

BILL ANALYSIS

C.S.H.B. 1100
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Human Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

According to grand jury indictments, Billy Chemirmir committed over 20 murders in Dallas-area independent living facilities between May 2016 and March 2018. Nearly every incident followed the same pattern: the alleged killer posed as a maintenance worker to gain access to the facility and enter the apartments of elderly women. Once inside, he would suffocate the resident, steal their jewelry, and leave the body in a manner that suggested a natural death. Much of the jewelry was sold to cash-for-gold shops to be melted down and resold. Both the senior apartments that failed to provide promised security and the cash-for-gold shops that liquidated the stolen jewelry played a role in the length and scale of the killing spree. C.S.H.B. 1100 seeks to protect seniors by requiring a senior retirement community to conduct a criminal history check for each community employee, disclose to residents whether the community requires employees of businesses providing services in the community to undergo a criminal history check, and provide notice to residents of certain known criminal activity that may pose a threat to residents. The bill additionally imposes civil liability on a senior retirement community for certain damages.

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. 1100 amends the Property Code to provide for the regulation of a senior retirement community, or a portion of such a community, that meets the following criteria:

- is specifically designed and operated to assist elderly individuals under a federal or state program, intended for or solely occupied by individuals 62 years of age or older, or is intended and operated for occupancy by at least one individual 55 years of age or older for each unit;
- contains at least 20 residential units in one or more multiunit buildings that are available to rent or lease; and
- provides common amenities, including concierge services, a library, common dining services, housekeeping services, and full-time security.

C.S.H.B. 1100 requires each such senior retirement community to do the following:

- conduct a criminal history record check for each community employee using the Department of Public Safety's computerized criminal history system;
- disclose in the senior retirement community contract whether the community requires each business that will provide services at the community to conduct a criminal history

record check of each employee of the business who will provide services at the community; and

- maintain a resident safety and communications policy regarding criminal activity that poses a risk to residents, which must require the community to send to each resident and post in a conspicuous manner at a location on the premises where the community posts other notices, a written notice containing information on the following:
 - known reports of potential criminal activity made to law enforcement from or at the community not later than two business days after the date the report is made or activity occurs; and
 - known instances of trespassing at the community not later than two business days after the trespassing is reported or occurs.

For purposes of providing that notice relating to such a reportable incident, the community may provide for the removal of the personal identifying information of an individual involved in the reportable incident to prevent the individual's identification but may not refuse to provide the notice based solely on concerns related to the disclosure of the individual's personal identifying information. The bill prohibits a community from being held civilly or criminally liable for the community's compliance with the bill's criminal history record check or safety and communications policy provisions. The bill defines "senior retirement community contract" for the purposes of its provisions as a contract with a resident, who resides in a senior retirement community as a unit owner or tenant, for providing a common amenity to the resident.

C.S.H.B. 1100 prohibits a senior retirement community from preventing or inhibiting a resident from or penalizing a resident for communicating with a law enforcement officer (LEO), social worker, family member, or other interested person regarding the community's safety and security. The bill also prohibits the community from preventing a LEO or court officer from entering the community's common area to conduct a voluntary interview with a resident as part of an investigation into criminal activity at the community.

C.S.H.B. 1100 makes a senior living community liable to a resident for actual damages incurred from a violation of the bill's provisions and establishes that this liability applies only to a cause of action that accrues on or after the bill's effective date. The bill exempts such a cause of action from Civil Practice and Remedies Code provisions relating to medical liability. The bill prohibits a contract with a resident or a lease, rental, or purchase agreement for a residential unit in the community from including a provision that waives liability in an action brought under the bill, requires arbitration of a dispute related to that liability, or controls the content or execution of the resident's advance directive or testamentary documents. This prohibition applies only to an agreement or contract entered into or renewed on or after the bill's effective date. The bill establishes that the remedies provided in its provisions are not exclusive and are in addition to any other remedy provided by law, including a remedy provided for a tenant against a landlord, as applicable.

C.S.H.B. 1100 does not apply to the following:

- a health care institution as defined by Civil Practice and Remedies Code provisions relating to medical liability;
- a boarding home facility issued a permit under the Health and Safety Code;
- a supportive housing facility for elderly individuals operated under the federal National Housing Act;
- a center for independent living as defined by the federal Rehabilitation Act of 1973; or
- any other facility that is regulated by the Health and Human Services Commission or in accordance with rules adopted by the federal Centers for Medicare and Medicaid Services.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 1100 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute replaces references to senior living facilities, as in the introduced, with references to senior retirement communities. In defining such terms for purposes of the bill, the introduced applied to a facility that requires a resident to be 55 years of age or older, whereas the substitute applies to a community that is specifically designed and operated to assist elderly individuals under a federal or state program, intended for or solely occupied by individuals 62 years of age or older, or is intended and operated for occupancy by at least one individual 55 years of age or older for each unit. The substitute does not include provisions from the introduced further defining a senior living facility as being managed by a single entity and being located on a single lot or tract of land or on multiple contiguous lots or tracts of land.

While both the introduced and the substitute set out requirements relating to resident safety from criminal activity, the bill versions differ in the following manner:

- the substitute does not include a specification included in the introduced that the required criminal history record check using the Department of Public Safety's computerized criminal history system is the minimum method of conducting that check;
- whereas the introduced required each business that provides services to the facility to conduct a criminal history record check using that system for each business employee who will have access to the facility's premises or residents, the substitute requires the community to disclose in the community contract with residents whether the community requires each business that will provide services at the community to conduct a criminal history record check of each of the business's employees who will provide services at the community;
- the substitute does not include a provision from the introduced requiring a facility to report all instances of criminal activity that occur at the facility to a law enforcement officer, including, if applicable, information regarding the involvement of a facility employee or contractor in the criminal activity;
- the substitute includes provisions not in the introduced requiring a community to maintain a resident safety and communications policy regarding criminal activity that poses a risk to residents, which must require the community to send to each resident and post in a conspicuous manner at a location on the community's premises where other community notices are posted written notice containing certain information regarding known reports of potential criminal activity and instances of trespass; and
- the substitute includes provisions not in the introduced providing for the community's authority to remove personal identifying information of certain individuals for purposes of providing that notice of a reportable incident, prohibiting the community from refusing to provide the notice based solely on concerns related to the disclosure of an individual's personal identifying information, and establishing that the community may not be held civilly or criminally liable for conducting a criminal history record check or maintaining the resident safety and communications policy in compliance with the bill's provisions.