

BILL ANALYSIS

S.B. 270
By: Perry
Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Many nursing home residents' funds are managed by responsible third parties because the residents lack the cognitive ability to manage their own financial affairs. Federal law prohibits a nursing home from requiring a responsible third party to commit their own funds to pay for a resident's care, but a nursing home may request a responsible third party to provide payment from the resident's resources. However, Texas legal standing and contractual privity laws can render these agreements unenforceable, providing the opportunity for a responsible third party to misappropriate a resident's funds and to escape legal responsibility for doing so. S.B. 270 aims to prevent financial abuse of nursing home residents and protect nursing homes by allowing nursing homes to pursue debts against a responsible third party who has improperly diverted a resident's funds and to seek appropriate injunctive relief.

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

S.B. 270 amends the Health and Safety Code to authorize a nursing facility to file an action against a resident's responsible payor for an amount owed by the resident to the facility under the following circumstances:

- the facility obtains financial information before admission of the resident from the resident or responsible payor demonstrating the amount of financial resources that the resident has available to pay for nursing facility care; and
- after the resident begins to reside at the facility, the responsible payor misappropriates the resident's resources to a degree that the resident is unable to afford to pay for the resident's care.

A nursing facility may file an action for injunctive relief against a resident's responsible payor who engages in such conduct and a court may grant any appropriate injunctive relief to prevent or abate that conduct. The bill authorizes the prevailing party in an action filed under the bill's provisions to recover attorney's fees but prohibits a nursing facility from recovering an amount in excess of the amount misappropriated from the resident.

S.B. 270 defines "responsible payor" as a person who has legal access to a nursing facility resident's income or resources to pay for nursing facility care and has signed an admission agreement or other contract with the facility in which the person agrees to provide payment for the resident's facility care from the resident's income or resources.

EFFECTIVE DATE

September 1, 2021.