

SB 749 A STAFF MEASURE SUMMARY

Senate Committee On Human Services, Mental Health and Recovery

Action Date: 04/01/21

Action: Do pass with amendments and requesting referral to Ways and Means. (Printed A-Engrossed.)

Vote: 5-0-0-0

Yeas: 5 - Anderson, Gelser, Lieber, Robinson, Taylor

Fiscal: Fiscal impact issued

Revenue: No revenue impact

Prepared By: C. Ross, Counsel

Meeting Dates: 3/9, 4/1

WHAT THE MEASURE DOES:

Establishes registration and disclosure requirements applicable to residential care referral agents, as defined, excluding public bodies, residential care program personnel, adoption agencies, academic institutions, 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 with renewal every two years; 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. Allows DHS to assess civil penalty for violations. Requires individuals who receive compensation for making referrals to residential care programs for clients under 18, to register with and pay DHS \$750, and to disclose specified information to clients simultaneous with referrals, including information about the referring agent, the program, and program personnel. Requires referral agents to provide information specific to each referred program based upon direct inquiry with the relevant licensing authority, including contact information to enable clients to report regulatory violations or suspected abuse. Prohibits 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. Prohibits kickbacks or finders fees for initial referring agent when a new agent makes a subsequent referral, and requires contracts between referral agents and programs to include this prohibition. Establishes private right of action for the greater of actual damages or \$750, plus reasonable attorney fees. Adds residential care referral agents to the list of mandatory reporters of child abuse. Operative January 1, 2022. 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:

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, and removes violation from list of unlawful trade practices. Excludes adoption agencies and boarding schools from definition of residential care programs. Replaces

SB 749 A STAFF MEASURE SUMMARY

reference to residential care facilities with reference to residential care *programs* throughout. Changes operative date from July 1, 2022, to January 1, 2022.

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 maintain 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 or other conflicts of interest.

Senate Bill 749 A 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.