

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 760
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Health & Human Services
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas has provided seniors and individuals with disabilities the option to utilize a mail-in ballot for voting. Despite this, the voting rights of vulnerable populations are jeopardized, as these individuals who are living away from their families can be exploited.

The Texas Election Integrity Protection Act, which was passed in the second special session of the 87th Legislature, established a criminal offense for government officials who intentionally issue an unsolicited mail-in ballot. However, under current state law, legal guardians of individuals residing in long-term care facilities are not alerted when their family member requests a mail-in ballot application. As families are unable to prevent ill-intentioned individuals from manipulating their relatives, this shortcoming enables election fraud to occur.

This phenomenon is well documented and can take numerous forms. Long-term care facilities can be fruitful grounds for these harvesters to secure ballots. For example, unscrupulous individuals may submit a mail-in ballot application without the resident's knowledge, falsifying the required signature. Alternatively, the ballot harvester may assist the patient in filling out the ballot, accurately reflecting their presidential vote but casting their personal support in local races without the individual's knowledge.¹

To protect our elections and safeguard the voting rights of these vulnerable groups, Texas must empower family members to take action by correcting fraudulent applications before a mail-in ballot can be improperly used.

S.B. 760 seeks to prevent ongoing election fraud from occurring by informing long-term care residents' legal guardians and powers of attorney of any mail-in ballot applications submitted by these patients. Additionally, the bill would require the Health and Human Services Commission (HHSC) to audit long-term care facilities to monitor compliance with the new regulations.

Key Provisions

- Early voting clerks are required to notify HHSC of mail-in ballot applications when an address corresponds to a long-term care facility, including nursing homes, assisted livings, and intermediate care facilities.
- Using this information, HHSC must alert the applicable long-term care facility of their resident's ballot application.
- Then, the facility must ascertain whether the resident has a legal guardian or power of attorney in their records. If this is affirmed, this individual must be notified by the facility within five days of HHSC's disclosure.
- HHSC is required to audit long-term care facilities to ensure their process fulfills these stipulations.
 - These surveys must assess at least 2.5 percent of all three types of facilities and be completed by 45th day after a primary or general election.
- Nursing homes, intermediate care facilities, and assisted living facilities that fail to notify guardians could have their license suspended or revoked at HHSC's discretion.

- This legislation is only applicable to mail-in ballot applications that are submitted the day of or after the legislation goes into effect.

Committee Substitute Changes

- Clarifies that HHSC must supply written notice to the long-term care facilities,
- Makes clear that the bill only requires long-term care facilities to contact residents' legal guardians and powers of attorney that the facility is aware of at the time of HHSC's notification.

¹Fuller, Levi, "Organized Election Fraud: Politiqueras, Mail Ballots, and Vote Harvesting," February 14, 2024. <https://www.texaspolicy.com/organized-election-fraud-politiqueras-mail-ballots-and-vote-harvesting/>

C.S.S.B. 760 amends current law relating to an application for a ballot to be voted by mail submitted by certain residents of an assisted living facility, a nursing facility, or an intermediate care facility.

[Note: While the statutory reference in this bill is to the Department of Aging and Disability Services (DADS), the following amendments affect the Health and Human Services Commission (HHSC), as the successor agency to DADS.]

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the secretary of state in SECTION 1 (Section 84.014, Election Code) of this bill.

Rulemaking authority is expressly granted to the Health and Human Services Commission in SECTION 1 (Section 84.014, Election Code), SECTION 2 (Section 242.021, Health and Safety Code), SECTION 5 (Section 247.073, Health and Safety Code), and SECTION 6 (Section 252.012, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 84.014, Election Code, as follows:

Sec. 84.014. ACTION BY EARLY VOTING CLERK ON CERTAIN APPLICATIONS.

(a) Defines "long-term care facility."

(b) Creates this subsection from existing text and makes no further changes.

(c) Requires an early voting clerk who receives an application for a ballot to be voted by mail that includes the address of a long-term care facility to notify the Health and Human Services Commission (HHSC) of the application. Authorizes the secretary of state in coordination with HHSC to adopt rules and prescribe procedures for the notification required by this subsection.

SECTION 2. Amends Subchapter A, Chapter 242, Health and Safety Code, by adding Section 242.021, as follows:

Sec. 242.021. NOTIFICATION OF REQUEST FOR BALLOT BY MAIL TO CERTAIN RESIDENTS. (a) Requires HHSC, following notification by an early voting clerk under Section 84.014, Election Code, to notify a nursing facility of a request for a ballot by mail submitted for a facility resident.

(b) Requires a nursing facility, upon receipt of the notification under Subsection (a), to determine if the resident that requested the ballot by mail has a legal guardian or has appointed an agent by a statutory durable power of attorney or medical power of attorney. Requires the facility, if a legal guardian or agent has

been appointed, to, not later than the fifth business day after receiving the notification, notify the guardian or agent of the resident that a ballot by mail was requested on behalf of the resident.

(c) Requires HHSC to conduct an audit to determine compliance with this section. Requires that the audit include at least 2.5 percent of all licensed facilities as of the date of each primary and general election for state and county officers and be conducted not later than the 45th day after the date of each primary or general election for state and county officers.

(d) Provides that nothing in this section is authorized to be construed to require a nursing facility to contact a person described by Subsection (b) who is not listed as a point of contact for a resident in the facility's records.

(e) Authorizes HHSC to adopt rules as necessary to administer this section.

SECTION 3. Amends Section 242.061(a-1), Health and Safety Code, to authorize the Department of Aging and Disability Services (DADS), after providing notice and opportunity for a hearing to the applicant or license holder, to deny, suspend, or revoke a license if DADS finds that the applicant, the license holder, or any other person described by Section 242.032(d) (relating to requiring DADS to consider the background and qualifications of certain persons in relation to the application or renewal of a license) has taken certain actions, including failing to comply with Sections 242.021 and 242.074 (Notification of Change in Financial Condition).

SECTION 4. Amends Section 247.041(a), Health and Safety Code, to authorize DADS, after providing notice and opportunity for a hearing to the applicant or license holder, to deny, suspend, or revoke a license if DADS finds that the applicant, license holder, or a controlling person has taken certain actions, including failing to comply with Section 247.073, and to make nonsubstantive changes.

SECTION 5. Amends Subchapter D, Chapter 247, Health and Safety Code, by adding Section 247.073, as follows:

Sec. 247.073. NOTIFICATION OF REQUEST FOR BALLOT BY MAIL TO CERTAIN RESIDENTS. (a) Requires HHSC, following notification by an early voting clerk under Section 84.014, Election Code, to notify an assisted living facility of a request for a ballot by mail submitted for a facility resident.

(b) Requires an assisted living facility, upon receipt of the notification under Subsection (a), to determine if the resident that requested the ballot by mail has a legal guardian or has appointed an agent by a statutory durable power of attorney or medical power of attorney. Requires the facility, if a legal guardian or agent has been appointed, to, not later than the fifth business day after receiving the notification, notify the guardian or agent of the resident that a ballot by mail was requested on behalf of the resident.

(c) Requires HHSC to conduct an audit to determine compliance with this section. Requires that the audit include at least 2.5 percent of all licensed facilities as of the date of each primary and general election for state and county officers and be conducted not later than the 45th day after the date of each primary or general election for state and county officers.

(d) Provides that nothing in this section is authorized to be construed to require an assisted living facility to contact a person described by Subsection (b) who is not listed as a point of contact for a resident in the facility's records.

(e) Authorizes HHSC to adopt rules as necessary to administer this section.

SECTION 6. Amends Subchapter A, Chapter 252, Health and Safety Code, by adding Section 252.012, as follows:

Sec. 252.012. NOTIFICATION OF REQUEST FOR BALLOT BY MAIL TO CERTAIN RESIDENTS. (a) Requires HHSC, following notification by an early voting clerk under Section 84.014, Election Code, to notify an intermediate care facility of a request for a ballot by mail submitted for a facility resident.

(b) Requires a facility, upon receipt of the notification under Subsection (a), to determine if the resident that requested the ballot by mail has a legal guardian or has appointed an agent by a statutory durable power of attorney or medical power of attorney. Requires the facility, if a legal guardian or agent has been appointed, to, not later than the fifth business day after receiving the notification, notify the guardian or agent of the resident that a ballot by mail was requested on behalf of the resident.

(c) Requires HHSC to conduct an audit to determine compliance with this section. Requires that the audit include at least 2.5 percent of all licensed facilities as of the date of each primary and general election for state and county officers and be conducted not later than the 45th day after the date of each primary or general election for state and county officers.

(d) Provides that nothing in this section is authorized to be construed to require an intermediate care facility to contact a person described by Subsection (b) who is not listed as a point of contact for a resident in the facility's records.

(e) Authorizes HHSC to adopt rules as necessary to administer this section.

SECTION 7. Amends Section 252.035(a), Health and Safety Code, to authorize DADS, after providing notice and opportunity for a hearing to the applicant or license holder to deny, suspend, or revoke a license if DADS finds that the applicant or license holder has taken certain actions, including failing to comply with Section 252.012, and to make nonsubstantive changes.

SECTION 8. Makes application of this Act prospective.

SECTION 9. Effective date: September 1, 2025.