

## SB 749 STAFF MEASURE SUMMARY

### Senate Committee On Human Services, Mental Health and Recovery

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**Prepared By:** C. Ross, Counsel

**Meeting Dates:** 3/9, 4/1

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#### WHAT THE MEASURE DOES:

Establishes registration and disclosure requirements applicable to residential care referral agents, as defined, excluding public bodies, residential care facility personnel, and health care professionals as specified.

Requires the Department of Human Services (DHS) to adopt rules concerning qualifications for registration of residential care referral agents; setting a renewal fee under \$750; and requiring applicant identity, compliance with disclosure obligations, proof of \$1 million general liability insurance, and background checks for those in direct contact with clients. Requires renewal every two years. Allows DHS to assess civil penalty for violations.

Requires individuals who receive compensation for making referrals to residential care facilities for clients under 18, to register with and pay DHS \$750, and to disclose specified information to clients within two days of making a referral and at least seven days before a client is placed, including: information about the referring agent, the facility and its personnel, and about the referring agent's relationship with the facility. Requires referral agents to provide information specific to the facility, to enable clients to report regulatory violations or suspected abuse. Prohibits a referral agent that has been compensated by a facility for a referral, from receiving additional compensation from a subsequent facility when a client notifies them they are moving to the subsequent facility using another referral agent. Requires contracts between referral agents and facilities to include this prohibition. Adds conduct in violation with the preceding provisions to the list of unlawful trade practices.

Adds residential care referral agents to list of mandatory reporters of child abuse.

Declares emergency, effective on passage

#### ISSUES DISCUSSED:

- Standardizing requirements for referring agents consistent with parents' and other consumers' expectations
- Modelling after standards imposed on similar referring agents who assist consumers looking for appropriate senior care programs

#### EFFECT OF AMENDMENT:

*[-1 amendment dated 3/26/21]* Refines disclosure requirements as follows: adds information about substantiated abuse, death and injury within the preceding 24 months based on direct inquiry with the relevant authority; modifies requirement to disclose adverse license actions from the preceding 36 months, to the preceding 24 based on direct inquiry with the licensing authority; removes requirement to disclose length of contracts; and requires all disclosures be made simultaneous with making referral, instead of within two days of referral. Adds to list of prohibitions: referrals to secure transportation services not approved by DHS, and referrals to programs that have provided any form of compensation to the agent for the referral. Clarifies prohibition against kickbacks or finders fees for initial referring agent when a new agent makes a subsequent referral. Establishes private right of action for the greater of actual damages or \$750 plus reasonable attorney fees. Excludes adoption agencies and boarding schools from definition of residential care programs. Replaces reference to residential care facilities with reference to residential care *programs* throughout. Changes operative date, and applicability date for contract purposes, from July 1, 2022, to January 1, 2022.

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*[-2 amendment dated 3/31/21]* Duplicates/incorporates -1 and removes violation from list of unlawful trade practices.

### **BACKGROUND:**

The Department of Human Services (DHS) currently regulates individuals who are paid to make referrals to long-term care programs. They are required to submit to a background check, register every two years, meet disclosure requirements, provide consumers with information about their privacy policies and business practices, and possess liability insurance.

There is currently no similar oversight of individuals who are paid to make referrals to residential care programs. There are no training or certifications requirements, no minimum standards with respect to information upon which a referral is based or what type of information should be included with the referral, and no requirements to disclose financial other conflicts of interest.

Senate Bill 749 requires the Department of Human Services (DHS) to adopt rules to register and regulate residential care referral agents much like it already regulates long-term care referral agents, including the establishment of uniform minimum disclosure requirements and prohibited referrals.