

BILL ANALYSIS

C.S.H.B. 1769
By: Zerwas
Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Concerned parties assert that the current health inspection process for licensed assisted living facilities, which requires a facility to have a certain number of residents move in to the facility at certain points of the process, puts undue burden on facilities to provide staff for a small number of residents and creates uncertainty for families awaiting a placement. C.S.H.B. 1769 seeks to provide an option that would alleviate this burden for certain facilities.

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. 1769 amends the Health and Safety Code to authorize an assisted living facility license applicant in good standing to request an initial license that does not require an on-site health inspection. The bill establishes that a license applicant is in good standing if the license applicant, or the controlling person of the license applicant if the license applicant is a newly formed business entity, has operated or been the controlling person of an assisted living facility in Texas for six consecutive years and if each assisted living facility operated by the license applicant, or operated or controlled by a controlling person of the license applicant if the license applicant is a newly formed business entity, has not had a violation that resulted in actual harm to a resident or that posed an immediate threat of harm causing, or likely to cause, serious injury, impairment, or death of a resident and, in the six years preceding the date on which the license applicant submits the application, has not had a sanction imposed by the Department of Aging and Disability Services (DADS) against the facility.

C.S.H.B. 1769 prohibits DADS from requiring the applicant for such an initial license to admit a resident to the facility before DADS issues the license. The bill requires DADS to require the license applicant to submit for approval policies and procedures, verification of employee background checks, and employee credentials. The bill requires DADS to conduct a survey of a facility issued such an initial license not later than the 90th day after the date on which DADS issues the license to the facility. The bill requires the facility, until DADS conducts the survey, to disclose to all residents and prospective residents that DADS has not yet conducted the required survey. The bill requires the executive commissioner of the Health and Human Services Commission, as soon as practicable after the bill's effective date, to adopt the rules necessary to implement the bill's provisions.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1769 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

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 247.023, Health and Safety Code, is amended by adding Subsection (d) to read as follows:

No equivalent provision. (But see SECTION 1 below.)

(d) The department may not require an assisted living facility license applicant to admit a resident to the facility before the department conducts an on-site health inspection for issuance of a license or provisional license under this chapter.

No equivalent provision. (But see SECTION 1 above.)

SECTION 1. Section 247.022, Health and Safety Code, is amended by adding Subsections (d), (e), and (f) to read as follows:

(d) An assisted living facility license applicant in good standing may request an initial license that does not require an on-site health inspection. The department may not require the applicant to admit a resident to the facility before the department issues the license. The department shall require the license applicant to submit for approval policies and procedures, verification of employee background checks, and employee credentials.

(e) The department shall conduct a survey of a facility issued an initial license under Subsection (d) not later than the 90th day after the date on which the department issues the license to the facility. Until the department conducts the survey, the facility shall disclose to all residents and prospective residents that the department has not yet conducted the survey required by this subsection.

(f) For purposes of this section, a license applicant is in "good standing" if:

(1) the license applicant, or the controlling person of the license applicant if the license applicant is a newly formed business entity, has operated or been the controlling person of an assisted living facility in this state for

six consecutive years; and
(2) each assisted living facility operated by the license applicant, or operated or controlled by a controlling person of the license applicant if the license applicant is a newly formed business entity:
(A) has not had a violation that resulted in actual harm to a resident or that posed an immediate threat of harm causing, or likely to cause, serious injury, impairment, or death of a resident; and
(B) in the six years preceding the date on which the license applicant submits the application, has not had a sanction imposed by the department against the facility, including:
(i) the imposition of a civil or administrative penalty or an injunction;
(ii) the denial, suspension, or revocation of a license; or
(iii) an emergency closure.

No equivalent provision.

SECTION 2. As soon as practicable after the effective date of this Act, the executive commissioner of the Health and Human Services Commission shall adopt the rules necessary to implement the change in law made by this Act.

SECTION 2. This Act takes effect September 1, 2015.

SECTION 3. Same as introduced version.