

BILL ANALYSIS

Senate Research Center
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S.B. 1663
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Health & Human Services
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Individuals who live in assisted living facilities have the right to give advance directives, such as medical power of attorney, that will be followed in case of incapacitation. Currently, the penalties for not honoring an advance directive only apply in certain instances and are not sufficient to ensure that an advance directive will be honored.

As proposed, S.B. 1663 requires the Texas Department of Human Services to assess an administrative penalty against an institution that knowingly disregards or violates a resident's advance directive. S.B. 1663 also provides that an action by a person, including an owner or employee of an institution, to knowingly disregard or violate a resident's advance directive constitutes abuse and neglect of the resident.

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

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 242.0663, Health and Safety Code, by amending Subsection (a) and adding Subsection (d), as follows:

(a) Requires the Texas Department of Human Services to assess an administrative penalty under this subchapter against an institution that knowingly disregards or violates a resident's advance directive.

(d) Provides that an action by a person, including an owner or employee of an institution, to knowingly disregard or violate a resident's advance directive constitutes abuse and neglect of the resident for purposes of this chapter.

SECTION 2. Amends Section 242.122, Health and Safety Code, by adding Subsection (d), to define "abuse and neglect."

SECTION 3. Effective date: September 1, 2009.