

AN ACT

relating to criminal history checks of certain employees and applicants for employment in nursing homes and assisted living facilities and to the period within which a nursing home or assisted living facility must request certain criminal history checks.

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

SECTION 1. Subsections (a) and (b), Section 250.003, Health and Safety Code, are amended to read as follows:

(a) A facility may not employ a person if the facility determines, as a result of a criminal history check, that a person has been convicted of an offense listed in this chapter that bars employment or that a conviction is a contraindication to employment with the consumers the facility serves, and if the applicant is a nurse aide, until the facility further verifies that the applicant is listed in the nurse aide registry and verifies that the applicant is not designated in the registry as having a finding entered into the registry concerning abuse, neglect, or mistreatment of a consumer of a facility, or misappropriation of a consumer's property. Except for an applicant for employment at or an employee of a facility licensed under Chapter 242 or 247, a [A] person licensed under another law of this state is exempt from the requirements of this chapter.

(b) The facility may not employ an applicant covered by Subsection (a), except that in an emergency requiring immediate

1 employment, a facility may hire on a temporary or interim basis a
2 person not listed in the registry pending the results of a criminal
3 conviction check, which must be requested:

- 4 (1) within 72 hours of employment; or
5 (2) if the facility is licensed under Chapter 242 or
6 247, within 24 hours of employment.

7 SECTION 2. Section 250.006, Health and Safety Code, is
8 amended by adding Subsection (c) to read as follows:

9 (c) In addition to the prohibitions on employment
10 prescribed by Subsections (a) and (b), a person for whom a facility
11 licensed under Chapter 242 or 247 is entitled to obtain criminal
12 history record information may not be employed in a facility
13 licensed under Chapter 242 or 247 if the person has been convicted:

14 (1) of an offense under Section 30.02, Penal Code
15 (burglary); or

16 (2) under the laws of another state, federal law, or
17 the Uniform Code of Military Justice for an offense containing
18 elements that are substantially similar to the elements of an
19 offense under Section 30.02, Penal Code.

20 SECTION 3. The change in law made by this Act to Section
21 250.006, Health and Safety Code, does not apply to a person who is
22 employed by a facility on the effective date of this Act for the
23 period during which the person is continuously employed by that
24 facility.

25 SECTION 4. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

1 Act does not receive the vote necessary for immediate effect, this
2 Act takes effect September 1, 2003.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 923 passed the Senate on May 8, 2003, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 29, 2003, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 923 passed the House, with amendment, on May 28, 2003, by the following vote: Yeas 144, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor