

By: Hinojosa, et al.
(Raymond)

S.B. No. 204

Substitute the following for S.B. No. 204:

By: Raymond

C.S.S.B. No. 204

A BILL TO BE ENTITLED

AN ACT

relating to the continuation of the functions 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 adult day
services facility [~~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 (b-1) The matrix of progressive sanctions adopted under
24 this section must provide for imposing lesser sanctions for lesser
25 violations, which may include violations that:

26 (1) are technical, clerical, or de minimis in nature;

27 (2) do not involve abuse, neglect, or exploitation of

1 a client; and

2 (3) do not cause injury or impairment to a client or
3 cause the death of a client.

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 home and community support services agency has committed repeated
11 violations or has engaged in a pattern of repeated violations, such
12 as repeated violations found in consecutive regular inspections.

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

15 (b) The penalty shall be not less than \$100 or more than
16 \$5,000 [~~\$1,000~~] for each violation. Each day of a violation that
17 occurs before the day on which the person receives written notice of
18 the violation from the department does not constitute a separate
19 violation and shall be considered to be one violation. Each day of
20 a continuing violation that occurs after the day on which the person
21 receives written notice of the violation from the department
22 constitutes a separate violation.

23 (j) The executive commissioner by rule shall define the
24 types of minor violations an agency may correct under Subsection
25 (e) before the department may assess an administrative penalty.
26 The executive commissioner shall ensure that all other violations
27 are not subject to a right to correct [~~The department may assess an~~

1 ~~administrative penalty without providing a reasonable period of~~
2 ~~time to the agency to correct the violation if the violation:~~

3 ~~[(1) results in serious harm or death;~~

4 ~~[(2) constitutes a serious threat to health or safety;~~

5 ~~[(3) substantially limits the agency's capacity to~~
6 ~~provide care;~~

7 ~~[(4) is a violation in which a person:~~

8 ~~[(A) makes a false statement, that the person~~
9 ~~knows or should know is false, of a material fact:~~

10 ~~[(i) on an application for issuance or~~
11 ~~renewal of a license or in an attachment to the application; or~~

12 ~~[(ii) with respect to a matter under~~
13 ~~investigation by the department;~~

14 ~~[(B) refuses to allow a representative of the~~
15 ~~department to inspect a book, record, or file required to be~~
16 ~~maintained by an agency;~~

17 ~~[(C) wilfully interferes with the work of a~~
18 ~~representative of the department or the enforcement of this~~
19 ~~chapter;~~

20 ~~[(D) wilfully interferes with a representative~~
21 ~~of the department preserving evidence of a violation of this~~
22 ~~chapter or a rule, standard, or order adopted or license issued~~
23 ~~under this chapter;~~

24 ~~[(E) fails to pay a penalty assessed by the~~
25 ~~department under this chapter not later than the 10th day after the~~
26 ~~date the assessment of the penalty becomes final; or~~

27 ~~[(F) fails to submit:~~

1 ~~[(i) a plan of correction not later than the~~
2 ~~10th day after the date the person receives a statement of licensing~~
3 ~~violations; or~~

4 ~~[(ii) an acceptable plan of correction not~~
5 ~~later than the 30th day after the date the person receives~~
6 ~~notification from the department that the previously submitted plan~~
7 ~~of correction is not acceptable;~~

8 ~~[(5) is a violation of Section 142.0145; or~~

9 ~~[(6) involves the rights of the elderly under Chapter~~
10 ~~102, Human Resources Code].~~

11 SECTION 4. Section 164.003(5), 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 (5) "Mental health facility" means:

15 (A) a "mental health facility" as defined by
16 Section 571.003;

17 (B) a residential treatment facility, other than
18 a mental health facility, in which persons are treated for
19 emotional problems or disorders in a 24-hour supervised living
20 environment; and

21 (C) an adult day services ~~[day-care]~~ facility as
22 defined by Section 103.003, Human Resources Code.

23 SECTION 5. (a) It is the intent of the legislature that
24 Section 242.061, Health and Safety Code, as amended by this
25 section, establish a ceiling or maximum number of violations
26 related to the abuse and neglect of a resident that a facility can
27 commit before the executive commissioner is required to revoke the

1 facility's license. The changes in law made by this section are not
2 intended to limit or diminish the department's permissive authority
3 to revoke a license under Chapter 242, Health and Safety Code.

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

7 (a) In this section:

8 (1) "Abuse" has the meaning assigned by Section
9 260A.001.

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

15 (3) "Neglect" has the meaning assigned by Section
16 260A.001.

17 (a-1) The department, after providing notice and
18 opportunity for a hearing to the applicant or license holder, may
19 deny, suspend, or revoke a license if the department finds that the
20 applicant, the license holder, or any other person described by
21 Section 242.032(d) has:

22 (1) violated this chapter or a rule, standard, or
23 order adopted or license issued under this chapter in either a
24 repeated or substantial manner;

25 (2) committed any act described by Sections
26 242.066(a)(2)-(6); or

27 (3) failed to comply with Section 242.074.

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

4 (1) the license holder has committed three violations
5 described by Subsection (a-1), within a 24-month period, that
6 constitute an immediate threat to health and safety related to the
7 abuse or neglect of a resident; and

8 (2) each of the violations described by Subdivision
9 (1) is reported in connection with a separate survey, inspection,
10 or investigation visit that occurred on separate entrance and exit
11 dates.

12 (a-3) The executive commissioner may not revoke a license
13 under Subsection (a-2) due to a violation described by Subsection
14 (a-2)(1), if:

15 (1) the violation and the determination of immediate
16 threat to health and safety are not included on the written list of
17 violations left with the facility at the time of the initial exit
18 conference under Section 242.0445(b) for a survey, inspection, or
19 investigation;

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

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

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

27 (B) the violation is reduced in severity so that

1 the violation is no longer cited as an immediate threat to health
2 and safety related to the abuse or neglect of a resident.

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

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

8 (2) assist with obtaining a new operator for the
9 institution; or

10 (3) assist with the relocation of residents to another
11 institution.

12 (e) The executive commissioner may stay a license
13 revocation required by Subsection (a-2) if the executive
14 commissioner determines that the stay would not jeopardize the
15 health and safety of the residents of the facility or place the
16 residents at risk of abuse or neglect. The executive commissioner
17 by rule shall establish criteria under which a license revocation
18 may be stayed under this subsection. The executive commissioner
19 shall follow negotiated rulemaking procedures prescribed by
20 Chapter 2008, Government Code, for the adoption of rules
21 establishing the criteria. The criteria established must permit
22 the executive commissioner to stay a license revocation of a
23 nursing facility for which the department has deployed a rapid
24 response team under Section 255.004, if the facility has cooperated
25 with the rapid response team and demonstrated improvement in
26 quality of care, as determined by the rapid response team.

27 (e-1) The executive commissioner may stay a license

1 revocation required by Subsection (a-2) for a veterans home, as
2 defined by Section 164.002, Natural Resources Code, if the
3 Veterans' Land Board contracts with a different entity to operate
4 the veterans home than the entity that operated the home during the
5 period in which the violations described by Subsection (a-2)
6 occurred.

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

9 Sec. 242.0613. 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 facility has committed repeated violations or has engaged in a
3 pattern of repeated violations, such as repeated violations found
4 in consecutive regular inspections.

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

7 (a) The department, after providing notice and opportunity
8 for a hearing, may exclude a person from eligibility for a license
9 under this chapter if the person or any person described by Section
10 242.032(d) has substantially failed to comply with this chapter and
11 the rules adopted under this chapter. The authority granted by this
12 subsection is in addition to the authority to deny issuance of a
13 license under Section 242.061(a-1) [~~242.061(a)~~].

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

16 (b) The executive commissioner by rule shall define types of
17 minor violations a facility may correct under Subsection (a) before
18 the department may assess an administrative penalty. The executive
19 commissioner shall ensure that all other violations are not subject
20 to a right to correct [~~Subsection (a) does not apply:~~

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

22 [~~(A) results in serious harm to or death of a~~
23 ~~resident,~~

24 [~~(B) constitutes a serious threat to the health~~
25 ~~or safety of a resident, or~~

26 [~~(C) substantially limits the institution's~~
27 ~~capacity to provide care,~~

1 ~~[(2) to a violation described by Sections~~
2 ~~242.066(a)(2)-(7),~~
3 ~~[(3) to a violation of Section 260A.014 or 260A.015,~~
4 ~~or~~
5 ~~[(4) to a violation of a right of a resident adopted~~
6 ~~under Subchapter L].~~

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

9 Sec. 247.0415. 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 an assisted living facility has committed repeated violations or
3 has engaged in a pattern of repeated violations, such as repeated
4 violations found in consecutive regular inspections.

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

7 (b) Except as provided by Section 247.0452(c), the penalty
8 may not exceed \$5,000 [~~\$1,000~~] for each violation. Each day a
9 violation occurs or continues after the date the department
10 provides written notification of the violation is considered a
11 separate violation. The violation is considered a single violation
12 for any days of violation that occurred on or before the date the
13 department provides written notification of the violation.

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

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

22 [~~(1) to a violation that the department determines~~
23 ~~results in serious harm to or death of a resident,~~

24 [~~(2) to a violation described by Sections~~
25 ~~247.0451(a)(2)-(7) or a violation of Section 260A.014 or 260A.015,~~

26 [~~(3) to a second or subsequent violation of:~~

27 [~~(A) a right of the same resident under Section~~

1 ~~247.064, or~~

2 [~~(B) the same right of all residents under~~
3 ~~Section 247.064, or~~

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

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

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

16 (1) the assisted living facility to request informal
17 dispute resolution not later than the 10th day after the date of
18 notification by the department of the violation of a standard or
19 standards;

20 (2) that the [~~commission to complete the~~] process be
21 completed not later than the 90th day after the date of receipt of a
22 request from the assisted living facility for informal dispute
23 resolution;

24 (3) that, not later than the 10th business day after
25 the date an assisted living facility requests an informal dispute
26 resolution, the department forward to the assisted living facility
27 a copy of all information that is referred to in the disputed

1 statement of violations or on which a citation is based in
2 connection with the survey, inspection, investigation, or other
3 visit, excluding:

4 (A) the name of any complainant, witness, or
5 informant;

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

8 (C) information obtained from or contained in the
9 records of the facility;

10 (D) information that is publicly available; or

11 (E) information that is confidential by law;

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

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

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

20 (5) that full consideration is given during the
21 informal dispute resolution process ~~[staff give full~~
22 ~~consideration]~~ to the information provided by the assisted living
23 facility and the department;

24 (6) that ex parte communications concerning the
25 substance of any argument relating to a survey, inspection,
26 investigation, visit, or statement of violations under
27 consideration not occur between the informal dispute resolution

1 staff and the assisted living facility or the department; and

2 (7) that the assisted living facility and the
3 department be given a reasonable opportunity to submit arguments
4 and information supporting the position of the assisted living
5 facility or the department and to respond to arguments and
6 information presented against them.

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

10 (3) "Facility" means:

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

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

16 (C) a home and community support services agency
17 licensed under Chapter 142;

18 (D) an adult day services [~~care~~] facility
19 licensed by the Department of Aging and Disability Services under
20 Chapter 103, Human Resources Code;

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

22 (F) an adult foster care provider that contracts
23 with the Department of Aging and Disability Services;

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

27 (H) a local mental health authority designated

1 under Section 533.035 or a local intellectual and developmental
2 disability authority designated under Section 533.035;

3 (I) a person exempt from licensing under Section
4 142.003(a)(19);

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

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

9 (L) a prescribed pediatric extended care center
10 licensed by the Department of Aging and Disability Services under
11 Chapter 248A.

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

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

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

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

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

14 (b) The penalty for a facility with fewer than 60 beds shall
15 be not less than \$100 or more than \$1,000 for each violation. The
16 penalty for a facility with 60 beds or more shall be not less than
17 \$100 or more than \$5,000 for each violation. [~~The total amount of~~
18 ~~the penalty assessed for a violation continuing or occurring on~~
19 ~~separate days under this subsection may not exceed \$5,000 for a~~
20 ~~facility with fewer than 60 beds or \$25,000 for a facility with 60~~
21 ~~beds or more.] Each day a violation occurs or continues is a
22 separate violation for purposes of imposing a penalty.~~

23 (e) The executive commissioner by rule shall provide the
24 facility with a reasonable period of time, not less than 45 days,
25 following the first day of a violation to correct the violation
26 before the department may assess an administrative penalty if a
27 plan of correction has been implemented. The executive

1 commissioner by rule shall define the types of minor violations a
2 facility may correct before the department may assess an
3 administrative penalty. The executive commissioner shall ensure
4 that all other violations are not subject to a right to correct
5 ~~[This subsection does not apply to a violation described by~~
6 ~~Subsections (a)(2)-(8) or to a violation that the department~~
7 ~~determines.~~

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

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

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

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

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

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

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

22 (b-1) A long-term care facility may request a monitoring
23 visit under this section.

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

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

27 (2) specific conditions in the facility directly

1 related to patient care, including conditions identified through
2 the long-term care facility's quality measure reports based on
3 Minimum Data Set Resident Assessments.

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

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

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

17 (a) In this section:

18 (1) "Abuse" has the meaning assigned by Section
19 260A.001.

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

25 (3) "Neglect" has the meaning assigned by Section
26 260A.001.

27 (a-1) The department shall create rapid response teams

1 composed of health care experts that can visit a long-term care
2 facility that:

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

5 (2) if the long-term care facility is a nursing
6 institution, has committed three violations described by Section
7 242.061(a-1), within a 24-month period, that constitute an
8 immediate threat to health and safety related to the abuse or
9 neglect of a resident.

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

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

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

22 (b) The department shall evaluate the effectiveness of
23 various models of crisis intervention teams that are funded under a
24 waiver under Section 1115 of the federal Social Security Act (42
25 U.S.C. Section 1315) and operated by a local intellectual and
26 developmental disability authority.

27 (c) Not later than March 1, 2016, the department shall

1 select for implementation one or more models for crisis
2 intervention teams the department determines best provide
3 comprehensive, cost-effective support.

4 (d) The department shall determine the areas in this state
5 in which local intellectual and developmental disability
6 authorities do not operate crisis intervention teams. Subject to
7 available funding, the department shall develop a statewide system
8 of locally managed crisis intervention teams by:

9 (1) expanding existing teams to reach other local
10 service areas; or

11 (2) implementing new teams that operate in accordance
12 with a model selected under Subsection (c).

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

15 SUBCHAPTER F. STATE SUPPORTED LIVING CENTER RESTRUCTURING AND
16 CLOSURES

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

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

23 (1) the executive commissioner or the executive
24 commissioner's designee;

25 (2) the executive director of the Texas Facilities
26 Commission or the executive director's designee; and

27 (3) the commissioner of the General Land Office or the

1 commissioner's designee.

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

8 (1) the quality of services provided by the center,
9 including the center's regulatory compliance and the center's
10 ability to meet the minimum ICF-IID standards;

11 (2) the costs of operating the center;

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

17 (4) the availability of community service providers in
18 the area served by the center;

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

22 (6) the availability of employment opportunities for
23 center employees if the center closes;

24 (7) any infrastructure deficiency costs relating to
25 the center;

26 (8) the property value of, the market demand for, and
27 any deed restrictions applicable to property and facilities of the

1 center;

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

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

8 (11) closure costs; and

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

11 (c-1) The restructuring commission shall hold public
12 hearings throughout the state in a manner that accommodates
13 individuals with disabilities and their families to solicit input
14 during the evaluation process under Subsection (c).

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

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

25 (1) have a direct or indirect interest in any contract
26 or proposed contract with a licensed provider of ICF-IID services,
27 or other provider of services to individuals with an intellectual

1 or developmental disability;

2 (2) acquire a direct or indirect pecuniary interest in
3 any provider of ICF-IID services, or other provider of services to
4 individuals with an intellectual or developmental disability;

5 (3) have a financial interest in the closure of a state
6 supported living center;

7 (4) be an agent, paid consultant, officer, or employee
8 of a state supported living center, state center, local authority,
9 licensed provider of ICF-IID services, or other provider of
10 services to individuals with an intellectual or developmental
11 disability;

12 (5) have a financial interest in a state supported
13 living center, state center, local authority, licensed provider of
14 ICF-IID services, or other provider of services to individuals with
15 an intellectual or developmental disability;

16 (6) be an officer, employee, or paid consultant of a
17 trade association in the field of residential services for
18 individuals with an intellectual or developmental disability;

19 (7) be a resident of a state supported living center;
20 or

21 (8) be related within the second degree by affinity or
22 consanguinity, as determined under Chapter 573, Government Code, to
23 a person who is an officer, employee, paid consultant, or resident
24 of a state supported living center, state center, local authority,
25 licensed provider of ICF-IID services, or other provider of
26 services to individuals with an intellectual or developmental
27 disability.

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

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

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

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

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

21 (b) The closure plan must provide procedures to transition
22 each resident of the Austin State Supported Living Center to the
23 community or to another state supported living center, taking into
24 consideration:

25 (1) whether the resident's care team recommends
26 placement in the community;

27 (2) whether a community placement is available for the

1 resident; and

2 (3) the resident's choice.

3 (c) The department may award one-time retention bonuses to
4 each person who holds a position designated as eligible for a bonus
5 by the commissioner and who agrees to continue to provide services
6 at the Austin State Supported Living Center until the center is
7 closed.

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

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

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

19 SECTION 20. Section 531.0318, Government Code, is amended
20 by adding Subsections (b-1), (b-2), (d), and (e) to read as follows:

21 (b-1) Except as provided by Subsection (b-2), the
22 information for consumers required by this section must include for
23 each provider of long-term care services:

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

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

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

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

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

10 (b-2) Subsection (b-1)(1) does not apply to, and the
11 Department of Aging and Disability Services is not required to
12 include the information described by that subsection for, a
13 facility licensed under Chapter 247, Health and Safety Code.

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

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

24 SECTION 21. Section 531.058(a), Government Code, as amended
25 by S.B. No. 219, Acts of the 84th Legislature, Regular Session,
26 2015, and Section 531.058(c), Government Code, are amended to read
27 as follows:

1 (a) The executive commissioner by rule shall establish an
2 informal dispute resolution process in accordance with this
3 section. The process must provide for adjudication by an
4 appropriate disinterested person of disputes relating to a proposed
5 enforcement action or related proceeding of the commission under
6 Section 32.021(d), Human Resources Code, or the Department of Aging
7 and Disability Services under Chapter 242, 247, or 252, Health and
8 Safety Code. The informal dispute resolution process must require:

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

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

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

18 (B) the 90th calendar day after receipt of a
19 request from an assisted living facility for informal dispute
20 resolution.

21 (c) The commission may not delegate its responsibility to
22 administer the informal dispute resolution process established by
23 this section to another state agency. This section does not apply
24 to the informal dispute resolution process established by Section
25 247.051, Health and Safety Code, applicable to assisted living
26 facilities licensed under Chapter 247, Health and Safety Code.

27 SECTION 22. Section 531.058, Government Code, is amended by

1 adding Subsection (a-1) to read as follows:

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

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

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

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

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

24 (3) a hospital licensed under Chapter 241, Health and
25 Safety Code;

26 (4) an institution licensed under Chapter 242, Health
27 and Safety Code;

1 (5) an assisted living facility licensed under Chapter
2 247, Health and Safety Code;

3 (6) a special care facility licensed under Chapter
4 248, Health and Safety Code;

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

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

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

11 (10) a child-care facility or child-placing agency
12 licensed under or a family home listed or registered under Chapter
13 42, Human Resources Code; or

14 (11) an adult day services [~~day-care~~] facility
15 licensed under Chapter 103, Human Resources Code.

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

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

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

1 concluded that the report of alleged abuse, neglect, or
2 exploitation was confirmed, unconfirmed, inconclusive, or
3 unfounded.

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

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

12 CHAPTER 103. ADULT DAY SERVICES [~~CARE~~]

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

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

27 (1) provide alternatives to institutionalization;

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

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

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

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

27 (a) A person may not operate an adult day services

1 ~~[day-care]~~ facility without a license issued under this chapter.

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

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

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

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

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

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

24 SECTION 34. Chapter 103, Human Resources Code, is amended
25 by adding Section 103.0085 to read as follows:

26 Sec. 103.0085. PROGRESSIVE SANCTIONS. (a) The executive
27 commissioner by rule shall create a matrix of progressive sanctions

1 that the department must use to assess penalty amounts and impose
2 disciplinary actions under this chapter appropriately and fairly
3 for a violation of a law, rule, standard, or order adopted or
4 license issued under this chapter or for a violation of other law
5 for which this chapter provides a sanction.

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

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

22 SECTION 35. Section [103.0091](#)(a), Human Resources Code, is
23 amended to read as follows:

24 (a) The department may petition a district court for a
25 temporary restraining order to restrain a continuing violation of
26 the standards or licensing requirements provided under this chapter
27 if the department finds that the violation creates an immediate

1 threat to the health and safety of the adult day services facility
2 [~~day-care~~] residents.

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

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

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

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

17 (b) The department shall require each adult day services
18 [~~care~~] facility to implement and enforce the applicable provisions
19 of Chapter 102 of this code.

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

22 (a) The department may assess an administrative penalty
23 against a person who:

24 (1) violates this chapter, a rule, standard, or order
25 adopted under this chapter, or a term of a license issued under this
26 chapter;

27 (2) makes a false statement of a material fact that the

1 person knows or should know is false:

2 (A) on an application for issuance or renewal of
3 a license or in an attachment to the application; or

4 (B) with respect to a matter under investigation
5 by the department;

6 (3) refuses to allow a representative of the
7 department to inspect:

8 (A) a book, record, or file required to be
9 maintained by an adult day services [~~day-care~~] facility; or

10 (B) any portion of the premises of an adult day
11 services [~~day-care~~] facility;

12 (4) wilfully interferes with the work of a
13 representative of the department or the enforcement of this
14 chapter;

15 (5) wilfully interferes with a representative of the
16 department preserving evidence of a violation of this chapter, a
17 rule, standard, or order adopted under this chapter, or a term of a
18 license issued under this chapter;

19 (6) fails to pay a penalty assessed under this chapter
20 not later than the 30th day after the date the assessment of the
21 penalty becomes final; or

22 (7) fails to notify the department of a change of
23 ownership before the effective date of the change of ownership.

24 SECTION 39. Section [103.013](#), Human Resources Code, is
25 amended to read as follows:

26 Sec. 103.013. RIGHT TO CORRECT BEFORE IMPOSITION OF
27 ADMINISTRATIVE PENALTY. (a) The department may not collect an

1 administrative penalty from an adult day services [~~day-care~~]
2 facility under Section 103.012 if, not later than the 45th day after
3 the date the facility receives notice under Section 103.014(c), the
4 facility corrects the violation.

5 (b) The executive commissioner of the Health and Human
6 Services Commission by rule shall define types of minor violations
7 an adult day services facility may correct under Subsection (a)
8 before assessing an administrative penalty. The executive
9 commissioner shall ensure that all other violations are not subject
10 to a right to correct [~~Subsection (a) does not apply to:~~

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

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

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

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

18 [~~(2) a violation described by Sections~~
19 ~~103.012(a)(2)-(7); or~~

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

21 (c) An adult day services [~~day-care~~] facility that corrects
22 a violation must maintain the correction. If the facility fails to
23 maintain the correction until at least the first anniversary after
24 the date the correction was made, the department may assess and
25 collect an administrative penalty for the subsequent violation. An
26 administrative penalty assessed under this subsection is equal to
27 three times the amount of the original penalty assessed but not

1 collected. The department is not required to provide the facility
2 with an opportunity under this section to correct the subsequent
3 violation.

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

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

- 10 (1) a brief summary of the charges;
- 11 (2) a statement of the amount of penalty recommended;
- 12 (3) a statement of whether the violation is subject to
13 correction under Section 103.013 and, if the violation is subject
14 to correction under that section, a statement of:

15 (A) the date on which the adult day services
16 [~~day-care~~] facility must file a plan of correction with the
17 department that the department shall review and may approve, if
18 satisfactory; and

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

- 21 (4) a statement that the person charged has a right to
22 a hearing on the occurrence of the violation, the amount of the
23 penalty, or both.

24 (e) If the violation is subject to correction under Section
25 103.013, the adult day services [~~day-care~~] facility shall submit a
26 plan of correction to the department for approval not later than the
27 10th day after the date on which the notice under Subsection (c) is

1 received.

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

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

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

13 SUBCHAPTER J. POWERS AND DUTIES RELATING TO DAY HABILITATION

14 SERVICES PROVIDERS

15 Sec. 161.401. DEFINITIONS. In this subchapter:

16 (1) "Day habilitation services" means services to
17 assist persons with an intellectual or developmental disability in
18 acquiring, retaining, and improving the self-help, socialization,
19 and adaptive skills necessary to reside successfully in the
20 community, including prevocational and educational services.

21 (2) "Day habilitation services provider" means a
22 person who contracts with a community-based intellectual and
23 developmental disabilities services provider or intermediate care
24 facility to provide federally funded Medicaid day habilitation
25 services authorized under Section 1915(c) of the federal Social
26 Security Act (42 U.S.C. Section 1396n(c)).

27 Sec. 161.402. DAY HABILITATION SERVICES PROVIDER

1 INFORMATION TRACKING. (a) Each community-based intellectual and
2 developmental disabilities services provider and intermediate care
3 facility shall annually submit to the department a report
4 providing:

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

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

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

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

12 (b) The department shall maintain information obtained
13 during a department inspection of a day habilitation services
14 provider concerning conduct or conditions that would constitute a
15 violation of federal or state law or of department rules applicable
16 to the community-based intellectual and developmental disabilities
17 services provider or intermediate care facility with which the day
18 habilitation services provider contracts.

19 (c) The department shall maintain information concerning an
20 investigation of abuse, neglect, or exploitation concerning a day
21 habilitation services provider that the department receives from
22 the Department of Family and Protective Services under Section
23 48.15221.

24 Sec. 161.403. DAY HABILITATION PROGRAM ADVISORY COMMITTEE.

25 (a) Not later than September 1, 2015, the department shall
26 establish a day habilitation program advisory committee composed of
27 members that represent community-based waiver providers, owners of

1 day habilitation services providers, and advocates for persons with
2 an intellectual or developmental disability.

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

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

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

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

1 habilitation services providers.

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

4 SECTION 43. (a) Subchapter A, Chapter 161, Human Resources
5 Code, is amended by adding Sections 161.0031 and 161.004 to read as
6 follows:

7 Sec. 161.0031. INAPPLICABILITY OF CERTAIN LAW.
8 Notwithstanding Section 161.003, Section 325.017, Government Code,
9 does not apply to the department.

10 Sec. 161.004. MEANING OF CERTAIN REFERENCES IN LAW. (a) A
11 reference in this chapter or in any other law to the department in
12 relation to a function transferred under Section 161.012 means the
13 commission or the division of the commission performing the
14 function after its transfer.

15 (b) In this chapter or in any other law and notwithstanding
16 any other law, a reference to any of the following state agencies or
17 to the chief executive officer or governing body of any of the
18 following state agencies in relation to a function transferred to
19 the commission under Section 161.012 from the department that the
20 department assumed in accordance with Chapter 198 (H.B. 2292), Acts
21 of the 78th Legislature, Regular Session, 2003, means the executive
22 commissioner, the commission, or the division of the commission
23 performing the function after its transfer to the commission:

- 24 (1) the Texas Department on Aging;
25 (2) the Texas Department of Human Services; and
26 (3) the Texas Department of Mental Health and Mental
27 Retardation.

1 (c) A reference in this chapter or in any other law to the
2 commissioner in relation to a function transferred under Section
3 161.012 means the executive commissioner, the executive
4 commissioner's designee, or the director of the division of the
5 commission performing the function after its transfer.

6 (d) A reference in this chapter or in any other law to the
7 council in relation to a function after its transfer under Section
8 161.012 means the executive commissioner or the executive
9 commissioner's designee, as appropriate, and a function previously
10 performed by the council is a function of that appropriate person.

11 (b) Chapter 161, Human Resources Code, is amended by adding
12 Subchapter A-1 to read as follows:

13 SUBCHAPTER A-1. TRANSFER OF AGING AND DISABILITY SERVICES TO
14 COMMISSION

15 Sec. 161.011. DEFINITIONS. In this subchapter:

16 (1) "Administrative support services" has the meaning
17 assigned by Section 531.0055(d), Government Code.

18 (2) "Function" includes a power, duty, program, or
19 activity of a state agency or entity.

20 Sec. 161.012. TRANSFER OF AGING AND DISABILITY SERVICES TO
21 COMMISSION. (a) Not later than September 1, 2016, the following
22 functions are transferred to the commission as provided by this
23 subchapter:

24 (1) appropriate department administrative support
25 services functions, as determined by the executive commissioner in
26 consultation with the department;

27 (2) all department client services functions, as

1 defined by the executive commissioner by rule; and

2 (3) all functions of the council.

3 (b) On or after September 1, 2016, but not later than
4 September 1, 2017, all functions, including administrative support
5 services functions, that remained with the department after the
6 initial transfer of functions under Subsection (a) are transferred
7 to the commission.

8 Sec. 161.013. EFFECT OF TRANSFERS. (a) All of the
9 following that relate to a function that is transferred under
10 Section 161.012 are transferred to the commission on the date the
11 related function is transferred to the commission:

12 (1) all obligations and contracts, including
13 obligations and contracts related to a grant program;

14 (2) all property and records in the custody of the
15 department or council from which the function is transferred;

16 (3) all funds appropriated by the legislature and
17 other money;

18 (4) all complaints, investigations, or contested
19 cases that are pending before the department or the commissioner,
20 without change in status; and

21 (5) all necessary personnel, as determined by the
22 executive commissioner.

23 (b) A rule, policy, or form adopted by or on behalf of the
24 department or council that relates to a function that is
25 transferred under Section 161.012 becomes a rule, policy, or form
26 of the commission on transfer of the related function and remains in
27 effect:

1 (1) until altered by the executive commissioner or
2 commission, as appropriate; or

3 (2) unless it conflicts with a rule, policy, or form of
4 the commission.

5 (c) A license, permit, or certification in effect that was
6 issued by the department that relates to a function that is
7 transferred under Section 161.012 is continued in effect as a
8 license, permit, or certification of the commission on transfer of
9 the related function until the license, permit, or certification
10 expires, is suspended or revoked, or otherwise becomes invalid.

11 Sec. 161.014. APPLICABILITY OF FORMER LAW. An action
12 brought or proceeding commenced before the date of a transfer
13 prescribed by this subchapter, including a contested case or a
14 remand of an action or proceeding by a reviewing court, is governed
15 by the laws and rules applicable to the action or proceeding before
16 the transfer.

17 Sec. 161.015. AUTHORITY OF DEPARTMENT. The powers and
18 authority of the department with respect to a function are not
19 reduced or otherwise limited until the date the function is
20 transferred in accordance with this subchapter, notwithstanding
21 Section 161.003 or any other law.

22 Sec. 161.016. EXPIRATION OF SUBCHAPTER. This subchapter
23 expires September 1, 2019.

24 (c) Section 161.003, Human Resources Code, as amended by
25 S.B. No. 219, Acts of the 84th Legislature, Regular Session, 2015,
26 is amended to read as follows:

27 Sec. 161.003. SUNSET PROVISION. The department is subject

1 to Chapter 325, Government Code (Texas Sunset Act). Unless
2 continued in existence as provided by that chapter, the department
3 is abolished [~~and this chapter expires~~] September 1, 2015.

4 (d) As soon as appropriate under Subchapter A-1, Chapter
5 161, Human Resources Code, as added by this section, and in a manner
6 that minimizes disruption of services, the Health and Human
7 Services Commission shall take appropriate action to be designated
8 as the state agency responsible under federal law for any state or
9 federal program that is transferred to the commission in accordance
10 with that subchapter and for which federal law requires the
11 designation of a responsible state agency.

12 (e) Effective September 1, 2016, the following provisions
13 of the Human Resources Code, including provisions amended by S.B.
14 No. 219, Acts of the 84th Legislature, Regular Session, 2015, are
15 repealed:

- 16 (1) Section 161.021;
- 17 (2) Section 161.022;
- 18 (3) Section 161.023;
- 19 (4) Section 161.024;
- 20 (5) Section 161.025;
- 21 (6) Section 161.026;
- 22 (7) Section 161.027;
- 23 (8) Section 161.028;
- 24 (9) Section 161.029; and
- 25 (10) Section 161.030.

26 (f) Effective September 1, 2017, the following provisions
27 of the Human Resources Code, including provisions added or amended

1 by S.B. No. 219, Acts of the 84th Legislature, Regular Session,
2 2015, are repealed:

- 3 (1) Section 161.002;
- 4 (2) Section 161.032;
- 5 (3) Section 161.051;
- 6 (4) Section 161.052;
- 7 (5) Section 161.053;
- 8 (6) Section 161.054;
- 9 (7) Section 161.055;
- 10 (8) Section 161.056;
- 11 (9) Section 161.0711;
- 12 (10) Section 161.0712; and
- 13 (11) Section 161.072.

14 (g) Notwithstanding Subsections (e) and (f) of this
15 section, the implementation of a provision repealed by one of those
16 subsections ceases on the date all functions of the Department of
17 Aging and Disability Services or the Aging and Disability Services
18 Council are transferred to the Health and Human Services Commission
19 as provided by Subchapter A-1, Chapter 161, Human Resources Code,
20 as added by this section, to the extent the department or council is
21 responsible for the provision's implementation.

22 (h) This section takes effect only if the Department of
23 Aging and Disability Services is not continued in existence by any
24 legislation of the 84th Legislature, Regular Session, 2015.

25 (i) Subject to Subsection (h) of this section, this section
26 takes effect September 1, 2015.

27 SECTION 44. The following laws are repealed:

1 (1) Section 247.051(b), Health and Safety Code, as
2 amended by S.B. No. 219, Acts of the 84th Legislature, Regular
3 Session, 2015; and

4 (2) Section 101A.158, Human Resources Code, as added
5 by S.B. No. 219, Acts of the 84th Legislature, Regular Session,
6 2015.

7 SECTION 45. (a) Not later than September 1, 2016, the
8 executive commissioner of the Health and Human Services Commission
9 shall adopt by rule the matrices of progressive sanctions required
10 by Sections 142.0125, 242.0613, 247.0415, and 252.0615, Health and
11 Safety Code, and Section 103.0085, Human Resources Code, as added
12 by this Act. Before the executive commissioner of the Health and
13 Human Services Commission publishes a notice of a proposed rule
14 under this subsection, the executive commissioner shall solicit
15 input from stakeholders concerning the development of those rules.

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

20 (c) Not later than September 1, 2016, the executive
21 commissioner of the Health and Human Services Commission shall
22 adopt the rule listing services a state supported living center may
23 provide under a contract and the schedule of fees for those services
24 as required by Section 161.080, Human Resources Code, as amended by
25 this Act.

26 SECTION 46. (a) As soon as possible after the effective
27 date of this Act, the Department of Aging and Disability Services or

1 the Health and Human Services Commission, as appropriate, shall
2 apply for any waiver or other authorization from a federal agency
3 that is necessary to implement this Act. The department and
4 commission may delay implementing this Act until the waiver or
5 authorization is granted.

6 (b) As soon as practicable after the effective date of this
7 Act:

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

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

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

24 SECTION 48. (a) Except as otherwise provided by this Act,
25 including Subsection (b) of this section, this Act takes effect
26 immediately if it receives a vote of two-thirds of all the members
27 elected to each house, as provided by Section 39, Article III, Texas

1 Constitution. If this Act does not receive the vote necessary for
2 immediate effect, this Act takes effect September 1, 2015.

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