

1-1 By: Schwertner S.B. No. 1385  
1-2 (In the Senate - Filed March 12, 2015; March 18, 2015, read  
1-3 first time and referred to Committee on Health and Human Services;  
1-4 April 7, 2015, reported favorably by the following vote: Yeas 9,  
1-5 Nays 0; April 7, 2015, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	Schwertner	X		
1-9	Kolkhorst	X		
1-10	Campbell	X		
1-11	Estes	X		
1-12	Perry	X		
1-13	Rodríguez	X		
1-14	Taylor of Collin	X		
1-15	Uresti	X		
1-16	Zaffirini	X		

1-17 A BILL TO BE ENTITLED  
1-18 AN ACT

1-19 relating to the authorization of the imposition of administrative  
1-20 penalties on providers participating in certain Medicaid waiver  
1-21 programs.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Subchapter D, Chapter 161, Human Resources Code,  
1-24 is amended by adding Section 161.088 to read as follows:

1-25 Sec. 161.088. ADMINISTRATIVE PENALTIES. (a) This section  
1-26 applies to the following waiver programs established under Section  
1-27 1915(c), Social Security Act (42 U.S.C. Section 1396n(c)), and  
1-28 administered by the department to serve persons with an  
1-29 intellectual or developmental disability:

1-30 (1) the home and community-based services (HCS) waiver  
1-31 program; and

1-32 (2) the Texas home living (TxHmL) waiver program.

1-33 (b) The department may assess and collect an administrative  
1-34 penalty against a provider who participates in a program to which  
1-35 this section applies for a violation of a law, including a rule, or  
1-36 department policy relating to the program.

1-37 (c) After consulting with the department, the executive  
1-38 commissioner shall develop and adopt rules regarding the imposition  
1-39 of administrative penalties under this section. The rules must:

1-40 (1) include criteria that describe:

1-41 (A) the types of violations that warrant  
1-42 imposition of an administrative penalty; and

1-43 (B) the method by which the department may assess  
1-44 an administrative penalty;

1-45 (2) prescribe reasonable amounts to be imposed for  
1-46 each violation giving rise to an administrative penalty;

1-47 (3) ensure standard and consistent application of  
1-48 administrative penalties throughout the state; and

1-49 (4) provide for an administrative appeals process to  
1-50 adjudicate claims and appeals relating to the imposition of an  
1-51 administrative penalty under this section that is in accordance  
1-52 with Chapter 2001, Government Code.

1-53 (d) Rules adopted under this section may authorize the  
1-54 imposition of an administrative penalty, with interest, for a  
1-55 minimum penalty period or on a subsequent per diem basis.

1-56 SECTION 2. The Department of Aging and Disability Services  
1-57 may impose an administrative penalty in accordance with Section  
1-58 161.088, Human Resources Code, as added by this Act, only for  
1-59 conduct that occurs on or after the effective date of this Act.

1-60 SECTION 3. If before implementing any provision of this Act  
1-61 a state agency determines that a waiver or authorization from a

2-1 federal agency is necessary for implementation of that provision,  
2-2 the agency affected by the provision shall request the waiver or  
2-3 authorization and may delay implementing that provision until the  
2-4 waiver or authorization is granted.

2-5 SECTION 4. This Act takes effect September 1, 2015.

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