

1-1 By: Perry S.B. No. 1491
1-2 (In the Senate - Filed March 5, 2019; March 14, 2019, read
1-3 first time and referred to Committee on State Affairs;
1-4 April 8, 2019, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 8, 2019,
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Huffman	X		
1-10	Hughes	X		
1-11	Birdwell	X		
1-12	Creighton	X		
1-13	Fallon	X		
1-14	Hall	X		
1-15	Lucio	X		
1-16	Nelson	X		
1-17	Zaffirini	X		

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1491 By: Nelson

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to civil liability of a nursing facility resident's
1-22 responsible payor for misappropriation of the resident's funds.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Subchapter A, Chapter 242, Health and Safety
1-25 Code, is amended by adding Section 242.020 to read as follows:

1-26 Sec. 242.020. CIVIL LIABILITY RELATED TO MISAPPROPRIATION
1-27 OF RESIDENT'S FUNDS. (a) In this section:

1-28 (1) "Misappropriate" means the taking, secretion,
1-29 misapplication, deprivation, transfer, or attempted transfer to
1-30 any person not entitled to receive any real or personal property or
1-31 anything of value belonging or under the legal control of a resident
1-32 without the effective consent of the resident or other appropriate
1-33 legal authority.

1-34 (2) "Responsible payor" means a person who:

1-35 (A) has legal access to the resident's income or
1-36 resources available to pay for nursing facility care; and

1-37 (B) has signed an admission agreement or other
1-38 contract with the facility in which the person agrees to provide
1-39 payment for the resident's facility care from the resident's income
1-40 or resources.

1-41 (b) A nursing facility may file an action against a
1-42 resident's responsible payor for an amount owed by the resident to
1-43 the facility if:

1-44 (1) before admission of the resident, the facility
1-45 obtains financial information from the resident or responsible
1-46 payor demonstrating the amount of financial resources that the
1-47 resident has available to pay for nursing facility care; and

1-48 (2) after the resident begins to reside at the
1-49 facility, the responsible payor misappropriates the resident's
1-50 resources to a degree that the resident is unable to afford to pay
1-51 for the resident's care.

1-52 (c) Subject to Subsection (d), the prevailing party in an
1-53 action filed under this section may recover attorney's fees.

1-54 (d) In an action filed under this section, a nursing
1-55 facility may not recover a total amount, including damages and
1-56 attorney's fees, that exceeds the amount the responsible payor has
1-57 misappropriated from the resident.

1-58 SECTION 2. Section 242.020, Health and Safety Code, as
1-59 added by this Act, applies only to a cause of action that accrues on
1-60 or after the effective date of this Act.

2-1 SECTION 3. This Act takes effect September 1, 2019.

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