees

1 and reasonable expenses and costs.

2 SECTION 2. Sections 242.063(a) and (b), Health and Safety
3 Code, are amended to read as follows:

4 (a) The department may petition a district court for:

5 (1) a temporary restraining order to restrain a person
6 from a violation or threatened violation of the standards imposed
7 under this chapter or any other law affecting residents if the
8 department reasonably believes that the violation or threatened
9 violation creates an immediate threat to the health and safety of a
10 resident; ~~and~~

11 (2) an injunction to restrain a person from a
12 violation or threatened violation of the standards imposed under
13 this chapter or by any other law affecting residents if the
14 department reasonably believes that the violation or threatened
15 violation creates a threat to the health and safety of a resident;
16 and

17 (3) a temporary restraining order to restrain a person
18 from denying the department access to the institution for
19 inspection purposes if the department reasonably believes that the
20 institution is required to be licensed and that it is operating
21 without a license.

22 (b) A district court, on petition of the department, may by
23 injunction or temporary restraining order:

24 (1) prohibit a person from violating the standards or
25 licensing requirements prescribed by this chapter;

26 (2) restrain or prevent the establishment, conduct,
27 management, or operation of an institution without a license issued

1 under this chapter; ~~[or]~~

2 (3) grant the injunctive relief warranted by the facts
3 on a finding by the court that a person is violating or threatening
4 to violate the standards or licensing requirements prescribed by
5 this chapter; or

6 (4) restrain a person from denying the department
7 access to the institution if the department reasonably believes
8 that the institution is required to be licensed and that it is
9 operating without a license.

10 SECTION 3. Sections 252.062(a) and (b), Health and Safety
11 Code, are amended to read as follows:

12 (a) The department may petition a district court for a
13 temporary restraining order to:

14 (1) restrain a person from continuing a violation of
15 the standards prescribed by this chapter if the department finds
16 that the violation creates an immediate threat to the health and
17 safety of the facility's residents; or

18 (2) restrain a person from denying the department
19 access to the facility for inspection purposes if the department
20 reasonably believes that the facility is required to be licensed
21 and that it is operating without a license.

22 (b) A district court, on petition of the department, may by
23 injunction or temporary restraining order:

24 (1) prohibit a person from continuing a violation of
25 the standards or licensing requirements prescribed by this chapter;

26 (2) restrain or prevent the establishment, conduct,
27 management, or operation of a facility without a license issued

1 under this chapter; ~~or~~

2 (3) grant the injunctive relief warranted by the facts
3 on a finding by the court that a person is violating the standards
4 or licensing requirements prescribed by this chapter; or

5 (4) restrain a person from denying the department
6 access to the facility if the department reasonably believes that
7 the facility is required to be licensed and that it is operating
8 without a license.

9 SECTION 4. This Act takes effect September 1, 2003.