

BILL ANALYSIS

S.B. 1491
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Judiciary & Civil Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Many nursing home residents' funds are managed by third parties or responsible payors because the residents lack the cognitive ability to manage their own financial affairs. It has been noted that this arrangement exposes residents to abuse and exploitation, as some responsible payors may improperly divert or steal residents' funds that are needed to pay for their long-term care. S.B. 1491 seeks to prevent financial abuse of nursing home residents by allowing a nursing facility to pursue damages against a responsible payor who misappropriates a resident's funds to a degree that the resident is unable to afford to pay for the resident's care.

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. 1491 amends the Health and Safety Code to authorize a nursing facility to file an action against a resident's responsible payor, defined by the bill as a person who has legal access to the resident's income or resources available 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, if:

- before admission of the resident, the facility obtains financial information 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.

S.B. 1491 authorizes the prevailing party in any such action to recover attorney's fees but prohibits a nursing facility from recovering a total amount, including damages and attorney's fees, that exceeds the amount the responsible payor has misappropriated from the resident. The bill defines "misappropriate" as the taking, secretion, misapplication, deprivation, transfer, or attempted transfer to any person not entitled to receive any real or personal property or anything of value belonging or under the legal control of a resident without the effective consent of the resident or other appropriate legal authority.

EFFECTIVE DATE

September 1, 2019.