

BILL ANALYSIS

Senate Research Center
87R3842 SRA-D

S.B. 271
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Health & Human Services
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The current system of background checks for employees of assisted living communities does not effectively eliminate the risk that a job applicant who has moved to Texas with a history of abuse or neglect or other disqualifying crimes will be caught during the application process or prior to employment. Texas does not require a criminal background check for crimes and other disqualifying conduct that may have occurred in another state or that an applicant deny in a statement that disqualifying crimes have occurred.

Currently, Texas requires that assisted living employees be screened by conducting a Texas state criminal background check and verifying that the potential employee's name not appear on the Certified Nursing Assistant registry or the employee misconduct registry.

While the vast majority of reported cases of elder abuse occur in domestic situations, news reports show that elder abuse can also be an issue in assisted living communities. Taking steps to ensure that an employee who has been convicted of diverting narcotics or abusing patients outside of Texas would be screened out during the hiring process by an assisted living community in Texas is essential to protecting our seniors.

S.B. 271 requires that assisted living communities conduct a state criminal background in each state that the applicant resided for all applicants who have moved to Texas within five years of the date of the employment application.

The bill requires that all applicants deny in a statement that no disqualifying crimes have occurred.

The bill also allows a facility to employ a person pending an out-of-state criminal history check; however, the facility shall ensure that the person has no direct care contact with a resident until the facility obtains the person's criminal history record information and verifies the person's employability.

As proposed, S.B. 271 amends current law relating to applicants for employment at assisted living facilities.

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 Subchapter D, Chapter 247, Health and Safety Code, by adding Section 247.072, as follows:

Sec. 247.072. APPLICANTS FOR EMPLOYMENT; CRIMINAL HISTORY CHECK.
(a) Prohibits an assisted living facility licensed under Chapter 247 (Assisted Living Facilities), in addition to the prohibitions provided by Section 250.003 (Verification of Employability; Annual Search; Discharge), from employing at the facility an applicant who fails to indicate in a written statement developed by the Health and Human Services

Commission (HHSC) and included with the submitted application that the applicant has not been convicted of an offense described by Section 250.006 (Convictions Barring Employment). Provides that, for purposes of this subsection, a person who commits an offense in another state that is substantially similar to an offense described by Section 250.006 is considered to have committed the offense described by that section.

(b) Requires that an assisted living facility, before employing an applicant in a permanent position, if the applicant for employment at the facility states in the application that the applicant resided in another state during the five years preceding the date of the application, to conduct a name-based criminal history check in each state in which the applicant previously resided.

(c) Requires HHSC to develop the statement described by Subsection (a) and make the statement available to assisted living facilities on its Internet website.

(d) Requires an assisted living facility, if employing a person pending an out-of-state criminal history check under Subsection (b), to ensure the person has no direct contact with a resident until the facility obtains the person's criminal history record information and verifies the person is not barred from employment under Section 250.006.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2021.