

- SUBJECT:** Criminal history checks for employees of special care facilities
- COMMITTEE:** Human Services — favorable, without amendment
- VOTE:** 8 ayes — Rose, Darby, Elkins, Hernandez, Hughes, Legler, Naishtat, Walle
0 nays
1 absent — Herrero
- WITNESSES:** For — Katy Kappel, Texas Silver-Haired Legislature; (*Registered, but did not testify:* Mike Anderson, AIDS Services of Dallas; Oscar Garcia, Texas Silver-Haired Legislature; Bill Pewitt, Texas Association for Home Care)
Against — None
- BACKGROUND:** Health and Safety Code, ch. 250 establishes the Nurse Aid Registry and provides for criminal background checks of employees and applicants for employment in certain facilities serving elderly or disabled individuals.

Health and Safety Code, sec. 250.001(3) defines “facility” to include nursing homes, custodial care homes, assisted living facilities, home and community support services agencies, adult day care facilities, intermediate care facilities for the mentally retarded (ICFs-MR), adult foster care providers, and local mental health or mental retardation authorities (MRAs).

Health and Safety Code, ch. 248 provides for the licensing of special care facilities. Section 248.002(8) defines a “special care facility” as a facility, including a residential care facility, that provides nursing, medical care, or services primarily to individuals with acquired immune deficiency syndrome or other terminal illnesses.
- DIGEST:** HB 3737 would amend the definition of “facility” in Health and Safety Code, sec. 250.001(3) to include special care facilities licensed by the Department of State Health Services (DSHS) under Health and Safety Code, ch. 248.

The bill would take effect September 1, 2009.

**SUPPORTERS
SAY:**

HB 3737 would bring the Health and Safety Code up to date with current practices, making employees of special care facilities subject to the same criminal background checks as employees of other facilities governed by the Health and Safety Code. The use of special care facilities to care for individuals who are terminally ill has grown in recent years. These facilities specialize in giving comfort and care to improve the quality of an individual's life during the last phase of life and ease the emotional burden for family members, yet special care facility employees are not among those required to have criminal background checks. The last thing an individual or family member should be forced to deal with in such difficult times is criminal victimization or the threat of it by receiving care from someone who has not been subject to the same criminal history check required of employees of other care-giving facilities.

The bill also simply would authorize the facilities and the Department of Public Safety (DPS) to continue current practices. Most special care facilities have regularly performed criminal background checks with DPS. However, recently DPS reviewed Health and Safety Code, ch. 248 and ch. 250 and found no specific authority to conduct background checks of these employees. HB 3737 would correct this situation so that special-care facilities would be entitled to obtain criminal history information maintained by DPS. Terminally ill Texans and their families would be safer and have peace of mind knowing that any direct care worker in a special care facility had been screened in the same manner required of nursing homes, assisted living facilities, or hospitals.

**OPPONENTS
SAY:**

No apparent opposition.