

SB 714 A STAFF MEASURE SUMMARY

Senate Committee On Human Services, Mental Health and Recovery

Action Date: 04/13/21

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

Vote: 4-1-0-0

Yeas: 4 - Anderson, Gelser, Lieber, Taylor

Nays: 1 - Robinson

Fiscal: Fiscal impact issued

Revenue: No revenue impact

Prepared By: C. Ross, Counsel

Meeting Dates: 3/18, 4/1, 4/8, 4/13

WHAT THE MEASURE DOES:

Requires pilot of DHS-provided acuity-based staffing tool to be operational online for residential care providers by January 1, 2022. Requires Department of Human Services (DHS) to solicit participant feedback and report to the legislature on implementation by October 1 and December 1, 2021. Requires DHS to establish minimum requirements for and frequency of assessments by acuity-based staffing tools adopted by facilities in lieu of using tool provided by DHS. Specifies features of such tool, including requirement for tool to recommend staffing levels. Requires memory care facilities to adopt, by February 1, 2022, either the DHS-provided acuity-based staffing tool or a tool that meets requirements established by DHS in rule. Requires DHS to assess facility staffing as specified, at minimum: when conducting a survey, approving a license or renewal, or investigating specified complaints, starting February 1, 2022. Specifies DHS action based on findings from the assessment as follows: require the facility to use tool provided by DHS if no tool in use; require enhanced oversight, certain licensing conditions, DHS' establishment of staffing requirements, a corrective plan, as well as other actions DHS may deem necessary to ensure compliance, if residents' needs are not being met; and require staffing assessment by DHS, certain licensing conditions, and continuous oversight for at least six months if tool is in use but facility is not recalibrating to meet residents' needs consistently. Effective 91st day after *sine die* adjournment.

ISSUES DISCUSSED:

- Staffing to a set minimum required level, or using the acuity tool
- Finding the most effective approach to improve safety and care
- Bare number of residents not equating to level of need
- Prioritizing residents: their safety, their voices
- Relationship with and impact on previous legislation: House Bill 3359 (2017), House Bill 2600 (2019), and Senate Bill 917 (2019); distinguishing this measure (House Bill 3359 applies tool across facilities, while this measure provides for stricter regulatory response for memory care facilities, due to high concentration of concerns)
- Length of and reasons for delay with DHS' implementation of acuity tool
- Companion measure, Senate Bill 266, and its provisions
- Subjectivity of needs assessments; need for objective tool to analyze staffing levels

EFFECT OF AMENDMENT:

Replaces the measure.

BACKGROUND:

The Department of Human Services (DHS) is currently required to make an acuity-based staffing tool available that it and residential care facilities may use collaboratively to evaluate whether the facility has enough qualified

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caregivers to meet residents' needs and to share staffing plan information with residents and their families; however, the tool has not yet been fully implemented. Use of the acuity tool is currently optional and only required when DHS and a subject facility disagree about whether staffing is adequate. With respect to endorsed memory care facilities, DHS is currently required to adopt specified standards by rule, with input from the long-term care community, to ensure the quality of care meets residents' needs.

Senate Bill 714 A is a companion to Senate Bill 266 A, which requires DHS to assess whether residential, memory care, and long-term care facilities consistently meet residents' needs by April 1, 2022, according to rules adopted by the Centers for Medicare and Medicaid Services. As part of its assessment, DHS is directed to consider whether each resident has a person-centered service plan and whether the subject facility consistently provides timely 24-hour access to supports needed for activities of daily living, timely responses to issues effecting resident dignity, and care that is delivered in conformity with each resident's plan. Senate Bill 266 A also makes adjustments with respect to DHS investigations of complaints of inadequate staffing to incorporate staffing assessments, impose license conditions when certain findings are made, and to prioritize residents.

Senate Bill 714 A requires a pilot of the DHS-provided, acuity-based staffing tool to be operational online for residential care providers by January 1, 2022, and for DHS to solicit feedback and report to the legislature by October 1 and December 15, 2021. DHS is further directed to establish minimum requirements for acuity-based staffing tools adopted by facilities in lieu of using the tool the agency provides. Memory care facilities in particular are required to adopt either the DHS-provided tool or a tool that meets the minimum requirements established by DHS in rule, by February 1, 2022; and by the same date, DHS must begin specified facility staffing assessments when it conducts a survey, approves or renews a license, or investigates certain complaints. The measure also requires DHS to take specified regulatory actions based on the results of assessments that could include requiring enhanced oversight of a facility and imposing license conditions.