

Vote Aye on floor SB 1369 by Menéndez / HB 3019 by Burkett

Establishing a Criminal Penalty for Boarding Home Operators or Employees that Cause Injury to a Child, Person with a Disability, or Elderly Individual

Voted out unanimously 8-0 from Senate Criminal Justice on 4/25/17. Voted out unanimously 6-0 from House Criminal Jurisprudence on 4/24/17. No opposition.

SOLUTION

SB 1369 adds boarding home facilities to the list of places, which currently includes assisted living facilities, nursing facilities, and other congregate care settings, where an owner or employee commits an offense if he or she intentionally, knowingly, recklessly, or with criminal negligence by omission, causes serious or other bodily injury or serious mental injury to an elderly person, person with a disability, or a child. SB 1369 also adds people with mental illness to the list of person with disabilities under the statute given the prevalence of this population in boarding home facilities.

PROBLEM

Boarding home facilities are defined by Section 260.001 of the Health and Safety Code as private residences that house three or more unrelated elderly persons or persons with disabilities, including people with severe mental illness and older adults with physical health and other functional impairments. They are not licensed or regulated by the state.

A few cities regulate boarding homes. However, instead of complying with regulations, many bad boarding home operators simply move outside of city limits to avoid regulation. As such, in many parts of the state, there is no one overseeing boarding homes.

Boarding home facility residents are at significant risk of abuse, neglect, exploitation, and other harm. Many boarding home operators take over their residents' social security or disability checks, which is their only source of income. They may then fail to provide food and leave residents in dangerous and unsanitary conditions. In some of the worst cases, residents without the capacity to consent have been reported to have been sexually and otherwise abused.

Unfortunately, there is no criminal penalty specifically aimed at protecting boarding home facility residents, which allows this harm to go on without consequences. As such, as stated in a 2009 report by Health Management Associates, commissioned by the Legislature on boarding homes, such operators have little incentive to discontinue their harmful behavior, leading that report to recommend the imposition of criminal penalties on bad boarding home operators. SB 1369 does this by requiring these unlicensed home operators to be subject to the same rules that apply to the licensed home operators.