

1-1 By: Kolkhorst, et al. S.B. No. 25
 1-2 (In the Senate - Filed March 3, 2021; March 3, 2021, read
 1-3 first time and referred to Committee on Health & Human Services;
 1-4 March 15, 2021, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 9, Nays 0; March 15, 2021,
 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. 25 By: Kolkhorst

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

1-21 relating to the right of certain residents to designate an
 1-22 essential caregiver for in-person visitation.

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

1-24 SECTION 1. Subtitle B, Title 4, Health and Safety Code, is
 1-25 amended by adding Chapter 260B to read as follows:

1-26 CHAPTER 260B. RIGHT TO ESSENTIAL CAREGIVER VISITS
 1-27 FOR CERTAIN RESIDENTS

1-28 Sec. 260B.0001. DEFINITIONS. In this chapter:

1-29 (1) "Commission" means the Health and Human Services
 1-30 Commission.

1-31 (2) "Essential caregiver" means a family member,
 1-32 friend, guardian, or other individual selected by a resident for
 1-33 in-person visits.

1-34 (3) "Executive commissioner" means the executive
 1-35 commissioner of the Health and Human Services Commission.

1-36 (4) "Facility" means:

1-37 (A) a nursing facility licensed under Chapter
 1-38 242;

1-39 (B) an assisted living facility licensed under
 1-40 Chapter 247; or

1-41 (C) an intermediate care facility for
 1-42 individuals with an intellectual disability licensed under Chapter
 1-43 252.

1-44 (5) "Program provider" means a person that provides
 1-45 services through the home and community-based services (HCS) waiver
 1-46 program in a residence.

1-47 (6) "Residence" means a three-person or four-person
 1-48 residence, as defined by the home and community-based services
 1-49 (HCS) waiver program billing guidelines, that is leased or owned by
 1-50 a program provider. The term does not include a host home or
 1-51 companion care.

1-52 (7) "Resident" means:

1-53 (A) an individual, including a patient, who
 1-54 resides in a facility; or

1-55 (B) an individual enrolled in the home and
 1-56 community-based services (HCS) waiver program who resides in a
 1-57 residence.

1-58 Sec. 260B.0002. RESIDENT'S RIGHT TO ESSENTIAL CAREGIVER
 1-59 VISITS. (a) A resident, resident's guardian, or resident's legally
 1-60 authorized representative has the right to designate an essential

2-1 caregiver with whom the facility or program provider may not
2-2 prohibit in-person visitation.

2-3 (b) Notwithstanding Subsection (a), the executive
2-4 commissioner by rule shall develop guidelines to assist facilities
2-5 and program providers in establishing essential caregiver
2-6 visitation policies and procedures. The guidelines must require
2-7 the facilities and program providers to:

2-8 (1) allow a resident, resident's guardian, or
2-9 resident's legally authorized representative to designate for
2-10 in-person visitation an essential caregiver in the same manner that
2-11 a resident would designate a power of attorney;

2-12 (2) establish a visitation schedule allowing the
2-13 essential caregiver to visit the resident for at least two hours
2-14 each day;

2-15 (3) establish procedures to enable physical contact
2-16 between the resident and essential caregiver;

2-17 (4) obtain the signature of the essential caregiver
2-18 certifying that the caregiver will follow the facility's or program
2-19 provider's safety protocols and any other rules adopted under this
2-20 section; and

2-21 (5) establish a visitor's log.

2-22 (c) A facility or program provider may revoke an
2-23 individual's designation as an essential caregiver if the caregiver
2-24 violates the facility's or provider's safety protocols or rules
2-25 adopted under this section.

2-26 (d) Safety protocols adopted by a facility or program
2-27 provider for an essential caregiver under this section may not be
2-28 more stringent than safety protocols for the staff of the facility
2-29 or residence.

2-30 (e) A facility or program provider may suspend essential
2-31 caregiver visits for not more than seven days if in-person
2-32 visitation poses a serious community health risk. A facility or
2-33 program provider shall request an extension from the commission to
2-34 suspend in-person visitation for more than seven days. The
2-35 commission may not approve an extension under this subsection for a
2-36 period that exceeds seven days, and a facility or program provider
2-37 must separately request each extension.

2-38 (f) This section may not be construed as requiring an
2-39 essential caregiver to provide necessary care to a resident, and a
2-40 facility or program provider may not require an essential caregiver
2-41 to provide necessary care.

2-42 (g) In the event of a conflict between this section and any
2-43 other law, this section prevails.

2-44 SECTION 2. Chapter 555, Health and Safety Code, is amended
2-45 by adding Subchapter F to read as follows:

2-46 SUBCHAPTER F. RIGHT TO ESSENTIAL CAREGIVER VISITS

2-47 Sec. 555.201. DEFINITION. In this chapter, "essential
2-48 caregiver" means a family member, friend, guardian, or other
2-49 individual selected by a resident for in-person visits.

2-50 Sec. 555.202. RESIDENT'S RIGHT TO ESSENTIAL CAREGIVER
2-51 VISITS. (a) A resident of a state supported living center or the
2-52 resident's guardian has the right to designate an essential
2-53 caregiver with whom the center may not prohibit in-person
2-54 visitation.

2-55 (b) Notwithstanding Subsection (a), the executive
2-56 commissioner by rule shall develop guidelines to assist state
2-57 supported living centers in establishing essential caregiver
2-58 visitation policies and procedures. The guidelines must require
2-59 the centers to:

2-60 (1) allow a resident or guardian of a resident to
2-61 designate for in-person visitation an essential caregiver;

2-62 (2) establish a visitation schedule allowing the
2-63 essential caregiver to visit the resident for at least two hours
2-64 each day;

2-65 (3) establish procedures to enable physical contact
2-66 between the resident and essential caregiver;

2-67 (4) obtain the signature of the essential caregiver
2-68 certifying that the caregiver will follow the center's safety
2-69 protocols and any other rules adopted under this section; and

3-1 (5) establish a visitor's log.

3-2 (c) A state supported living center may revoke an
3-3 individual's designation as an essential caregiver if the essential
3-4 caregiver violates the center's safety protocols or rules adopted
3-5 under this section.

3-6 (d) Safety protocols adopted by a state supported living
3-7 center for an essential caregiver under this section may not be more
3-8 stringent than safety protocols for center staff.

3-9 (e) A state supported living center may suspend essential
3-10 caregiver visits for not more than seven days if in-person
3-11 visitation poses a serious community health risk. A state
3-12 supported living center shall request an extension from the
3-13 commission to suspend in-person visitation for more than seven
3-14 days. The commission may not approve an extension under this
3-15 subsection for a period that exceeds seven days, and a state
3-16 supported living center must separately request each extension.

3-17 (f) This section may not be construed as requiring an
3-18 essential caregiver to provide necessary care to a resident, and a
3-19 state supported living center may not require an essential
3-20 caregiver to provide necessary care.

3-21 (g) In the event of a conflict between this section and any
3-22 other law, this section prevails.

3-23 SECTION 3. As soon as practicable after the effective date
3-24 of this Act, the executive commissioner of the Health and Human
3-25 Services Commission shall prescribe the guidelines required by
3-26 Sections 260B.0002 and 555.202, Health and Safety Code, as added by
3-27 this Act.

3-28 SECTION 4. This Act takes effect September 1, 2021.

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