

1-1 By: Hinojosa, et al. S.B. No. 204  
 1-2 (In the Senate - Filed March 5, 2015; March 9, 2015, read  
 1-3 first time and referred to Committee on Health and Human Services;  
 1-4 April 7, 2015, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 9, Nays 0; April 7, 2015,  
 1-6 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. 204 By: Schwertner

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

1-21 relating to the functions and operations of the Department of Aging  
 1-22 and Disability Services; increasing penalties.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Subchapter A, Chapter 142, Health and Safety  
 1-25 Code, is amended by adding Section 142.0125 to read as follows:

1-26 Sec. 142.0125. PROGRESSIVE SANCTIONS. (a) The executive  
 1-27 commissioner by rule shall create a matrix of progressive sanctions  
 1-28 that the department must use to assess penalty amounts and impose  
 1-29 disciplinary actions under this chapter appropriately and fairly  
 1-30 for a violation of a law, rule, standard, or order adopted or  
 1-31 license issued under this chapter or for a violation of other law  
 1-32 for which this chapter provides a sanction.

1-33 (b) The matrix of progressive sanctions adopted under this  
 1-34 section must provide for increases in amounts of administrative  
 1-35 penalties based on type, frequency, and seriousness of violations  
 1-36 and must provide guidance for determining appropriate and graduated  
 1-37 administrative penalties to assess under this chapter to deter  
 1-38 future violations, including guidance on considering the factors  
 1-39 listed in this chapter for determining the amount of a penalty.

1-40 (c) The matrix of progressive sanctions adopted under this  
 1-41 section must provide for imposing stronger sanctions, including  
 1-42 license suspension or revocation, for more serious violations or  
 1-43 for repeated violations as appropriate to deter future serious or  
 1-44 repeated violations. The matrix of progressive sanctions must  
 1-45 describe appropriate time frames to be used in determining whether  
 1-46 a home and community support services agency has committed repeated  
 1-47 violations or has engaged in a pattern of repeated violations, such  
 1-48 as repeated violations found in consecutive regular inspections.

1-49 SECTION 2. Sections 142.017(b) and (j), Health and Safety  
 1-50 Code, are amended to read as follows:

1-51 (b) The penalty shall be not less than \$100 or more than  
 1-52 \$5,000 [~~\$1,000~~] for each violation. Each day of a violation that  
 1-53 occurs before the day on which the person receives written notice of  
 1-54 the violation from the department does not constitute a separate  
 1-55 violation and shall be considered to be one violation. Each day of  
 1-56 a continuing violation that occurs after the day on which the person  
 1-57 receives written notice of the violation from the department  
 1-58 constitutes a separate violation.

1-59 (j) The executive commissioner by rule shall define the  
 1-60 types of minor violations an agency may correct under Subsection

2-1 (e) before the department may assess an administrative penalty.  
 2-2 ~~The executive commissioner shall ensure that all other violations~~  
 2-3 ~~are not subject to a right to correct [The department may assess an~~  
 2-4 ~~administrative penalty without providing a reasonable period of~~  
 2-5 ~~time to the agency to correct the violation if the violation:~~  
 2-6 ~~[(1) results in serious harm or death;~~  
 2-7 ~~[(2) constitutes a serious threat to health or safety;~~  
 2-8 ~~[(3) substantially limits the agency's capacity to~~  
 2-9 ~~provide care;~~  
 2-10 ~~[(4) is a violation in which a person:~~  
 2-11 ~~[(A) makes a false statement, that the person~~  
 2-12 ~~knows or should know is false, of a material fact:~~  
 2-13 ~~[(i) on an application for issuance or~~  
 2-14 ~~renewal of a license or in an attachment to the application; or~~  
 2-15 ~~[(ii) with respect to a matter under~~  
 2-16 ~~investigation by the department;~~  
 2-17 ~~[(B) refuses to allow a representative of the~~  
 2-18 ~~department to inspect a book, record, or file required to be~~  
 2-19 ~~maintained by an agency;~~  
 2-20 ~~[(C) wilfully interferes with the work of a~~  
 2-21 ~~representative of the department or the enforcement of this~~  
 2-22 ~~chapter;~~  
 2-23 ~~[(D) wilfully interferes with a representative~~  
 2-24 ~~of the department preserving evidence of a violation of this~~  
 2-25 ~~chapter or a rule, standard, or order adopted or license issued~~  
 2-26 ~~under this chapter;~~  
 2-27 ~~[(E) fails to pay a penalty assessed by the~~  
 2-28 ~~department under this chapter not later than the 10th day after the~~  
 2-29 ~~date the assessment of the penalty becomes final; or~~  
 2-30 ~~[(F) fails to submit:~~  
 2-31 ~~[(i) a plan of correction not later than the~~  
 2-32 ~~10th day after the date the person receives a statement of licensing~~  
 2-33 ~~violations; or~~  
 2-34 ~~[(ii) an acceptable plan of correction not~~  
 2-35 ~~later than the 30th day after the date the person receives~~  
 2-36 ~~notification from the department that the previously submitted plan~~  
 2-37 ~~of correction is not acceptable;~~  
 2-38 ~~[(5) is a violation of Section 142.0145; or~~  
 2-39 ~~[(6) involves the rights of the elderly under Chapter~~  
 2-40 ~~102, Human Resources Code].~~  
 2-41 SECTION 3. Section 242.061, Health and Safety Code, is  
 2-42 amended by adding Subsections (c-1), (c-2), and (e) to read as  
 2-43 follows:  
 2-44 (c-1) The department shall revoke the license of an  
 2-45 institution that violates this chapter or a rule, standard, or  
 2-46 order adopted or license issued under this chapter in a manner that  
 2-47 causes immediate jeopardy to health and safety on three separate  
 2-48 days within a 24-month period.  
 2-49 (c-2) In the case of revocation of a license under  
 2-50 Subsection (c-1), to ensure the health and safety of residents of  
 2-51 the institution, the department may:  
 2-52 (1) request the appointment of a trustee to operate  
 2-53 the institution under Subchapter D;  
 2-54 (2) obtain a new operator for the institution; or  
 2-55 (3) assist with the relocation of residents to another  
 2-56 institution.  
 2-57 (e) In this section, "immediate jeopardy to health and  
 2-58 safety" means a situation in which immediate corrective action is  
 2-59 necessary because the institution's noncompliance with one or more  
 2-60 requirements has caused, or is likely to cause, serious injury,  
 2-61 harm, impairment, or death to a resident receiving care in the  
 2-62 institution.  
 2-63 SECTION 4. Subchapter C, Chapter 242, Health and Safety  
 2-64 Code, is amended by adding Section 242.0613 to read as follows:  
 2-65 Sec. 242.0613. PROGRESSIVE SANCTIONS. (a) The executive  
 2-66 commissioner by rule shall create a matrix of progressive sanctions  
 2-67 that the department must use to assess penalty amounts and impose  
 2-68 disciplinary actions under this chapter appropriately and fairly  
 2-69 for a violation of a law, rule, standard, or order adopted or

3-1 license issued under this chapter or for a violation of other law  
 3-2 for which this chapter provides a sanction.

3-3 (b) The matrix of progressive sanctions adopted under this  
 3-4 section must provide for increases in amounts of administrative  
 3-5 penalties based on type, frequency, and seriousness of violations  
 3-6 and must provide guidance for determining appropriate and graduated  
 3-7 administrative penalties to assess under this chapter to deter  
 3-8 future violations, including guidance on considering the factors  
 3-9 listed in this chapter for determining the amount of a penalty.

3-10 (c) The matrix of progressive sanctions adopted under this  
 3-11 section must provide for imposing stronger sanctions, including  
 3-12 license suspension or revocation, for more serious violations or  
 3-13 for repeated violations as appropriate to deter future serious or  
 3-14 repeated violations. The matrix of progressive sanctions must  
 3-15 describe appropriate time frames to be used in determining whether  
 3-16 a facility has committed repeated violations or has engaged in a  
 3-17 pattern of repeated violations, such as repeated violations found  
 3-18 in consecutive regular inspections.

3-19 SECTION 5. Section 242.0665(b), Health and Safety Code, is  
 3-20 amended to read as follows:

3-21 (b) The executive commissioner by rule shall define types of  
 3-22 minor violations a facility may correct under Subsection (a) before  
 3-23 the department may assess an administrative penalty. The executive  
 3-24 commissioner shall ensure that all other violations are not subject  
 3-25 to a right to correct [Subsection (a) does not apply].

3-26 ~~[(1) to a violation that the department determines:~~  
 3-27 ~~[(A) results in serious harm to or death of a~~  
 3-28 ~~resident;~~

3-29 ~~[(B) constitutes a serious threat to the health~~  
 3-30 ~~or safety of a resident; or~~

3-31 ~~[(C) substantially limits the institution's~~  
 3-32 ~~capacity to provide care;~~

3-33 ~~[(2) to a violation described by Sections~~  
 3-34 ~~242.066(a)(2)-(7);~~

3-35 ~~[(3) to a violation of Section 260A.014 or 260A.015;~~  
 3-36 ~~or~~

3-37 ~~[(4) to a violation of a right of a resident adopted~~  
 3-38 ~~under Subchapter L].~~

3-39 SECTION 6. Subchapter C, Chapter 247, Health and Safety  
 3-40 Code, is amended by adding Section 247.0415 to read as follows:

3-41 Sec. 247.0415. PROGRESSIVE SANCTIONS. (a) The executive  
 3-42 commissioner by rule shall create a matrix of progressive sanctions  
 3-43 that the department must use to assess penalty amounts and impose  
 3-44 disciplinary actions under this chapter appropriately and fairly  
 3-45 for a violation of a law, rule, standard, or order adopted or  
 3-46 license issued under this chapter or for a violation of other law  
 3-47 for which this chapter provides a sanction.

3-48 (b) The matrix of progressive sanctions adopted under this  
 3-49 section must provide for increases in amounts of administrative  
 3-50 penalties based on type, frequency, and seriousness of violations  
 3-51 and must provide guidance for determining appropriate and graduated  
 3-52 administrative penalties to assess under this chapter to deter  
 3-53 future violations, including guidance on considering the factors  
 3-54 listed in this chapter for determining the amount of a penalty.

3-55 (c) The matrix of progressive sanctions adopted under this  
 3-56 section must provide for imposing stronger sanctions, including  
 3-57 license suspension or revocation, for more serious violations or  
 3-58 for repeated violations as appropriate to deter future serious or  
 3-59 repeated violations. The matrix of progressive sanctions must  
 3-60 describe appropriate time frames to be used in determining whether  
 3-61 an assisted living facility has committed repeated violations or  
 3-62 has engaged in a pattern of repeated violations, such as repeated  
 3-63 violations found in consecutive regular inspections.

3-64 SECTION 7. Section 247.0451(b), Health and Safety Code, is  
 3-65 amended to read as follows:

3-66 (b) Except as provided by Section 247.0452(c), the penalty  
 3-67 may not exceed \$5,000 [~~\$1,000~~] for each violation. Each day a  
 3-68 violation occurs or continues is a separate violation for purposes  
 3-69 of imposing a penalty.

4-1 SECTION 8. Section [247.0452\(b\)](#), Health and Safety Code, is  
 4-2 amended to read as follows:

4-3 (b) ~~The executive commissioner by rule shall define the~~  
 4-4 ~~types of minor violations an assisted living facility may correct~~  
 4-5 ~~under Subsection (a) before the department may assess an~~  
 4-6 ~~administrative penalty. The executive commissioner shall ensure~~  
 4-7 ~~that all other violations are not subject to a right to~~  
 4-8 ~~correct [Subsection (a) does not apply:~~

4-9 ~~(1) to a violation that the department determines~~  
 4-10 ~~results in serious harm to or death of a resident;~~

4-11 ~~(2) to a violation described by Sections~~  
 4-12 ~~[247.0451\(a\)\(2\)-\(7\)](#) or a violation of Section [260A.014](#) or [260A.015](#);~~

4-13 ~~(3) to a second or subsequent violation of:~~

4-14 ~~[(A) a right of the same resident under Section~~  
 4-15 ~~[247.064](#); or~~

4-16 ~~[(B) the same right of all residents under~~  
 4-17 ~~Section [247.064](#); or~~

4-18 ~~(4) to a violation described by Section [247.066](#),~~  
 4-19 ~~which contains its own right to correct provisions].~~

4-20 SECTION 9. Subchapter C, Chapter 252, Health and Safety  
 4-21 Code, is amended by adding Section 252.0615 to read as follows:

4-22 Sec. 252.0615. PROGRESSIVE SANCTIONS. (a) The executive  
 4-23 commissioner by rule shall create a matrix of progressive sanctions  
 4-24 that the department must use to assess penalty amounts and impose  
 4-25 disciplinary actions under this chapter appropriately and fairly  
 4-26 for a violation of a law, rule, standard, or order adopted or  
 4-27 license issued under this chapter or for a violation of other law  
 4-28 for which this chapter provides a sanction.

4-29 (b) The matrix of progressive sanctions adopted under this  
 4-30 section must provide for increases in amounts of administrative  
 4-31 penalties based on type, frequency, and seriousness of violations  
 4-32 and must provide guidance for determining appropriate and graduated  
 4-33 administrative penalties to assess under this chapter to deter  
 4-34 future violations, including guidance on considering the factors  
 4-35 listed in this chapter for determining the amount of a penalty.

4-36 (c) The matrix of progressive sanctions adopted under this  
 4-37 section must provide for imposing stronger sanctions, including  
 4-38 license suspension or revocation, for more serious violations or  
 4-39 for repeated violations as appropriate to deter future serious or  
 4-40 repeated violations. The matrix of progressive sanctions must  
 4-41 describe appropriate time frames to be used in determining whether  
 4-42 a facility has committed repeated violations or has engaged in a  
 4-43 pattern of repeated violations, such as repeated violations found  
 4-44 in consecutive regular inspections.

4-45 SECTION 10. Section [252.065](#), Health and Safety Code, is  
 4-46 amended by amending Subsection (b) and Subsection (e), as amended  
 4-47 by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to  
 4-48 read as follows:

4-49 (b) The penalty for a facility with fewer than 60 beds shall  
 4-50 be not less than \$100 or more than \$1,000 for each violation. The  
 4-51 penalty for a facility with 60 beds or more shall be not less than  
 4-52 \$100 or more than \$5,000 for each violation. ~~[The total amount of~~  
 4-53 ~~the penalty assessed for a violation continuing or occurring on~~  
 4-54 ~~separate days under this subsection may not exceed \$5,000 for a~~  
 4-55 ~~facility with fewer than 60 beds or \$25,000 for a facility with 60~~  
 4-56 ~~beds or more.] Each day a violation occurs or continues is a~~  
 4-57 ~~separate violation for purposes of imposing a penalty.~~

4-58 (e) The executive commissioner by rule shall provide the  
 4-59 facility with a reasonable period of time, not less than 45 days,  
 4-60 following the first day of a violation to correct the violation  
 4-61 before the department may assess an administrative penalty if a  
 4-62 plan of correction has been implemented. The executive  
 4-63 commissioner by rule shall define the types of minor violations a  
 4-64 facility may correct before the department may assess an  
 4-65 administrative penalty. The executive commissioner shall ensure  
 4-66 that all other violations are not subject to a right to correct  
 4-67 ~~[This subsection does not apply to a violation described by~~  
 4-68 ~~Subsections (a)(2)-(8) or to a violation that the department~~  
 4-69 ~~determines.~~

5-1                   ~~[(1) has resulted in serious harm to or the death of a~~  
5-2 ~~resident;~~  
5-3                   ~~[(2) constitutes a serious threat to the health or~~  
5-4 ~~safety of a resident; or~~  
5-5                   ~~[(3) substantially limits the institution's capacity~~  
5-6 ~~to provide care].~~

5-7                   SECTION 11. Subchapter B, Chapter 533A, Health and Safety  
5-8 Code, as added by S.B. 219, Acts of the 84th Legislature, Regular  
5-9 Session, 2015, is amended by adding Section 533A.044 to read as  
5-10 follows:

5-11                   Sec. 533A.044. CRISIS INTERVENTION TEAMS. (a) In this  
5-12 section, "crisis intervention team" means a team of individuals  
5-13 specially trained to provide services and support to persons with  
5-14 an intellectual or developmental disability who have behavioral  
5-15 health needs and who are at risk of institutionalization.

5-16                   (b) The department shall evaluate the effectiveness of  
5-17 various models of crisis intervention teams that are funded under a  
5-18 waiver under Section 1115 of the federal Social Security Act (42  
5-19 U.S.C. Section 1315) and operated by a local intellectual and  
5-20 developmental disability authority.

5-21                   (c) Not later than March 1, 2016, the department shall  
5-22 select for implementation one or more models for crisis  
5-23 intervention teams the department determines best provide  
5-24 comprehensive, cost-effective support.

5-25                   (d) The department shall determine the areas in this state  
5-26 in which local intellectual and developmental disability  
5-27 authorities do not operate crisis intervention teams and, subject  
5-28 to available funding, shall implement in each area a team that  
5-29 operates in accordance with a model selected for implementation  
5-30 under this section.

5-31                   SECTION 12. Chapter 555, Health and Safety Code, is amended  
5-32 by adding Subchapter F to read as follows:

5-33                   SUBCHAPTER F. STATE SUPPORTED LIVING CENTER RESTRUCTURING AND  
5-34 CLOSURES

5-35                   Sec. 555.201. STATE SUPPORTED LIVING CENTER RESTRUCTURING  
5-36 COMMISSION. (a) In this subchapter, "restructuring commission"  
5-37 means the state supported living center restructuring commission.

5-38                   (b) The restructuring commission consists of five members  
5-39 appointed by the governor and the following three nonvoting ex  
5-40 officio members:

5-41                   (1) the executive commissioner or the executive  
5-42 commissioner's designee;

5-43                   (2) the executive director of the Texas Facilities  
5-44 Commission or the executive director's designee; and

5-45                   (3) the commissioner of the General Land Office or the  
5-46 commissioner's designee.

5-47                   (c) The restructuring commission is established to evaluate  
5-48 each state supported living center in the state to determine  
5-49 whether closure of the center is recommended to maintain only the  
5-50 number of centers necessary to meet the level of need in the state.  
5-51 In evaluating each state supported living center, the restructuring  
5-52 commission shall consider:

5-53                   (1) the quality of services provided by the center,  
5-54 including the center's most recent certification inspections and  
5-55 the center's ability to meet the minimum ICF-IID standards;

5-56                   (2) the costs of operating the center;

5-57                   (3) the center's compliance with the 2009 settlement  
5-58 agreement between the department and the United States Department  
5-59 of Justice regarding services provided to individuals with an  
5-60 intellectual or developmental disability in state-operated  
5-61 facilities;

5-62                   (4) the availability of community service providers in  
5-63 the area served by the center;

5-64                   (5) the specialty services provided at the center,  
5-65 including the ability of the center to serve alleged offenders or  
5-66 high-risk residents;

5-67                   (6) the availability of employment opportunities for  
5-68 center employees if the center closes;

5-69                   (7) any infrastructure deficiency costs relating to

6-1 the center;

6-2 (8) the property value of, the market demand for, and  
6-3 any deed restrictions applicable to property and facilities of the  
6-4 center;

6-5 (9) whether closure of the center would adversely  
6-6 affect the geographic distribution of centers in the state;

6-7 (10) the availability and capacity of service  
6-8 providers and resources in the community capable of delivering the  
6-9 quality and level of care each resident of the center would require  
6-10 following the center's closure; and

6-11 (11) any other criteria the restructuring commission  
6-12 considers appropriate.

6-13 (d) Not later than December 1, 2016, the restructuring  
6-14 commission shall submit to the governor, the lieutenant governor,  
6-15 the speaker of the house of representatives, and the presiding  
6-16 officers of the standing committees of the senate and house of  
6-17 representatives having primary jurisdiction over intellectual and  
6-18 developmental disability issues a report detailing the  
6-19 restructuring commission's evaluation of each state supported  
6-20 living center and, if applicable, proposing the closure of certain  
6-21 centers.

6-22 (e) The restructuring commission is abolished and this  
6-23 section expires January 1, 2017.

6-24 Sec. 555.202. RECOMMENDED CLOSURES OF STATE SUPPORTED  
6-25 LIVING CENTERS. (a) If the restructuring commission proposes the  
6-26 closure of one or more state supported living centers, the 85th  
6-27 Legislature shall consider legislation proposing the closure of the  
6-28 centers recommended for closure. In considering the proposed  
6-29 legislation described by this subsection, members of the  
6-30 legislature may not propose amendments to the legislation.

6-31 (b) If the legislation described by Subsection (a) is  
6-32 enacted and becomes law, the department shall ensure that each  
6-33 state supported living center approved by the legislature for  
6-34 closure under Subsection (a) is closed not later than August 31,  
6-35 2025.

6-36 (c) This subchapter expires September 1, 2025.

6-37 Sec. 555.203. CLOSURE OF AUSTIN STATE SUPPORTED LIVING  
6-38 CENTER. (a) The department shall establish a closure plan for the  
6-39 Austin State Supported Living Center. The plan must provide for  
6-40 closure of the facility and operations of the Austin State  
6-41 Supported Living Center not later than August 31, 2017.

6-42 (b) The closure plan must provide procedures to transition  
6-43 to the community each resident for whom transition to the community  
6-44 is practicable while maintaining respect for resident choice.

6-45 (c) The department may award one-time retention bonuses to  
6-46 each direct support professional, qualified intellectual  
6-47 disability professional, social worker, and case manager who agrees  
6-48 to continue to provide services at the Austin State Supported  
6-49 Living Center until the center is closed.

6-50 (d) The proceeds from the closure, including from the sale  
6-51 or lease of facilities or other property, may be appropriated only  
6-52 for services for persons with an intellectual or developmental  
6-53 disability, including persons with a dual diagnosis of an  
6-54 intellectual or developmental disability and mental illness.

6-55 (e) Not later than August 31, 2018, the department shall  
6-56 evaluate the closure process, including how well the closure plan  
6-57 worked, and, if appropriate, establish policies for improving the  
6-58 closure process for future closures of other state supported living  
6-59 centers.

6-60 (f) This section expires September 1, 2018.

6-61 SECTION 13. Section 531.0318, Government Code, is amended  
6-62 by adding Subsections (b-1), (d), and (e) to read as follows:

6-63 (b-1) The information for consumers required by this  
6-64 section must include for each provider of long-term care services:

6-65 (1) a rating assigned by the Department of Aging and  
6-66 Disability Services indicating the quality of the care provided or,  
6-67 alternatively, a link to a rating assigned a provider on an Internet  
6-68 website maintained by the federal government;

6-69 (2) information concerning quality of care, as that

7-1 information becomes available;

7-2 (3) staffing information, if available, including for  
 7-3 each year the number of staff members who began employment with the  
 7-4 provider during that year and the number of staff members who ceased  
 7-5 employment with the provider during that year;

7-6 (4) the ratio of staff members to residents; and

7-7 (5) the provider's regulatory performance, as  
 7-8 available.

7-9 (d) The Department of Aging and Disability Services shall  
 7-10 immediately post notice on the department's Internet website when a  
 7-11 provider of long-term care services loses its Medicaid  
 7-12 certification.

7-13 (e) The Department of Aging and Disability Services shall  
 7-14 periodically solicit input regarding the content of the information  
 7-15 required under this section and the usability and accessibility of  
 7-16 the website on which the information is located from consumers,  
 7-17 consumer advocates, long-term care services providers, and the  
 7-18 general public.

7-19 SECTION 14. Subchapter D, Chapter 48, Human Resources Code,  
 7-20 is amended by adding Section 48.15221 to read as follows:

7-21 Sec. 48.15221. REPORTS CONCERNING DAY HABILITATION  
 7-22 SERVICES PROVIDERS. (a) In this section, "day habilitation  
 7-23 services" and "day habilitation services provider" have the  
 7-24 meanings assigned by Section 161.401.

7-25 (b) The department shall prepare and submit to the  
 7-26 Department of Aging and Disability Services an annual report of the  
 7-27 number of investigations arising from a report of abuse, neglect,  
 7-28 or exploitation of a person with an intellectual or developmental  
 7-29 disability that was allegedly committed by or on the premises of a  
 7-30 day habilitation services provider, and whether the investigation  
 7-31 concluded that the report of alleged abuse, neglect, or  
 7-32 exploitation was confirmed, unconfirmed, inconclusive, or  
 7-33 unfounded.

7-34 (c) The duty to prepare and submit a report under Subsection  
 7-35 (b) does not affect the duty of the department to investigate and  
 7-36 hold accountable a community-based intellectual and developmental  
 7-37 disabilities services provider or intermediate care facility for  
 7-38 any abuse, neglect, or exploitation of a person who receives day  
 7-39 habilitation services from the provider.

7-40 SECTION 15. Chapter 103, Human Resources Code, is amended  
 7-41 by adding Section 103.0085 to read as follows:

7-42 Sec. 103.0085. PROGRESSIVE SANCTIONS. (a) The executive  
 7-43 commissioner by rule shall create a matrix of progressive sanctions  
 7-44 that the department must use to assess penalty amounts and impose  
 7-45 disciplinary actions under this chapter appropriately and fairly  
 7-46 for a violation of a law, rule, standard, or order adopted or  
 7-47 license issued under this chapter or for a violation of other law  
 7-48 for which this chapter provides a sanction.

7-49 (b) The matrix of progressive sanctions adopted under this  
 7-50 section must provide for increases in amounts of administrative  
 7-51 penalties based on type, frequency, and seriousness of violations  
 7-52 and must provide guidance for determining appropriate and graduated  
 7-53 administrative penalties to assess under this chapter to deter  
 7-54 future violations, including guidance on considering the factors  
 7-55 listed in this chapter for determining the amount of a penalty.

7-56 (c) The matrix of progressive sanctions adopted under this  
 7-57 section must provide for imposing stronger sanctions, including  
 7-58 license suspension or revocation, for more serious violations or  
 7-59 for repeated violations as appropriate to deter future serious or  
 7-60 repeated violations. The matrix of progressive sanctions must  
 7-61 describe appropriate time frames to be used in determining whether  
 7-62 an adult day-care facility has committed repeated violations or has  
 7-63 engaged in a pattern of repeated violations, such as repeated  
 7-64 violations found in consecutive regular inspections.

7-65 SECTION 16. Section 103.013(b), Human Resources Code, is  
 7-66 amended to read as follows:

7-67 (b) The executive commissioner by rule shall define the  
 7-68 types of minor violations an adult day-care facility may correct  
 7-69 under Subsection (a) before the department may assess an

8-1 administrative penalty. The executive commissioner shall ensure  
 8-2 that all other violations are not subject to a right to correct  
 8-3 ~~[Subsection (a) does not apply to:~~  
 8-4 ~~(1) a violation that the department determines:~~  
 8-5 ~~(A) results in serious harm to or death of a~~  
 8-6 ~~person attending the facility;~~  
 8-7 ~~(B) constitutes a serious threat to the health~~  
 8-8 ~~and safety of a person attending the facility; or~~  
 8-9 ~~(C) substantially limits the facility's~~  
 8-10 ~~capacity to provide care;~~  
 8-11 ~~(2) a violation described by Sections~~  
 8-12 ~~103.012(a)(2)-(7); or~~  
 8-13 ~~(3) a violation of Section 103.011].~~

8-14 SECTION 17. Section 161.080, Human Resources Code, is  
 8-15 amended by adding Subsection (c) to read as follows:

8-16 (c) The executive commissioner by rule shall establish a  
 8-17 list of services a state supported living center may provide under a  
 8-18 contract described by Subsection (a) and a schedule of fees the  
 8-19 state supported living center may charge for those services. In  
 8-20 establishing the schedule of fees for services, the executive  
 8-21 commissioner shall use the reimbursement rate for the applicable  
 8-22 service under the Medicaid program or modify that rate with a  
 8-23 written justification for the modification.

8-24 SECTION 18. Chapter 161, Human Resources Code, is amended  
 8-25 by adding Subchapter J to read as follows:

8-26 SUBCHAPTER J. POWERS AND DUTIES RELATING TO DAY HABILITATION  
 8-27 SERVICES PROVIDERS

8-28 Sec. 161.401. DEFINITIONS. In this subchapter:

8-29 (1) "Day habilitation services" means services to  
 8-30 assist persons with an intellectual or developmental disability in  
 8-31 acquiring, retaining, and improving the self-help, socialization,  
 8-32 and adaptive skills necessary to reside successfully in the  
 8-33 community, including prevocational, educational, and supported  
 8-34 employment services.

8-35 (2) "Day habilitation services provider" means a  
 8-36 person who contracts with a community-based intellectual and  
 8-37 developmental disabilities services provider or intermediate care  
 8-38 facility to provide federally funded Medicaid day habilitation  
 8-39 services authorized under Section 1915(c) of the federal Social  
 8-40 Security Act (42 U.S.C. Section 1396n(c)).

8-41 Sec. 161.402. DAY HABILITATION SERVICES PROVIDER  
 8-42 INFORMATION TRACKING. (a) Each community-based intellectual and  
 8-43 developmental disabilities services provider and intermediate care  
 8-44 facility shall annually submit to the department a report  
 8-45 providing:

8-46 (1) an estimate of the number of clients receiving day  
 8-47 habilitation services for each month of that year;

8-48 (2) the physical address of each day habilitation  
 8-49 services provider that provided those services;

8-50 (3) the services provided to those clients; and

8-51 (4) an estimate of monthly expenditures for the  
 8-52 provision of those services to those clients.

8-53 (b) The department shall maintain information obtained  
 8-54 during a department inspection of a day habilitation services  
 8-55 provider concerning conduct or conditions that would constitute a  
 8-56 violation of federal or state law or of department rules applicable  
 8-57 to the community-based intellectual and developmental disabilities  
 8-58 services provider or intermediate care facility with which the day  
 8-59 habilitation services provider contracts.

8-60 (c) The department shall maintain information concerning an  
 8-61 investigation of abuse, neglect, or exploitation concerning a day  
 8-62 habilitation services provider that the department receives from  
 8-63 the Department of Family and Protective Services under Section  
 8-64 48.15221.

8-65 Sec. 161.403. DAY HABILITATION PROGRAM ADVISORY COMMITTEE.

8-66 (a) Not later than September 1, 2015, the department shall  
 8-67 establish a day habilitation program advisory committee composed of  
 8-68 members that represent community-based waiver providers, owners of  
 8-69 day habilitation services providers, and advocates for persons with

9-1 an intellectual or developmental disability.

9-2 (b) The day habilitation program advisory committee shall  
 9-3 consider and make recommendations concerning whether the provision  
 9-4 of day habilitation services in this state should be redesigned and  
 9-5 whether day habilitation services providers should be subject to  
 9-6 regulation, including by licensure or certification.

9-7 (c) In considering the redesign of the provision of day  
 9-8 habilitation services in this state, the day habilitation program  
 9-9 advisory committee shall examine whether day habilitation service  
 9-10 providers currently comply with the requirements of 42 C.F.R.  
 9-11 Section 441.301.

9-12 (d) The day habilitation program advisory committee shall  
 9-13 also consider and make recommendations concerning issues relevant  
 9-14 to the provision of day habilitation services, including the  
 9-15 appropriate funding for services, reimbursable settings and  
 9-16 services, staff-to-client ratio requirements, safety requirements,  
 9-17 and other required or applicable standards.

9-18 (e) Not later than September 1, 2016, the day habilitation  
 9-19 program advisory committee shall submit to the governor, the  
 9-20 lieutenant governor, the speaker of the house of representatives,  
 9-21 and the presiding officers of the standing committees of the senate  
 9-22 and house of representatives having primary jurisdiction over  
 9-23 intellectual and developmental disability issues a report  
 9-24 containing the committee's recommendations concerning the redesign  
 9-25 of the provision of day habilitation services in this state and the  
 9-26 necessity for regulation, licensure, or certification of day  
 9-27 habilitation services providers.

9-28 (f) The day habilitation program advisory committee is  
 9-29 abolished and this section expires December 31, 2016.

9-30 SECTION 19. Section 101A.158, Human Resources Code, as  
 9-31 added by S.B. 219, Acts of the 84th Legislature, Regular Session,  
 9-32 2015, is repealed.

9-33 SECTION 20. (a) Not later than September 1, 2016, the  
 9-34 executive commissioner of the Health and Human Services Commission  
 9-35 shall adopt by rule the matrices of progressive sanctions required  
 9-36 by Sections 142.0125, 242.0613, 247.0415, and 252.0615, Health and  
 9-37 Safety Code, and Section 103.0085, Human Resources Code, as added  
 9-38 by this Act.

9-39 (b) Not later than September 1, 2015, the governor shall  
 9-40 appoint five members of the state supported living center  
 9-41 restructuring commission, as required by Section 555.201, Health  
 9-42 and Safety Code, as added by this Act.

9-43 (c) Not later than September 1, 2016, the executive  
 9-44 commissioner of the Health and Human Services Commission shall  
 9-45 adopt the rule listing services a state supported living center may  
 9-46 provide under a contract and the schedule of fees for those services  
 9-47 as required by Section 161.080, Human Resources Code, as amended by  
 9-48 this Act.

9-49 SECTION 21. This Act takes effect immediately if it  
 9-50 receives a vote of two-thirds of all the members elected to each  
 9-51 house, as provided by Section 39, Article III, Texas Constitution.  
 9-52 If this Act does not receive the vote necessary for immediate  
 9-53 effect, this Act takes effect September 1, 2015.

9-54

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