

By: Hinojosa, et al.

S.B. No. 204

A BILL TO BE ENTITLED

AN ACT

relating to the functions and operations of the Department of Aging and Disability Services; increasing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 81.042(e), Health and Safety Code, is amended to read as follows:

(e) The following persons shall report to the local health authority or the department a suspected case of a reportable disease and all information known concerning the person who has or is suspected of having the disease if a report is not made as required by Subsections (a)-(d):

(1) a professional registered nurse;

(2) an administrator or director of a public or private temporary or permanent child-care facility;

(3) an administrator or director of a nursing home, personal care home, adult respite care center, or day activity and health services program or facility [~~adult day-care center~~];

(4) an administrator of a home health agency;

(5) an administrator or health official of a public or private institution of higher education;

(6) an owner or manager of a restaurant, dairy, or other food handling or processing establishment or outlet;

(7) a superintendent, manager, or health official of a public or private camp, home, or institution;

1 (8) a parent, guardian, or householder;

2 (9) a health professional;

3 (10) an administrator or health official of a penal or
4 correctional institution; or

5 (11) emergency medical service personnel, a peace
6 officer, or a firefighter.

7 SECTION 2. Subchapter A, Chapter 142, Health and Safety
8 Code, is amended by adding Section 142.0125 to read as follows:

9 Sec. 142.0125. PROGRESSIVE SANCTIONS. (a) The executive
10 commissioner by rule shall create a matrix of progressive sanctions
11 that the department must use to assess penalty amounts and impose
12 disciplinary actions under this chapter appropriately and fairly
13 for a violation of a law, rule, standard, or order adopted or
14 license issued under this chapter or for a violation of other law
15 for which this chapter provides a sanction.

16 (b) The matrix of progressive sanctions adopted under this
17 section must provide for increases in amounts of administrative
18 penalties based on type, frequency, and seriousness of violations
19 and must provide guidance for determining appropriate and graduated
20 administrative penalties to assess under this chapter to deter
21 future violations, including guidance on considering the factors
22 listed in this chapter for determining the amount of a penalty.

23 (c) The matrix of progressive sanctions adopted under this
24 section must provide for imposing stronger sanctions, including
25 license suspension or revocation, for more serious violations or
26 for repeated violations as appropriate to deter future serious or
27 repeated violations. The matrix of progressive sanctions must

1 describe appropriate time frames to be used in determining whether
2 a home and community support services agency has committed repeated
3 violations or has engaged in a pattern of repeated violations, such
4 as repeated violations found in consecutive regular inspections.

5 SECTION 3. Sections 142.017(b) and (j), Health and Safety
6 Code, are amended to read as follows:

7 (b) The penalty shall be not less than \$100 or more than
8 \$5,000 [~~\$1,000~~] for each violation. Each day of a violation that
9 occurs before the day on which the person receives written notice of
10 the violation from the department does not constitute a separate
11 violation and shall be considered to be one violation. Each day of
12 a continuing violation that occurs after the day on which the person
13 receives written notice of the violation from the department
14 constitutes a separate violation.

15 (j) The executive commissioner by rule shall define the
16 types of minor violations an agency may correct under Subsection
17 (e) before the department may assess an administrative penalty.
18 The executive commissioner shall ensure that all other violations
19 are not subject to a right to correct [~~The department may assess an~~
20 ~~administrative penalty without providing a reasonable period of~~
21 ~~time to the agency to correct the violation if the violation:~~

- 22 [~~(1) results in serious harm or death,~~
23 [~~(2) constitutes a serious threat to health or safety,~~
24 [~~(3) substantially limits the agency's capacity to~~
25 ~~provide care,~~
26 [~~(4) is a violation in which a person:~~
27 [~~(A) makes a false statement, that the person~~

1 ~~knows or should know is false, of a material fact:~~
2 ~~[(i) on an application for issuance or~~
3 ~~renewal of a license or in an attachment to the application; or~~
4 ~~[(ii) with respect to a matter under~~
5 ~~investigation by the department;~~
6 ~~[(B) refuses to allow a representative of the~~
7 ~~department to inspect a book, record, or file required to be~~
8 ~~maintained by an agency;~~
9 ~~[(C) wilfully interferes with the work of a~~
10 ~~representative of the department or the enforcement of this~~
11 ~~chapter;~~
12 ~~[(D) wilfully interferes with a representative~~
13 ~~of the department preserving evidence of a violation of this~~
14 ~~chapter or a rule, standard, or order adopted or license issued~~
15 ~~under this chapter;~~
16 ~~[(E) fails to pay a penalty assessed by the~~
17 ~~department under this chapter not later than the 10th day after the~~
18 ~~date the assessment of the penalty becomes final; or~~
19 ~~[(F) fails to submit:~~
20 ~~[(i) a plan of correction not later than the~~
21 ~~10th day after the date the person receives a statement of licensing~~
22 ~~violations; or~~
23 ~~[(ii) an acceptable plan of correction not~~
24 ~~later than the 30th day after the date the person receives~~
25 ~~notification from the department that the previously submitted plan~~
26 ~~of correction is not acceptable;~~
27 ~~[(5) is a violation of Section [142.0145](#); or~~

1 ~~[(6) involves the rights of the elderly under Chapter~~
2 ~~102, Human Resources Code].~~

3 SECTION 4. Section 164.003(5), Health and Safety Code, as
4 amended by S.B. No. 219, Acts of the 84th Legislature, Regular
5 Session, 2015, is amended to read as follows:

6 (5) "Mental health facility" means:

7 (A) a "mental health facility" as defined by
8 Section 571.003;

9 (B) a residential treatment facility, other than
10 a mental health facility, in which persons are treated for
11 emotional problems or disorders in a 24-hour supervised living
12 environment; and

13 (C) a day activity and health services ~~[an adult~~
14 ~~day-care]~~ facility as defined by Section 103.003, Human Resources
15 Code.

16 SECTION 5. (a) It is the intent of the legislature that
17 Section 242.061, Health and Safety Code, as amended by this
18 section, establish a ceiling or maximum number of violations
19 related to the abuse and neglect of a resident that a facility can
20 commit before the Department of Aging and Disability Services is
21 required to revoke the facility's license. The changes in law made
22 by this section are not intended to limit or diminish the
23 department's permissive authority to revoke a license under Chapter
24 242, Health and Safety Code.

25 (b) Section 242.061, Health and Safety Code, is amended by
26 amending Subsection (a) and adding Subsections (a-1), (a-2), (a-3),
27 (c-1), and (e) to read as follows:

1 (a) In this section:

2 (1) "Abuse" has the meaning assigned by Section
3 260A.001.

4 (2) "Immediate threat to health and safety" means a
5 situation in which immediate corrective action is necessary because
6 the facility's noncompliance with one or more requirements has
7 caused, or is likely to cause, serious injury, harm, impairment, or
8 death to a resident.

9 (3) "Neglect" has the meaning assigned by Section
10 260A.001.

11 (a-1) The department, after providing notice and
12 opportunity for a hearing to the applicant or license holder, may
13 deny, suspend, or revoke a license if the department finds that the
14 applicant, the license holder, or any other person described by
15 Section 242.032(d) has:

16 (1) violated this chapter or a rule, standard, or
17 order adopted or license issued under this chapter in either a
18 repeated or substantial manner;

19 (2) committed any act described by Sections
20 242.066(a)(2)-(6); or

21 (3) failed to comply with Section 242.074.

22 (a-2) Except as provided by Subsection (a-3) or (e), the
23 department shall revoke a license under Subsection (a-1) if the
24 department finds that:

25 (1) the license holder has committed three violations
26 described by Subsection (a-1), within a 24-month period, that
27 constitute an immediate threat to health and safety related to the

1 abuse or neglect of a resident; and

2 (2) each of the violations described by Subdivision
3 (1) are reported in connection with separate surveys, inspections,
4 or investigation visits.

5 (a-3) The department may not revoke a license under
6 Subsection (a-2) due to a violation described by Subsection
7 (a-2)(1), if:

8 (1) the violation is not included on the written list
9 of violations left with the facility at the time of the initial exit
10 conference under Section 242.0445(b) for a survey, inspection, or
11 investigation;

12 (2) the violation is not included on the final
13 statement of violations described by Section 242.0445; or

14 (3) the violation has been reviewed under the informal
15 dispute resolution process established by Section 531.058,
16 Government Code, and a determination was made that:

17 (A) the violation should be removed from the
18 license holder's record; or

19 (B) the violation is reduced in severity so that
20 the violation is no longer cited as an immediate threat to health
21 and safety related to the abuse or neglect of a resident.

22 (c-1) In the case of revocation of a license under
23 Subsection (a-2), to ensure the health and safety of residents of
24 the institution, the department may:

25 (1) request the appointment of a trustee to operate
26 the institution under Subchapter D;

27 (2) obtain a new operator for the institution; or

1 (3) assist with the relocation of residents to another
2 institution.

3 (e) The executive commissioner may waive a license
4 revocation required by Subsection (a-2) if the executive
5 commissioner determines that the waiver would not jeopardize the
6 health and safety of the residents of the facility or place the
7 residents at risk of abuse or neglect. The executive commissioner
8 by rule shall establish criteria under which a waiver may be granted
9 as provided by this subsection. The executive commissioner may
10 provide a waiver for a veterans home, as defined by Section 164.002,
11 Natural Resources Code, if the Veterans' Land Board contracts with
12 a different entity to operate the veterans home than the entity that
13 operated the home during the period in which the violations
14 described by Subsection (a-2) occurred.

15 SECTION 6. Subchapter C, Chapter 242, Health and Safety
16 Code, is amended by adding Section 242.0613 to read as follows:

17 Sec. 242.0613. PROGRESSIVE SANCTIONS. (a) The executive
18 commissioner by rule shall create a matrix of progressive sanctions
19 that the department must use to assess penalty amounts and impose
20 disciplinary actions under this chapter appropriately and fairly
21 for a violation of a law, rule, standard, or order adopted or
22 license issued under this chapter or for a violation of other law
23 for which this chapter provides a sanction.

24 (b) The matrix of progressive sanctions adopted under this
25 section must provide for increases in amounts of administrative
26 penalties based on type, frequency, and seriousness of violations
27 and must provide guidance for determining appropriate and graduated

1 administrative penalties to assess under this chapter to deter
2 future violations, including guidance on considering the factors
3 listed in this chapter for determining the amount of a penalty.

4 (c) The matrix of progressive sanctions adopted under this
5 section must provide for imposing stronger sanctions, including
6 license suspension or revocation, for more serious violations or
7 for repeated violations as appropriate to deter future serious or
8 repeated violations. The matrix of progressive sanctions must
9 describe appropriate time frames to be used in determining whether
10 a facility has committed repeated violations or has engaged in a
11 pattern of repeated violations, such as repeated violations found
12 in consecutive regular inspections.

13 SECTION 7. Section 242.0615(a), Health and Safety Code, is
14 amended to read as follows:

15 (a) The department, after providing notice and opportunity
16 for a hearing, may exclude a person from eligibility for a license
17 under this chapter if the person or any person described by Section
18 242.032(d) has substantially failed to comply with this chapter and
19 the rules adopted under this chapter. The authority granted by this
20 subsection is in addition to the authority to deny issuance of a
21 license under Section 242.061(a-1) [~~242.061(a)~~].

22 SECTION 8. Section 242.0665(b), Health and Safety Code, is
23 amended to read as follows:

24 (b) The executive commissioner by rule shall define types of
25 minor violations a facility may correct under Subsection (a) before
26 the department may assess an administrative penalty. The executive
27 commissioner shall ensure that all other violations are not subject

1 to a right to correct [~~Subsection (a) does not apply.~~

2 [~~(1) to a violation that the department determines:~~

3 [~~(A) results in serious harm to or death of a~~
4 ~~resident;~~

5 [~~(B) constitutes a serious threat to the health~~
6 ~~or safety of a resident; or~~

7 [~~(C) substantially limits the institution's~~
8 ~~capacity to provide care;~~

9 [~~(2) to a violation described by Sections~~
10 ~~242.066(a)(2)-(7);~~

11 [~~(3) to a violation of Section 260A.014 or 260A.015;~~
12 ~~or~~

13 [~~(4) to a violation of a right of a resident adopted~~
14 ~~under Subchapter L].~~

15 SECTION 9. Subchapter C, Chapter 247, Health and Safety
16 Code, is amended by adding Section 247.0415 to read as follows:

17 Sec. 247.0415. PROGRESSIVE SANCTIONS. (a) The executive
18 commissioner by rule shall create a matrix of progressive sanctions
19 that the department must use to assess penalty amounts and impose
20 disciplinary actions under this chapter appropriately and fairly
21 for a violation of a law, rule, standard, or order adopted or
22 license issued under this chapter or for a violation of other law
23 for which this chapter provides a sanction.

24 (b) The matrix of progressive sanctions adopted under this
25 section must provide for increases in amounts of administrative
26 penalties based on type, frequency, and seriousness of violations
27 and must provide guidance for determining appropriate and graduated

1 administrative penalties to assess under this chapter to deter
2 future violations, including guidance on considering the factors
3 listed in this chapter for determining the amount of a penalty.

4 (c) The matrix of progressive sanctions adopted under this
5 section must provide for imposing stronger sanctions, including
6 license suspension or revocation, for more serious violations or
7 for repeated violations as appropriate to deter future serious or
8 repeated violations. The matrix of progressive sanctions must
9 describe appropriate time frames to be used in determining whether
10 an assisted living facility has committed repeated violations or
11 has engaged in a pattern of repeated violations, such as repeated
12 violations found in consecutive regular inspections.

13 SECTION 10. Section 247.0451(b), Health and Safety Code, is
14 amended to read as follows:

15 (b) Except as provided by Section 247.0452(c), the penalty
16 may not exceed \$5,000 [~~\$1,000~~] for each violation. Each day a
17 violation occurs or continues is a separate violation for purposes
18 of imposing a penalty.

19 SECTION 11. Section 247.0452(b), Health and Safety Code, is
20 amended to read as follows:

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

27 [~~(1) to a violation that the department determines~~

1 ~~results in serious harm to or death of a resident,~~
2 ~~[(2) to a violation described by Sections~~
3 ~~247.0451(a)(2)-(7) or a violation of Section 260A.014 or 260A.015,~~
4 ~~[(3) to a second or subsequent violation of:~~
5 ~~[(A) a right of the same resident under Section~~
6 ~~247.064, or~~
7 ~~[(B) the same right of all residents under~~
8 ~~Section 247.064, or~~
9 ~~[(4) to a violation described by Section 247.066,~~
10 ~~which contains its own right to correct provisions].~~

11 SECTION 12. Section 247.051(a), Health and Safety Code, as
12 amended by S.B. No. 219, Acts of the 84th Legislature, Regular
13 Session, 2015, is amended to read as follows:

14 (a) The executive commissioner by rule shall establish an
15 informal dispute resolution process to address disputes between a
16 facility and the department concerning a statement of violations
17 prepared by the department in accordance with this section. The
18 process must provide for adjudication by an appropriate
19 disinterested person of disputes relating to a statement of
20 violations. The informal dispute resolution process must require:

21 (1) the assisted living facility to request informal
22 dispute resolution not later than the 10th day after the date of
23 notification by the department of the violation of a standard or
24 standards;

25 (2) that the [~~commission to complete the~~] process be
26 completed not later than the 90th day after the date of receipt of a
27 request from the assisted living facility for informal dispute

1 resolution;

2 (3) that, not later than the 10th business day after
3 the date an assisted living facility requests an informal dispute
4 resolution, the department forward to the assisted living facility
5 a copy of all information that is referred to in the disputed
6 statement of violations or on which a citation is based in
7 connection with the survey, inspection, investigation, or other
8 visit, excluding:

9 (A) the name of any complainant, witness, or
10 informant;

11 (B) any information that would reasonably lead to
12 the identification of a complainant, witness, or informant;

13 (C) information obtained from or contained in the
14 records of the facility;

15 (D) information that is publicly available; or

16 (E) information that is confidential by law;

17 (4) that ~~[the commission to give]~~ full consideration
18 is given to all ~~[factual]~~ arguments raised during the informal
19 dispute resolution process that:

20 (A) are supported by references to specific
21 information that the facility or department relies on to dispute or
22 support findings in the statement of violations; and

23 (B) are provided by the proponent of the argument
24 ~~[to the commission]~~ and the opposing party;

25 (5) that full consideration is given during the
26 informal dispute resolution process ~~[staff give full~~
27 ~~consideration]~~ to the information provided by the assisted living

1 facility and the department;

2 (6) that ex parte communications concerning the
3 substance of any argument relating to a survey, inspection,
4 investigation, visit, or statement of violations under
5 consideration not occur between the informal dispute resolution
6 staff and the assisted living facility or the department; and

7 (7) that the assisted living facility and the
8 department be given a reasonable opportunity to submit arguments
9 and information supporting the position of the assisted living
10 facility or the department and to respond to arguments and
11 information presented against them.

12 SECTION 13. Section 250.001(3), Health and Safety Code, as
13 amended by S.B. No. 219, Acts of the 84th Legislature, Regular
14 Session, 2015, is amended to read as follows:

15 (3) "Facility" means:

16 (A) a nursing facility, custodial care home, or
17 other institution licensed by the Department of Aging and
18 Disability Services under Chapter 242;

19 (B) an assisted living facility licensed by the
20 Department of Aging and Disability Services under Chapter 247;

21 (C) a home and community support services agency
22 licensed under Chapter 142;

23 (D) a day activity and health services [~~an adult~~
24 ~~day care~~] facility licensed by the Department of Aging and
25 Disability Services under Chapter 103, Human Resources Code;

26 (E) an ICF-IID licensed under Chapter 252;

27 (F) an adult foster care provider that contracts

1 with the Department of Aging and Disability Services;

2 (G) a facility that provides mental health
3 services and that is operated by or contracts with the Department of
4 State Health Services;

5 (H) a local mental health authority designated
6 under Section 533.035 or a local intellectual and developmental
7 disability authority designated under Section 533.035;

8 (I) a person exempt from licensing under Section
9 142.003(a)(19);

10 (J) a special care facility licensed by the
11 Department of State Health Services under Chapter 248;

12 (K) a mental health service unit of a hospital
13 licensed under Chapter 241; or

14 (L) a prescribed pediatric extended care center
15 licensed by the Department of Aging and Disability Services under
16 Chapter 248A.

17 SECTION 14. Subchapter C, Chapter 252, Health and Safety
18 Code, is amended by adding Section 252.0615 to read as follows:

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

26 (b) The matrix of progressive sanctions adopted under this
27 section must provide for increases in amounts of administrative

1 penalties based on type, frequency, and seriousness of violations
2 and must provide guidance for determining appropriate and graduated
3 administrative penalties to assess under this chapter to deter
4 future violations, including guidance on considering the factors
5 listed in this chapter for determining the amount of a penalty.

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

15 SECTION 15. Section 252.065, Health and Safety Code, is
16 amended by amending Subsection (b) and Subsection (e), as amended
17 by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, to
18 read as follows:

19 (b) The penalty for a facility with fewer than 60 beds shall
20 be not less than \$100 or more than \$1,000 for each violation. The
21 penalty for a facility with 60 beds or more shall be not less than
22 \$100 or more than \$5,000 for each violation. [~~The total amount of~~
23 ~~the penalty assessed for a violation continuing or occurring on~~
24 ~~separate days under this subsection may not exceed \$5,000 for a~~
25 ~~facility with fewer than 60 beds or \$25,000 for a facility with 60~~
26 ~~beds or more.] Each day a violation occurs or continues is a
27 separate violation for purposes of imposing a penalty.~~

1 (e) The executive commissioner by rule shall provide the
2 facility with a reasonable period of time, not less than 45 days,
3 following the first day of a violation to correct the violation
4 before the department may assess an administrative penalty if a
5 plan of correction has been implemented. The executive
6 commissioner by rule shall define the types of minor violations a
7 facility may correct before the department may assess an
8 administrative penalty. The executive commissioner shall ensure
9 that all other violations are not subject to a right to correct
10 ~~[This subsection does not apply to a violation described by~~
11 ~~Subsections (a)(2)-(8) or to a violation that the department~~
12 ~~determines.~~

13 ~~[(1) has resulted in serious harm to or the death of a~~
14 ~~resident;~~

15 ~~[(2) constitutes a serious threat to the health or~~
16 ~~safety of a resident; or~~

17 ~~[(3) substantially limits the institution's capacity~~
18 ~~to provide care].~~

19 SECTION 16. Section 255.003, Health and Safety Code, is
20 amended by amending Subsections (b), (e), and (j) and adding
21 Subsections (b-1) and (i-1) to read as follows:

22 (b) Monitoring ~~[Priority for monitoring]~~ visits shall be
23 given to long-term care facilities:

24 (1) with a history of patient care deficiencies; or

25 (2) that are identified as medium risk through the
26 department's early warning system.

27 (b-1) A long-term care facility may request a monitoring

1 visit under this section.

2 (e) Quality-of-care monitors shall assess:

3 (1) the overall quality of life in the long-term care
4 facility; and

5 (2) specific conditions in the facility directly
6 related to patient care, including conditions identified through
7 the long-term care facility's quality measure reports based on
8 Minimum Data Set Resident Assessments.

9 (i-1) The department shall schedule a follow-up visit not
10 later than the 45th day after the date of an initial monitoring
11 visit conducted under this section.

12 (j) Conditions observed by the quality-of-care monitor that
13 create an immediate threat to the health or safety of a resident
14 shall be reported immediately to the long-term care facility
15 administrator, to the regional office supervisor for appropriate
16 action, and, as appropriate or as required by law, to law
17 enforcement, adult protective services, other divisions of the
18 department, or other responsible agencies.

19 SECTION 17. Section 255.004, Health and Safety Code, is
20 amended by amending Subsection (a) and adding Subsections (a-1) and
21 (a-2) to read as follows:

22 (a) In this section:

23 (1) "Abuse" has the meaning assigned by Section
24 260A.001.

25 (2) "Immediate threat to health and safety" means a
26 situation in which immediate corrective action is necessary because
27 the facility's noncompliance with one or more requirements has

1 caused, or is likely to cause, serious injury, harm, impairment, or
2 death to a resident.

3 (3) "Neglect" has the meaning assigned by Section
4 260A.001.

5 (a-1) The department shall create rapid response teams
6 composed of health care experts that can visit a long-term care
7 facility that:

8 (1) is [~~facilities~~] identified as high risk through
9 the department's early warning system; or

10 (2) if the long-term care facility is a nursing
11 institution, has committed three violations described by Section
12 242.061(a-1), within a 24-month period, that constitute an
13 immediate threat to health and safety related to the abuse or
14 neglect of a resident.

15 (a-2) A long-term care facility shall cooperate with a rapid
16 response team deployed under this section to improve the quality of
17 care provided at the facility.

18 SECTION 18. Subchapter B, Chapter 533A, Health and Safety
19 Code, as added by S.B. 219, Acts of the 84th Legislature, Regular
20 Session, 2015, is amended by adding Section 533A.044 to read as
21 follows:

22 Sec. 533A.044. CRISIS INTERVENTION TEAMS. (a) In this
23 section, "crisis intervention team" means a team of individuals
24 specially trained to provide services and support to persons with
25 an intellectual or developmental disability who have behavioral
26 health needs and who are at risk of institutionalization.

27 (b) The department shall evaluate the effectiveness of

1 various models of crisis intervention teams that are funded under a
2 waiver under Section 1115 of the federal Social Security Act (42
3 U.S.C. Section 1315) and operated by a local intellectual and
4 developmental disability authority.

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

9 (d) The department shall determine the areas in this state
10 in which local intellectual and developmental disability
11 authorities do not operate crisis intervention teams and, subject
12 to available funding, shall implement in each area a team that
13 operates in accordance with a model selected for implementation
14 under this section.

15 SECTION 19. Chapter 555, Health and Safety Code, is amended
16 by adding Subchapter F to read as follows:

17 SUBCHAPTER F. STATE SUPPORTED LIVING CENTER RESTRUCTURING AND
18 CLOSURES

19 Sec. 555.201. STATE SUPPORTED LIVING CENTER RESTRUCTURING
20 COMMISSION. (a) In this subchapter, "restructuring commission"
21 means the state supported living center restructuring commission.

22 (b) The restructuring commission consists of five members
23 appointed by the governor and the following three nonvoting ex
24 officio members:

25 (1) the executive commissioner or the executive
26 commissioner's designee;

27 (2) the executive director of the Texas Facilities

1 Commission or the executive director's designee; and

2 (3) the commissioner of the General Land Office or the
3 commissioner's designee.

4 (c) The restructuring commission is established to evaluate
5 each state supported living center in the state to determine
6 whether closure of the center is recommended to maintain only the
7 number of centers necessary to meet the level of need in the state.
8 In evaluating each state supported living center, the restructuring
9 commission shall consider:

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

13 (2) the costs of operating the center;

14 (3) the center's compliance with the 2009 settlement
15 agreement between the department and the United States Department
16 of Justice regarding services provided to individuals with an
17 intellectual or developmental disability in state-operated
18 facilities;

19 (4) the availability of community service providers in
20 the area served by the center;

21 (5) the specialty services provided at the center,
22 including the ability of the center to serve alleged offenders or
23 high-risk residents;

24 (6) the availability of employment opportunities for
25 center employees if the center closes;

26 (7) any infrastructure deficiency costs relating to
27 the center;

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

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

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

10 (11) any other criteria the restructuring commission
11 considers appropriate.

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

21 (e) A member of the restructuring commission may not:

22 (1) have a direct or indirect interest in any contract
23 or proposed contract with a licensed provider of ICF-IID services,
24 or other provider of services to individuals with an intellectual
25 or developmental disability;

26 (2) acquire a direct or indirect pecuniary interest in
27 any provider of ICF-IID services, or other provider of services to

1 individuals with an intellectual or developmental disability; or

2 (3) have a financial interest in the closure of a state
3 supported living center.

4 (f) The restructuring commission is abolished and this
5 section expires January 1, 2017.

6 Sec. 555.202. RECOMMENDED CLOSURES OF STATE SUPPORTED
7 LIVING CENTERS. (a) If the restructuring commission proposes the
8 closure of one or more state supported living centers, the 85th
9 Legislature shall consider legislation proposing the closure of the
10 centers recommended for closure. In considering the proposed
11 legislation described by this subsection, members of the
12 legislature may not propose amendments to the legislation.

13 (b) If the legislation described by Subsection (a) is
14 enacted and becomes law, the department shall ensure that each
15 state supported living center approved by the legislature for
16 closure under Subsection (a) is closed not later than August 31,
17 2025.

18 (c) This subchapter expires September 1, 2025.

19 Sec. 555.203. CLOSURE OF AUSTIN STATE SUPPORTED LIVING
20 CENTER. (a) The department shall establish a closure plan for the
21 Austin State Supported Living Center. The plan must provide for
22 closure of the facility and operations of the Austin State
23 Supported Living Center not later than August 31, 2017.

24 (b) The closure plan must provide procedures to transition
25 to the community each resident for whom:

26 (1) the resident's care team recommends a community
27 placement;

1 (2) a community placement is available for the
2 resident; and

3 (3) a community placement is the choice of the
4 resident.

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

10 (d) The proceeds from the closure, including from the sale
11 or lease of facilities or other property, may be appropriated only
12 for services for persons with an intellectual or developmental
13 disability, including persons with a dual diagnosis of an
14 intellectual or developmental disability and mental illness.

15 (e) Not later than August 31, 2018, the department shall
16 evaluate the closure process, including how well the closure plan
17 worked, and, if appropriate, establish policies for improving the
18 closure process for future closures of other state supported living
19 centers.

20 (f) This section expires September 1, 2018.

21 SECTION 20. Section 531.0318, Government Code, is amended
22 by adding Subsections (b-1), (d), and (e) to read as follows:

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

25 (1) a rating assigned by the Department of Aging and
26 Disability Services indicating the quality of the care provided or,
27 alternatively, a link to a rating assigned a provider on an Internet

1 website maintained by the federal government;

2 (2) information concerning quality of care, as that
3 information becomes available;

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

8 (4) the ratio of staff members to residents; and

9 (5) the provider's regulatory performance, as
10 available.

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

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

21 SECTION 21. Section 531.058(a), Government Code, as amended
22 by S.B. No. 219, Acts of the 84th Legislature, Regular Session,
23 2015, and Section 531.058(c), Government Code, are amended to read
24 as follows:

25 (a) The executive commissioner by rule shall establish an
26 informal dispute resolution process in accordance with this
27 section. The process must provide for adjudication by an

1 appropriate disinterested person of disputes relating to a proposed
2 enforcement action or related proceeding of the commission under
3 Section 32.021(d), Human Resources Code, or the Department of Aging
4 and Disability Services under Chapter 242, 247, or 252, Health and
5 Safety Code. The informal dispute resolution process must require:

6 (1) an institution or facility to request informal
7 dispute resolution not later than the 10th calendar day after
8 notification by the commission or department, as applicable, of the
9 violation of a standard or standards; and

10 (2) the completion of [~~commission to complete~~] the
11 process not later than:

12 (A) the 30th calendar day after receipt of a
13 request from an institution or facility, other than an assisted
14 living facility, for informal dispute resolution; or

15 (B) the 90th calendar day after receipt of a
16 request from an assisted living facility for informal dispute
17 resolution.

18 (c) The commission may not delegate its responsibility to
19 administer the informal dispute resolution process established by
20 this section to another state agency. This section does not apply
21 to the informal dispute resolution process established by Section
22 247.051, Health and Safety Code, applicable to assisted living
23 facilities licensed under Chapter 247, Health and Safety Code.

24 SECTION 22. Section 531.058, Government Code, is amended by
25 adding Subsection (a-1) to read as follows:

26 (a-1) As part of the informal dispute resolution process
27 established under this section, the commission shall contract with

1 an appropriate disinterested person who is a nonprofit organization
2 to adjudicate disputes between an institution or facility licensed
3 under Chapter 242, Health and Safety Code, and the Department of
4 Aging and Disability Services concerning a statement of violations
5 prepared by the department in connection with a survey conducted by
6 the department of the institution or facility. Section 2009.053
7 does not apply to the selection of an appropriate disinterested
8 person under this subsection. The person with whom the commission
9 contracts shall adjudicate all disputes described by this
10 subsection.

11 SECTION 23. Section 531.951(a), Government Code, is amended
12 to read as follows:

13 (a) This subchapter applies only to the final licensing,
14 listing, or registration decisions of a health and human services
15 agency with respect to a person under the law authorizing the agency
16 to regulate the following types of persons:

17 (1) a youth camp licensed under Chapter 141, Health
18 and Safety Code;

19 (2) a home and community support services agency
20 licensed under Chapter 142, Health and Safety Code;

21 (3) a hospital licensed under Chapter 241, Health and
22 Safety Code;

23 (4) an institution licensed under Chapter 242, Health
24 and Safety Code;

25 (5) an assisted living facility licensed under Chapter
26 247, Health and Safety Code;

27 (6) a special care facility licensed under Chapter

1 248, Health and Safety Code;

2 (7) an intermediate care facility licensed under
3 Chapter 252, Health and Safety Code;

4 (8) a chemical dependency treatment facility licensed
5 under Chapter 464, Health and Safety Code;

6 (9) a mental hospital or mental health facility
7 licensed under Chapter 577, Health and Safety Code;

8 (10) a child-care facility or child-placing agency
9 licensed under or a family home listed or registered under Chapter
10 42, Human Resources Code; or

11 (11) a day activity and health services [~~an adult~~
12 ~~day-care~~] facility licensed under Chapter 103, Human Resources
13 Code.

14 SECTION 24. Subchapter D, Chapter 48, Human Resources Code,
15 is amended by adding Section 48.15221 to read as follows:

16 Sec. 48.15221. REPORTS CONCERNING DAY HABILITATION
17 SERVICES PROVIDERS. (a) In this section, "day habilitation
18 services" and "day habilitation services provider" have the
19 meanings assigned by Section 161.401.

20 (b) The department shall prepare and submit to the
21 Department of Aging and Disability Services an annual report of the
22 number of investigations arising from a report of abuse, neglect,
23 or exploitation of a person with an intellectual or developmental
24 disability that was allegedly committed by or on the premises of a
25 day habilitation services provider, and whether the investigation
26 concluded that the report of alleged abuse, neglect, or
27 exploitation was confirmed, unconfirmed, inconclusive, or

1 unfounded.

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

8 SECTION 25. The heading to Chapter 103, Human Resources
9 Code, is amended to read as follows:

10 CHAPTER 103. DAY ACTIVITY AND HEALTH SERVICES PROGRAMS [~~ADULT DAY~~
11 ~~CARE~~]

12 SECTION 26. Section 103.001, Human Resources Code, as
13 amended by S.B. No. 219, Acts of the 84th Legislature, Regular
14 Session, 2015, is amended to read as follows:

15 Sec. 103.001. PURPOSE. It is the purpose of this chapter to
16 establish programs of quality day activity and health services
17 [~~adult day care and day health care~~] that will enable persons with
18 disabilities who have medical or functional impairments and elderly
19 persons to maintain maximum independence and to prevent premature
20 or inappropriate institutionalization. It is the purpose of this
21 chapter to provide adequately regulated supervision for elderly
22 persons and persons with disabilities while enabling them to remain
23 in a family environment and affording the family a measure of
24 normality in its daily activities. The legislature intends to
25 provide for the development of policies and programs that will:

- 26 (1) provide alternatives to institutionalization;
27 (2) establish facilities for day activity and health

1 services programs [~~adult day care and day health care~~] throughout
2 the state that offer services and are accessible to economically
3 disadvantaged persons; and

4 (3) prevent inappropriate institutionalization.

5 SECTION 27. Section 103.002, Human Resources Code, is
6 amended to read as follows:

7 Sec. 103.002. SHORT TITLE. This chapter may be cited as the
8 Day Activity and Health Services [~~Adult Day Care~~] Act.

9 SECTION 28. Section 103.003(1), Human Resources Code, as
10 amended by S.B. No. 219, Acts of the 84th Legislature, Regular
11 Session, 2015, is amended to read as follows:

12 (1) "Day activity and health services facility"
13 [~~"Adult day-care facility"~~] means a facility that provides services
14 under a day activity and health services [~~an adult day-care~~]
15 program on a daily or regular basis but not overnight to four or
16 more elderly persons or persons with disabilities who are not
17 related by blood, marriage, or adoption to the owner of the
18 facility.

19 SECTION 29. Section 103.003(2), Human Resources Code, is
20 amended to read as follows:

21 (2) "Day activity and health services program" [~~"Adult~~
22 ~~day-care program"~~] means a structured, comprehensive program that
23 is designed to meet the needs of adults with functional impairments
24 through an individual plan of care by providing health, social, and
25 related support services in a protective setting.

26 SECTION 30. Section 103.0041(a), Human Resources Code, is
27 amended to read as follows:

1 (a) A person may not operate a day activity and health
2 services [~~an adult day-care~~] facility without a license issued
3 under this chapter.

4 SECTION 31. Section 103.006(a), Human Resources Code, is
5 amended to read as follows:

6 (a) The department shall issue a license to operate a day
7 activity and health services [~~an adult day-care~~] facility to a
8 person who has met the application requirements and received
9 approval after an on-site inspection.

10 SECTION 32. Section 103.007(a), Human Resources Code, is
11 amended to read as follows:

12 (a) An applicant for a license to operate a day activity and
13 health services [~~an adult day-care~~] facility must file an
14 application on a form prescribed by the department together with a
15 license fee of \$50.

16 SECTION 33. Section 103.0075(a), Human Resources Code, as
17 amended by S.B. No. 219, Acts of the 84th Legislature, Regular
18 Session, 2015, is amended to read as follows:

19 (a) The executive commissioner by rule shall adopt a
20 procedure under which a person proposing to construct or modify a
21 day activity and health services [~~an adult day-care~~] facility may
22 submit building plans to the department for review for compliance
23 with the department's architectural requirements before beginning
24 construction or modification. In adopting the procedure, the
25 executive commissioner shall set reasonable deadlines by which the
26 department must complete review of submitted plans.

27 SECTION 34. Chapter 103, Human Resources Code, is amended

1 by adding Section 103.0085 to read as follows:

2 Sec. 103.0085. PROGRESSIVE SANCTIONS. (a) The executive
3 commissioner by rule shall create a matrix of progressive sanctions
4 that the department must use to assess penalty amounts and impose
5 disciplinary actions under this chapter appropriately and fairly
6 for a violation of a law, rule, standard, or order adopted or
7 license issued under this chapter or for a violation of other law
8 for which this chapter provides a sanction.

9 (b) The matrix of progressive sanctions adopted under this
10 section must provide for increases in amounts of administrative
11 penalties based on type, frequency, and seriousness of violations
12 and must provide guidance for determining appropriate and graduated
13 administrative penalties to assess under this chapter to deter
14 future violations, including guidance on considering the factors
15 listed in this chapter for determining the amount of a penalty.

16 (c) The matrix of progressive sanctions adopted under this
17 section must provide for imposing stronger sanctions, including
18 license suspension or revocation, for more serious violations or
19 for repeated violations as appropriate to deter future serious or
20 repeated violations. The matrix of progressive sanctions must
21 describe appropriate time frames to be used in determining whether
22 a day activity and health services facility has committed repeated
23 violations or has engaged in a pattern of repeated violations, such
24 as repeated violations found in consecutive regular inspections.

25 SECTION 35. Section 103.0091(a), Human Resources Code, is
26 amended to read as follows:

27 (a) The department may petition a district court for a

1 temporary restraining order to restrain a continuing violation of
2 the standards or licensing requirements provided under this chapter
3 if the department finds that the violation creates an immediate
4 threat to the health and safety of the day activity and health
5 services facility [~~adult day-care~~] residents.

6 SECTION 36. Section 103.0092(a), Human Resources Code, is
7 amended to read as follows:

8 (a) If the department finds a day activity and health
9 services [~~an adult day-care~~] facility operating in violation of the
10 standards prescribed by this chapter and the violations create an
11 immediate threat to the health and safety of a resident in the
12 facility, the department shall suspend the license or order
13 immediate closing of all or part of the facility.

14 SECTION 37. Section 103.011, Human Resources Code, is
15 amended to read as follows:

16 Sec. 103.011. RIGHTS OF THE ELDERLY. (a) In addition to
17 other rights an individual attending a day activity and health
18 services [~~an adult day-care~~] facility has as a citizen, an
19 individual who is 55 years of age or older has the rights prescribed
20 by Chapter 102 of this code.

21 (b) The department shall require each day activity and
22 health services [~~adult day-care~~] facility to implement and enforce
23 the applicable provisions of Chapter 102 of this code.

24 SECTION 38. Section 103.012(a), Human Resources Code, is
25 amended to read as follows:

26 (a) The department may assess an administrative penalty
27 against a person who:

- 1 (1) violates this chapter, a rule, standard, or order
2 adopted under this chapter, or a term of a license issued under this
3 chapter;
- 4 (2) makes a false statement of a material fact that the
5 person knows or should know is false:
- 6 (A) on an application for issuance or renewal of
7 a license or in an attachment to the application; or
- 8 (B) with respect to a matter under investigation
9 by the department;
- 10 (3) refuses to allow a representative of the
11 department to inspect:
- 12 (A) a book, record, or file required to be
13 maintained by a day activity and health services [~~an adult~~
14 ~~day-care~~] facility; or
- 15 (B) any portion of the premises of a day activity
16 and health services [~~an adult day-care~~] facility;
- 17 (4) wilfully interferes with the work of a
18 representative of the department or the enforcement of this
19 chapter;
- 20 (5) wilfully interferes with a representative of the
21 department preserving evidence of a violation of this chapter, a
22 rule, standard, or order adopted under this chapter, or a term of a
23 license issued under this chapter;
- 24 (6) fails to pay a penalty assessed under this chapter
25 not later than the 30th day after the date the assessment of the
26 penalty becomes final; or
- 27 (7) fails to notify the department of a change of

1 ownership before the effective date of the change of ownership.

2 SECTION 39. Section 103.013, Human Resources Code, is
3 amended to read as follows:

4 Sec. 103.013. RIGHT TO CORRECT BEFORE IMPOSITION OF
5 ADMINISTRATIVE PENALTY. (a) The department may not collect an
6 administrative penalty from a day activity and health services [~~an~~
7 ~~adult day-care~~] facility under Section 103.012 if, not later than
8 the 45th day after the date the facility receives notice under
9 Section 103.014(c), the facility corrects the violation.

10 (b) The executive commissioner of the Health and Human
11 Services Commission by rule shall define types of minor violations
12 a day activity and health services facility may correct under
13 Subsection (a) before assessing an administrative penalty. The
14 executive commissioner shall ensure that all other violations are
15 not subject to a right to correct [~~Subsection (a) does not apply to:~~

16 [~~(1) a violation that the department determines:~~

17 [~~(A) results in serious harm to or death of a~~
18 ~~person attending the facility;~~

19 [~~(B) constitutes a serious threat to the health~~
20 ~~and safety of a person attending the facility; or~~

21 [~~(C) substantially limits the facility's~~
22 ~~capacity to provide care;~~

23 [~~(2) a violation described by Sections~~
24 ~~103.012(a)(2)-(7); or~~

25 [~~(3) a violation of Section 103.011].~~

26 (c) A day activity and health services [~~An adult day-care~~]
27 facility that corrects a violation must maintain the correction.

1 If the facility fails to maintain the correction until at least the
2 first anniversary after the date the correction was made, the
3 department may assess and collect an administrative penalty for the
4 subsequent violation. An administrative penalty assessed under
5 this subsection is equal to three times the amount of the original
6 penalty assessed but not collected. The department is not required
7 to provide the facility with an opportunity under this section to
8 correct the subsequent violation.

9 SECTION 40. Sections 103.014(c) and (e), Human Resources
10 Code, are amended to read as follows:

11 (c) The department shall give written notice of the report
12 to the person charged with the violation not later than the 10th day
13 after the date on which the report is issued. The notice must
14 include:

- 15 (1) a brief summary of the charges;
- 16 (2) a statement of the amount of penalty recommended;
- 17 (3) a statement of whether the violation is subject to
18 correction under Section 103.013 and, if the violation is subject
19 to correction under that section, a statement of:

20 (A) the date on which the day activity and health
21 services [~~adult day-care~~] facility must file a plan of correction
22 with the department that the department shall review and may
23 approve, if satisfactory; and

24 (B) the date on which the plan of correction must
25 be completed to avoid assessment of the penalty; and

26 (4) a statement that the person charged has a right to
27 a hearing on the occurrence of the violation, the amount of the

1 penalty, or both.

2 (e) If the violation is subject to correction under Section
3 103.013, the day activity and health services [~~adult day-care~~]
4 facility shall submit a plan of correction to the department for
5 approval not later than the 10th day after the date on which the
6 notice under Subsection (c) is received.

7 SECTION 41. Section 161.080, Human Resources Code, is
8 amended by adding Subsection (c) to read as follows:

9 (c) The executive commissioner by rule shall establish a
10 list of services a state supported living center may provide under a
11 contract described by Subsection (a) and a schedule of fees the
12 state supported living center may charge for those services. In
13 establishing the schedule of fees for services, the executive
14 commissioner shall use the reimbursement rate for the applicable
15 service under the Medicaid program.

16 SECTION 42. Chapter 161, Human Resources Code, is amended
17 by adding Subchapter J to read as follows:

18 SUBCHAPTER J. POWERS AND DUTIES RELATING TO DAY HABILITATION

19 SERVICES PROVIDERS

20 Sec. 161.401. DEFINITIONS. In this subchapter:

21 (1) "Day habilitation services" means services to
22 assist persons with an intellectual or developmental disability in
23 acquiring, retaining, and improving the self-help, socialization,
24 and adaptive skills necessary to reside successfully in the
25 community, including prevocational, educational, and supported
26 employment services.

27 (2) "Day habilitation services provider" means a

1 person who contracts with a community-based intellectual and
2 developmental disabilities services provider or intermediate care
3 facility to provide federally funded Medicaid day habilitation
4 services authorized under Section 1915(c) of the federal Social
5 Security Act (42 U.S.C. Section 1396n(c)).

6 Sec. 161.402. DAY HABILITATION SERVICES PROVIDER
7 INFORMATION TRACKING. (a) Each community-based intellectual and
8 developmental disabilities services provider and intermediate care
9 facility shall annually submit to the department a report
10 providing:

11 (1) an estimate of the number of clients receiving day
12 habilitation services for each month of that year;

13 (2) the physical address of each day habilitation
14 services provider that provided those services;

15 (3) the services provided to those clients; and

16 (4) an estimate of monthly expenditures for the
17 provision of those services to those clients.

18 (b) The department shall maintain information obtained
19 during a department inspection of a day habilitation services
20 provider concerning conduct or conditions that would constitute a
21 violation of federal or state law or of department rules applicable
22 to the community-based intellectual and developmental disabilities
23 services provider or intermediate care facility with which the day
24 habilitation services provider contracts.

25 (c) The department shall maintain information concerning an
26 investigation of abuse, neglect, or exploitation concerning a day
27 habilitation services provider that the department receives from

1 the Department of Family and Protective Services under Section
2 48.15221.

3 Sec. 161.403. DAY HABILITATION PROGRAM ADVISORY COMMITTEE.

4 (a) Not later than September 1, 2015, the department shall
5 establish a day habilitation program advisory committee composed of
6 members that represent community-based waiver providers, owners of
7 day habilitation services providers, and advocates for persons with
8 an intellectual or developmental disability.

9 (b) The day habilitation program advisory committee shall
10 consider and make recommendations concerning whether the provision
11 of day habilitation services in this state should be redesigned and
12 whether day habilitation services providers should be subject to
13 regulation, including by licensure or certification.

14 (c) In considering the redesign of the provision of day
15 habilitation services in this state, the day habilitation program
16 advisory committee shall examine whether day habilitation service
17 providers currently comply with the requirements of 42 C.F.R.
18 Section 441.301.

19 (d) The day habilitation program advisory committee shall
20 also consider and make recommendations concerning issues relevant
21 to the provision of day habilitation services, including the
22 appropriate funding for services, reimbursable settings and
23 services, staff-to-client ratio requirements, safety requirements,
24 and other required or applicable standards.

25 (e) Not later than September 1, 2016, the day habilitation
26 program advisory committee shall submit to the governor, the
27 lieutenant governor, the speaker of the house of representatives,

1 and the presiding officers of the standing committees of the senate
2 and house of representatives having primary jurisdiction over
3 intellectual and developmental disability issues a report
4 containing the committee's recommendations concerning the redesign
5 of the provision of day habilitation services in this state and the
6 necessity for regulation, licensure, or certification of day
7 habilitation services providers.

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

10 SECTION 43. Section 247.051(b), Health and Safety Code, is
11 repealed.

12 SECTION 44. Section 101A.158, Human Resources Code, as
13 added by S.B. 219, Acts of the 84th Legislature, Regular Session,
14 2015, is repealed.

15 SECTION 45. (a) Not later than September 1, 2016, the
16 executive commissioner of the Health and Human Services Commission
17 shall adopt by rule the matrices of progressive sanctions required
18 by Sections 142.0125, 242.0613, 247.0415, and 252.0615, Health and
19 Safety Code, and Section 103.0085, Human Resources Code, as added
20 by this Act.

21 (b) Not later than September 1, 2015, the governor shall
22 appoint five members of the state supported living center
23 restructuring commission, as required by Section 555.201, Health
24 and Safety Code, as added by this Act.

25 (c) Not later than September 1, 2016, the executive
26 commissioner of the Health and Human Services Commission shall
27 adopt the rule listing services a state supported living center may

1 provide under a contract and the schedule of fees for those services
2 as required by Section 161.080, Human Resources Code, as amended by
3 this Act.

4 SECTION 46. (a) As soon as possible after the effective
5 date of this Act, the Department of Aging and Disability Services or
6 the Health and Human Services Commission, as appropriate, shall
7 apply for any waiver or other authorization from a federal agency
8 that is necessary to implement this Act. The department and
9 commission may delay implementing this Act until the waiver or
10 authorization is granted.

11 (b) As soon as practicable after the effective date of this
12 Act:

13 (1) the executive commissioner of the Health and Human
14 Services Commission shall adopt the rules necessary to implement
15 Section 531.058(a-1), Government Code, as added by this Act; and

16 (2) the Department of Aging and Disability Services
17 and the Health and Human Services Commission shall, as appropriate,
18 revise or enter into a memorandum of understanding as required by a
19 federal agency that is necessary to implement Section 531.058(a-1),
20 Government Code, as added by this Act.

21 SECTION 47. Sections 242.061(a-2) and (a-3), Health and
22 Safety Code, as added by this Act, apply only to a violation
23 committed on or after September 1, 2016. A violation committed
24 before September 1, 2016, is governed by the law in effect on the
25 date the violation was committed, and the former law is continued in
26 effect for that purpose. For purposes of this section, a violation
27 was committed before September 1, 2016, if any element of the

1 violation occurred before that date.

2 SECTION 48. (a) Except as provided by Subsection (b) of
3 this section, this Act takes effect immediately if it receives a
4 vote of two-thirds of all the members elected to each house, as
5 provided by Section 39, Article III, Texas Constitution. If this
6 Act does not receive the vote necessary for immediate effect, this
7 Act takes effect September 1, 2015.

8 (b) Sections 242.061(a-2) and (a-3), Health and Safety
9 Code, as added by this Act, take effect September 1, 2016.