

House Bill 2328
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

No equivalent provision.

SENATE VERSION

CONFERENCE

SECTION 1. Section 250.006(a), Health and Safety Code, is amended 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 21.02, Penal Code (continuous sexual abuse of young child or children), or Section 21.11, Penal Code (indecent 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);

House Bill 2328
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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- (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 36.06, Penal Code (obstruction or retaliation);
- (24) an offense under Section 42.09, Penal Code (cruelty to animals); or
- (25) [~~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.

House Bill 2328
Senate Amendments
Section-by-Section Analysis

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No equivalent provision.

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SECTION 1. Section 32.21, Penal Code, is amended by amending Subsection (c) and adding Subsection (e-1) to read as follows:

(c) Except as provided by ~~in~~ Subsections (d), ~~and~~ (e), and (e-1), an offense under this section is a Class A misdemeanor.

(e-1) An offense under this section is increased to the next higher category of offense if it is shown on the trial of the offense that the offense was committed against an elderly individual as defined by Section 22.04.

SENATE VERSION

SECTION 2. The heading to Chapter 253, Health and Safety Code, is amended to read as follows:

CHAPTER 253. CERTAIN EMPLOYEE MISCONDUCT; REGISTRY

SECTION 3. Section 253.001(5), Health and Safety Code, is amended to read as follows:

(5) "Reportable conduct" includes:

(A) abuse or neglect that causes or may cause death or harm to a resident or consumer of a facility;

(B) sexual abuse of a resident or consumer of a facility;

(C) financial exploitation of a resident or consumer of a facility in an amount of \$25 or more; ~~and~~

(D) emotional, verbal, or psychological abuse that causes harm to a resident or consumer of a facility; and

(E) solicitation of a gift from a resident or consumer of a facility.

SECTION 4. Same as House version.

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House Bill 2328
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

SECTION 2. Section 32.31(d), Penal Code, is amended to read as follows:

(d) An offense under this section is a state jail felony, except that the offense is a felony of the third degree if it is shown on the trial of the offense that the offense was committed against an elderly individual as defined by Section 22.04.

SECTION 3. Section 32.51, Penal Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) An offense described for purposes of punishment by Subsections (c)(1)-(3) is increased to the next higher category of offense if it is shown on the trial of the offense that the offense was committed against an elderly individual as defined by Section 22.04.

SECTION 4. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For the purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 5. Same as House version.

SECTION 6. Same as House version.

SECTION 7. The change in law made by this Act **in amending Sections 32.21, 32.31, and 32.51, Penal Code,** applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For the purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

House Bill 2328
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

SECTION 5. This Act takes effect September 1, 2009.

SECTION 8. Same as House version.