

BILL ANALYSIS

Senate Research Center

S.B. 1318
By: Janek
Health & Human Services
10/19/2007
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Legislation was filed last session to assist the Department of Aging and Disability Services (DADS) in standardizing and streamlining regulatory processes following the consolidation of the legacy health and human services agencies. However, the legislation containing those proposals did not pass.

S.B. 1318 standardizes and streamlines some requirements in DADS programs to help DADS staff more efficiently manage processes and procedures related to providers.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 (Section 32.021, Human Resources Code), SECTION 3 (Section 103.006, Human Resources Code), SECTION 5 (Section 142.006, Health and Safety Code), and SECTION 13 (Section 247.023, Health and Safety Code) of this bill.

Rulemaking authority previously granted to the Department of Human Services is modified in SECTION 18 (Section 252.065, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

[While the statutory reference in this bill is to the Texas Department of Human Services (DHS) and the Texas Department of Health (TDH), the following amendments affect the Department of Aging and Disability Services, as the successor agency to DHS and TDH.]

SECTION 1. Amends Section 32.021(m), Human Resources Code, as follows:

(m) Requires the executive commissioner of the Health and Human Services Commission (executive commissioner) by rule to establish criteria under which the requirement to terminate the provider agreement may be waived. Deletes existing text making an exception to the requirement of the Health and Human Services Commission (HHSC) to terminate a nursing facility's provider agreement, if HHSC finds that good cause exists to waive this requirement to facilitate a change in ownership to protect residents of a facility.

SECTION 2. Amends Section 101.051(2), Human Resources Code, to redefine "long-term care facility."

SECTION 3. Amends Section 103.006(b), Human Resources Code, as follows:

(b) Provides that the license expires two years, rather than one year, from the date of its issuance. Authorizes the executive commissioner by rule to adopt a system under which licenses expire on various dates during the two-year period. Requires DHS to prorate a license fee on a monthly basis for the year in which the license expiration date is changed. Requires each license holder to pay only that portion of the license fee allocable to the number of months for which the license is valid. Requires a license holder to pay the total license renewal fee at the time of renewal.

SECTION 4. Amends Section 103.007, Human Resources Code, by amending Subsections (a) and (c) and adding Subsection (d), as follows:

(a) Increases the license fee from \$25 to \$50.

(b) Requires a person who operates a facility that is licensed under this chapter (Adult Day Care) to file an application for renewal license not later than the 45th day before the expiration date of the current license. Increases the renewal fee from \$25 to \$50.

(d) Provides that an applicant for a license renewal who submits an application later than the 45th day before the expiration date of the license is subject to a late fee in accordance with DHS rules.

SECTION 5. Amends Section 142.006(b), Health and Safety Code, as follows:

(b) Provides that a license issued under this chapter (Home and Community Support Services) expires two years, rather than one year, after the date of issuance. Authorizes the executive commissioner to adopt a system under which licenses expire on various dates during the two-year period. Requires TDH to prorate a license fee on a monthly basis for the year in which the license expiration date is changed. Requires each license holder to pay only that portion of the license fee allocable to the number of months for which the license is valid. Requires a license holder to pay the total license renewal fee at the time of renewal. Authorizes TDH to issue an initial license for a shorter term, rather than for a term of less than one year.

SECTION 6. Amends Section 142.009(c), Health and Safety Code, to require TDH or its authorized representative to investigate each complaint received, including any allegation of abuse, neglect, or exploitation of a child under the age of 18.

SECTION 7. Amends Section 142.010(a), Health and Safety Code, as follows:

(a) Requires TDH, rather than the Texas Board of Health, to set license fees for certain agencies in certain amounts. Prohibits the fees from being less than \$600, rather than \$300, or more than \$2,000, rather than \$1,000, for a license.

SECTION 8. Amends Section 142.0105, Health and Safety Code, as follows:

Sec. 142.0105. LICENSE RENEWAL. (a) Authorizes a specific person to renew a license by submitting a completed application for renewal and paying the required renewal fee to TDH not later than the 45th day before the expiration date of the license. Prohibits a person whose license has expired from engaging in activities that require a license.

(b) Provides that an applicant for a license renewal who submits an application later than the 45th day before the expiration date of the license is subject to a late fee in accordance with TDH rules. Deletes existing text authorizing a person whose license has been expired for 90 days or less to renew the license.

(c) Redesignated from Subsection (d). Requires TDH to send written notice of the impending expiration of the license not later than the 120th day, rather than the 60th day, before the date the person's license is scheduled to expire. Requires the written notice to include an application for license renewal and instructions for completing the application.

SECTION 9. Amends Section 142.017, Health and Safety Code, by amending Subsection (e) and adding Subsection (j), as follows:

(e) Makes a conforming change.

(j) Authorizes TDH to assess an administrative penalty without providing a reasonable period of time to the agency to correct certain violations.

SECTION 10. Amends Section 242.032, Health and Safety Code, by adding Subsection (f), to provide that information obtained under this section (License or Renewal Application) regarding an applicant's or license holder's financial condition is confidential and is prohibited from being disclosed to the public.

SECTION 11. Amends Section 242.034, Health and Safety Code, by adding Subsection (i), to provide that an applicant for license renewal who submits an application later than the 45th day before the expiration date of a current license is subject to a late fee in accordance with DHS rules.

SECTION 12. Amends Section 242.066(a), Health and Safety Code, to authorize DHS to assess an administrative penalty against certain persons, including a person who fails to notify DHS of a change in ownership before the effective date of the change of ownership.

SECTION 13. Amends Section 242.0665(b), Health and Safety Code, to provide that Subsection (a) does not apply to a violation described by Sections 242.066(a)(2)-(7), rather than Sections 242.066(a)(2)-(6).

SECTION 14. Amends Sections 247.023(a) and (b), Health and Safety Code, as follows:

(a) Provides that the license expires on the second anniversary of the date of its issuance. Authorizes the executive commissioner by rule to adopt a system under which licenses expire on various dates during the two-year period. Requires DHS to prorate the license fee on a monthly basis for the year in which a license expiration date is changed. Requires each license holder to pay only that portion of the license fee allocable to the number of months during which the license is valid. Requires a license holder to pay the total license renewal fee at the time of renewal.

(b) Requires the license holder to submit to DHS the license renewal fee, rather than the annual license renewal fee, in order to renew a license.

SECTION 15. Amends Section 247.024, Health and Safety Code, by amending Subsection (a) and adding Subsection (e), as follows:

(a) Requires DHS, rather than the Texas Board of Human Services, to set certain license fees imposed by this chapter (Assisted Living Facilities). Provides that the license fee is not to exceed \$1,500, rather than \$750.

(e) Provides that an applicant who submits a license renewal later than the 45th day before the expiration date of a current license is subject to a late fee in accordance with DHS rules.

SECTION 16. Amends Section 247.0451(a), Health and Safety Code, to authorize DHS to assess an administrative penalty against certain persons, including a person who fails to notify DHS of a change of ownership before the effective date of the change of ownership.

SECTION 17. Amends Section 247.0452(b), Health and Safety Code, to provide that Subsection (a) does not apply to a violation described by Sections 247.0451(a)(2)-(7), rather than Sections 247.0451(a)(2)-(6).

SECTION 18. Amends Section 247.069, Health and Safety Code, as follows:

Sec. 247.069. CONSUMER CHOICE FOR ASSISTED LIVING IN COMMUNITY CARE PROGRAMS. Deletes existing text providing certain conditions of a facility that a consumer is to choose from for the community based alternatives program and the residential care programs.

SECTION 19. Amends Section 252.034, Health and Safety Code, by adding Subsection (f), to provide that an applicant who submits an application for license renewal later than the 45th day before the expiration date of a current license is subject to a late fee in accordance with DHS rules.

SECTION 20. Amends Sections 252.065(a) and (e), Health and Safety Code, as follows:

(a) Authorizes DHS to assess an administrative penalty against a person who takes certain actions.

(e) Provides that this subsection does not apply to a violation described by Subsection (a)(2)-(8) or to a violation that DHS determines has resulted in serious harm to or death of a resident, constitutes a serious threat to the health or safety of a resident, or substantially limits the institution's capacity to provide care.

SECTION 21. Amends Section 253.001(4), Health and Safety Code, to redefine "facility."

SECTION 22. Amends Section 253.008, Health and Safety Code, as follows:

Sec. 253.008. VERIFICATION OF EMPLOYABILITY. (a) Deletes existing text making a reference to an agency listed under Chapter 142 (Home and Community Support Services). Makes conforming changes.

(b) Makes conforming changes.

SECTION 23. Amends Section 253.009(a), Health and Safety Code, to make a conforming change.

SECTION 24. Authorizes a state agency to delay implementing a provision of this Act until a requested federal waiver or authorization necessary to implement that provision is obtained.

SECTION 25. (a) Provides that this Act applies only to a license issued or renewed on or after September 1, 2007, except as provided by Subsection (b).

(b) Makes application of this Act prospective to November 1, 2007.

SECTION 26. Effective date: September 1, 2007.