

BILL ANALYSIS

C.S.S.B. 199
By: Nelson
Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, a number of convictions for violent criminal offenses do not bar a person from being employed as a home care attendant. Current law provides a list of hiring prohibitions that prevent a person of certain criminal offenses from being employed to care for certain elderly or persons with disabilities.

As proposed, C.S.S.B. 199 adds to the list of offenses that preclude a person from being employed to care for the elderly or disabled.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.S.B. 199 amends Sections 250.006 (a) and (b), Health and Safety Code, to read as follows:

- (a) A person for whom the facility is entitled to obtain criminal history record information may not be employed in a facility if the person has been convicted of an offense listed in this subsection:
- (1) an offense under Chapter 19, Penal Code (criminal homicide);
 - (2) an offense under Chapter 20, Penal Code (kidnapping and unlawful restraint);
 - (3) an offense under Section 21.11, Penal Code (indecenty with a child);
 - (4) an offense under Section 22.011, Penal Code (sexual assault);
 - (5) an offense under Section 22.02, Penal Code (aggravated assault);
 - (6) an offense under Section 22.04, Penal Code (injury to a child, elderly individual, or disabled individual);
 - (7) an offense under Section 22.041, Penal Code (abandoning or endangering child);
 - (8) an offense under Section 22.08, Penal Code (aiding suicide);
 - (9) an offense under Section 25.031, Penal Code (agreement to abduct from custody);
 - (10) an offense under Section 25.08, Penal Code (sale or purchase of a child);
 - (11) an offense under Section 28.02, Penal Code (arson);
 - (12) an offense under Section 29.02, Penal Code (robbery);
 - (13) an offense under Section 29.03, Penal Code (aggravated robbery);
 - (14) an offense under Section 21.08, Penal Code (indecent exposure);
 - (15) an offense under Section 21.12, Penal Code (improper relationship between educator and student);
 - (16) an offense under Section 21.15, Penal Code (improper photography or visual recording);
 - (17) an offense under Section 22.05, Penal Code (deadly conduct);
 - (18) an offense under Section 22.021, Penal Code (aggravated sexual assault);
 - (19) an offense under Section 22.07, Penal Code (terroristic threat);
 - (20) an offense under Section 33.021, Penal Code (online solicitation of a minor);
 - (21) an offense under Section 34.02, Penal Code (money laundering);
 - (22) an offense under Section 35A.02, Penal Code (Medicaid fraud);
 - (23) an offense under Section 42.09, Penal Code (cruelty to animals); or

(24) a conviction under the laws of another state, federal law, or the Uniform Code of Military Justice for an offense containing elements that are substantially similar to the elements of an offense listed by this subsection.

(b) The bill prohibits a person from being employed in a position the duties of which involve direct contact with a consumer in a facility before the fifth anniversary of the date the person is convicted of:

- (1) an offense under Section 22.01, Penal Code (assault), that is punishable as a Class A misdemeanor or as a felony;
- (2) an offense under Section 30.02, Penal Code (burglary);
- (3) an offense under Chapter 31, Penal Code (theft), that is punishable as a felony;
- (4) an offense under Section 32.45, Penal Code (misapplication of fiduciary property or property of a financial institution), that is punishable as a Class A misdemeanor or a felony;
- (5) an offense under Section 32.46, Penal Code (securing execution of a document by deception), that is punishable as a Class A misdemeanor or a felony;
- (6) an offense under Section 37.12, Penal Code (false identification as peace officer); or
- (7) an offense under Section 42.01(a)(7), (8), or (9), Penal Code (disorderly conduct).

The bill takes effect September 1, 2007.

EFFECTIVE DATE

September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.S.B. 199 adds subsection (b) to the original as follows:

(b) The bill prohibits a person from being employed in a position the duties of which involve direct contact with a consumer in a facility before the fifth anniversary of the date the person is convicted of:

- (1) an offense under Section 22.01, Penal Code (assault), that is punishable as a Class A misdemeanor or as a felony;
- (2) an offense under Section 30.02, Penal Code (burglary);
- (3) an offense under Chapter 31, Penal Code (theft), that is punishable as a felony;
- (4) an offense under Section 32.45, Penal Code (misapplication of fiduciary property or property of a financial institution), that is punishable as a Class A misdemeanor or a felony;
- (5) an offense under Section 32.46, Penal Code (securing execution of a document by deception), that is punishable as a Class A misdemeanor or a felony;
- (6) an offense under Section 37.12, Penal Code (false identification as peace officer); or
- (7) an offense under Section 42.01(a)(7), (8), or (9), Penal Code (disorderly conduct).

C.S.S.B. 199 modifies the original bill by moving from subsection (a) to subsection (b) the following: an offense under Section 37.12, Penal Code (false identification as peace officer); or an offense under Section 42.01(a)(7), (8), or (9), Penal Code (disorderly conduct).