

BILL ANALYSIS

C.S.H.B. 1337
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Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Concerns have been raised as a result of the investigation of a recent allegation of sexual abuse made at an assisted living facility, during which the facility staff reported they were not aware that a guardianship order for the alleged victim existed. According to interested parties, assisted living facilities and nursing homes are not currently required to keep guardianship orders in a resident's medical file, nor is an investigator for the Department of Aging and Disability Services required to check a resident's medical file for a guardianship order during an investigation of a report of abuse, neglect, or exploitation. C.S.H.B. 1337 seeks to address this issue.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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.H.B. 1337 amends the Health and Safety Code to require a convalescent home, nursing facility, or related institution and an assisted living facility to make a reasonable effort to request a copy of any court order appointing a guardian of a resident or a resident's estate from the resident's nearest relative or the person responsible for the resident's support and to require such an institution or facility that receives a copy of a court order appointing a guardian of a resident or a resident's estate to maintain a copy of the order in the resident's medical records. The bill requires an investigator for the Department of Aging and Disability Services, in investigating a report of abuse, neglect, exploitation, or other similar complaint regarding a resident of such an institution or assisted living facility, to inspect any court order appointing a guardian of the resident who was the subject of the alleged abuse, neglect, or exploitation that is maintained in the resident's medical records. The bill establishes that a convalescent home, nursing home, or related institution or an assisted living facility is not required to comply with the bill's provisions before January 1, 2016.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1337 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial

differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Subchapter A, Chapter 242, Health and Safety Code, is amended by adding Section 242.019 to read as follows:
Sec. 242.019. GUARDIANSHIP ORDERS.

An institution shall maintain a copy of any court order appointing a guardian of a resident or a resident's estate in the resident's medical records.

SECTION 2. Subchapter D, Chapter 247, Health and Safety Code, is amended by adding Section 247.070 to read as follows:
Sec. 247.070. GUARDIANSHIP ORDERS.

An assisted living facility shall maintain a copy of any court order appointing a guardian of a resident or a resident's estate in the resident's medical records.

SECTION 3. Section 260A.007(e), Health and Safety Code, is amended.

SECTION 4. (a) An institution is not required to comply with Section 242.019, Health and Safety Code, as added by this Act, before January 1, 2016.

(b) An assisted living facility is not required to comply with Section 247.070, Health and Safety Code, as added by this Act, before January 1, 2016.

SECTION 5. This Act takes effect September 1, 2015.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter A, Chapter 242, Health and Safety Code, is amended by adding Section 242.019 to read as follows:
Sec. 242.019. GUARDIANSHIP ORDERS.

An institution shall make a reasonable effort to request a copy of any court order appointing a guardian of a resident or a resident's estate from the resident's nearest relative or the person responsible for the resident's support. An institution that receives a copy of a court order appointing a guardian of a resident or a resident's estate shall maintain a copy of the court order in the resident's medical records.

SECTION 2. Subchapter D, Chapter 247, Health and Safety Code, is amended by adding Section 247.070 to read as follows:
Sec. 247.070. GUARDIANSHIP ORDERS.

An assisted living facility shall make a reasonable effort to request a copy of any court order appointing a guardian of a resident or a resident's estate from the resident's nearest relative or the person responsible for the resident's support. An assisted living facility that receives a copy of a court order appointing a guardian of a resident or a resident's estate shall maintain a copy of the court order in the resident's medical records.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.

SECTION 5. Same as introduced version.