

1-1 By: Perry S.B. No. 924
 1-2 (In the Senate - Filed February 16, 2017; February 28, 2017,
 1-3 read first time and referred to Committee on Health & Human
 1-4 Services; April 10, 2017, reported adversely, with favorable
 1-5 Committee Substitute by the following vote: Yeas 8, Nays 0;
 1-6 April 10, 2017, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14			X	
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 924 By: Perry

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to informal dispute resolutions for violations of health
 1-22 and safety standards at certain long-term care facilities;
 1-23 authorizing the imposition of costs.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Section 247.051, Health and Safety Code, is
 1-26 amended by amending Subsections (a), (c), and (d) and adding
 1-27 Subsection (e) to read as follows:

1-28 (a) The executive commissioner by rule shall establish an
 1-29 informal dispute resolution process to address disputes between an
 1-30 assisted living [a] facility and the commission [department]
 1-31 concerning a statement of violations prepared by the commission
 1-32 [department] in accordance with this section. The process must
 1-33 provide for adjudication by an appropriate disinterested person of
 1-34 disputes relating to a statement of violations. The informal
 1-35 dispute resolution process must require:

1-36 (1) the assisted living facility to request informal
 1-37 dispute resolution not later than the 10th day after the date of
 1-38 notification by the commission [department] of the violation of a
 1-39 standard or standards;

1-40 (2) that the [commission to complete the] process be
 1-41 completed not later than the 90th day after the date of receipt of a
 1-42 request from the assisted living facility for informal dispute
 1-43 resolution;

1-44 (3) that, not later than the 10th business day after
 1-45 the date an assisted living facility requests an informal dispute
 1-46 resolution, the commission [department] forward to the assisted
 1-47 living facility a copy of all information that is referred to in the
 1-48 disputed statement of violations or on which a citation is based in
 1-49 connection with the survey, inspection, investigation, or other
 1-50 visit, including any notes taken by or e-mails or messages sent by a
 1-51 commission employee involved with the survey, inspection,
 1-52 investigation, or other visit and excluding the following
 1-53 information:

1-54 (A) the name of any complainant, witness, or
 1-55 informant, which must be redacted from information provided to the
 1-56 assisted living facility;

1-57 (B) any information that would reasonably lead to
 1-58 the identification of a complainant, witness, or informant, which
 1-59 must be redacted from information provided to the assisted living
 1-60 facility;

2-1 (C) information obtained from or contained in the
2-2 records of the facility;

2-3 (D) information that is publicly available; or

2-4 (E) information that is confidential by law;

2-5 (4) that [the commission to give] full consideration
2-6 is given to all factual arguments raised during the informal
2-7 dispute resolution process [~~that:~~

2-8 [~~(A) are supported by references to specific~~
2-9 ~~information that the facility or department relies on to dispute or~~
2-10 ~~support findings in the statement of violations; and~~

2-11 [~~(B) are provided by the proponent of the~~
2-12 ~~argument to the commission and the opposing party];~~

2-13 (5) that full consideration is given during the
2-14 informal dispute resolution process [~~staff give full~~
2-15 ~~consideration]~~ to the information provided by the assisted living
2-16 facility and the commission [~~department~~];

2-17 (6) that ex parte communications concerning the
2-18 substance of any argument relating to a survey, inspection,
2-19 investigation, visit, or statement of violations under
2-20 consideration not occur between the informal dispute resolution
2-21 staff and the assisted living facility or the commission
2-22 [~~department~~]; [~~and~~

2-23 (7) that the assisted living facility and the
2-24 commission [~~department~~] be given a reasonable opportunity to submit
2-25 arguments and information supporting the position of the assisted
2-26 living facility or the commission [~~department~~] and to respond to
2-27 arguments and information presented against them; and

2-28 (8) that the commission bears the burden of proving
2-29 the violation of a standard or standards.

2-30 (c) An assisted living facility requesting an informal
2-31 dispute resolution under this section must reimburse the commission
2-32 [~~department~~] for any costs associated with the commission's
2-33 [~~department's~~] preparation, copying, and delivery of information
2-34 requested by the facility.

2-35 (d) A statement of violations prepared by the commission
2-36 [~~department~~] following a survey, inspection, investigation, or
2-37 visit is confidential pending the outcome of the informal dispute
2-38 resolution process. Information concerning the outcome of a
2-39 survey, inspection, investigation, or visit may be posted on any
2-40 website maintained by the commission [~~department~~] while the dispute
2-41 is pending if the posting clearly notes each finding that is in
2-42 dispute.

2-43 (e) The commission may charge and the assisted living
2-44 facility shall pay the reasonable copy costs associated with making
2-45 the redactions required by Subsections (a)(3)(A) and (B).

2-46 SECTION 2. Section 531.058, Government Code, is amended by
2-47 amending Subsections (a) and (a-1) and adding Subsection (d) to
2-48 read as follows:

2-49 (a) The executive commissioner by rule shall establish an
2-50 informal dispute resolution process in accordance with this
2-51 section. The process must provide for adjudication by an
2-52 appropriate disinterested person of disputes relating to a proposed
2-53 enforcement action or related proceeding of the commission under
2-54 Section 32.021(d), Human Resources Code, or [~~the Department of~~
2-55 ~~Aging and Disability Services]~~ under Chapter 242, 247, or 252,
2-56 Health and Safety Code. The informal dispute resolution process
2-57 must require:

2-58 (1) an institution or facility to request informal
2-59 dispute resolution not later than the 10th calendar day after
2-60 notification by the commission [~~or department, as applicable,~~
2-61 the violation of a standard or standards; and

2-62 (2) the completion of [~~commission to complete]~~ the
2-63 process not later than:

2-64 (A) the 30th calendar day after receipt of a
2-65 request from an institution or facility, other than an assisted
2-66 living facility, for informal dispute resolution; or

2-67 (B) the 90th calendar day after receipt of a
2-68 request from an assisted living facility for informal dispute
2-69 resolution.

3-1 (a-1) As part of the informal dispute resolution process
3-2 established under this section, the commission shall contract with
3-3 an appropriate disinterested person [~~who is a nonprofit~~
3-4 ~~organization~~] to adjudicate disputes between an institution or
3-5 facility licensed under Chapter 242, Health and Safety Code, or a
3-6 facility licensed under Chapter 247, Health and Safety Code, and
3-7 the commission [~~Department of Aging and Disability Services~~]
3-8 concerning a statement of violations prepared by the commission
3-9 [~~department~~] in connection with a survey conducted by the
3-10 commission [~~department~~] of the institution or facility. Section
3-11 2009.053 does not apply to the selection of an appropriate
3-12 disinterested person under this subsection. The person with whom
3-13 the commission contracts shall adjudicate all disputes described by
3-14 this subsection.

3-15 (d) The rules adopted by the executive commissioner under
3-16 Subsection (a) that relate to a dispute described by Section
3-17 247.051(a), Health and Safety Code, must incorporate the
3-18 requirements of Section 247.051, Health and Safety Code.

3-19 SECTION 3. This Act takes effect September 1, 2017.

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