

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

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

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

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

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

6 SECTION 2. Sections 142.017(b) and (j), Health and Safety
7 Code, are amended to read as follows:

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

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

23 [~~(1) results in serious harm or death,~~

24 [~~(2) constitutes a serious threat to health or safety,~~

25 [~~(3) substantially limits the agency's capacity to~~
26 ~~provide care,~~

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

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

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

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

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

10 ~~[(C) wilfully interferes with the work of a~~
11 ~~representative of the department or the enforcement of this~~
12 ~~chapter;~~

13 ~~[(D) wilfully interferes with a representative~~
14 ~~of the department preserving evidence of a violation of this~~
15 ~~chapter or a rule, standard, or order adopted or license issued~~
16 ~~under this chapter;~~

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

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

21 ~~[(i) a plan of correction not later than the~~
22 ~~10th day after the date the person receives a statement of licensing~~
23 ~~violations; or~~

24 ~~[(ii) an acceptable plan of correction not~~
25 ~~later than the 30th day after the date the person receives~~
26 ~~notification from the department that the previously submitted plan~~
27 ~~of correction is not acceptable;~~

1 ~~[(5) is a violation of Section 142.0145; or~~
2 ~~[(6) involves the rights of the elderly under Chapter~~
3 ~~102, Human Resources Code].~~

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

7 (c-1) The department shall revoke the license of an
8 institution that violates this chapter or a rule, standard, or
9 order adopted or license issued under this chapter in a manner that
10 causes immediate jeopardy to health and safety on three separate
11 days within a 24-month period.

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

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

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

18 (3) assist with the relocation of residents to another
19 institution.

20 (e) In this section, "immediate jeopardy to health and
21 safety" means a situation in which immediate corrective action is
22 necessary because the institution's noncompliance with one or more
23 requirements has caused, or is likely to cause, serious injury,
24 harm, impairment, or death to a resident receiving care in the
25 institution.

26 SECTION 4. Subchapter C, Chapter 242, Health and Safety
27 Code, is amended by adding Section 242.0613 to read as follows:

1 Sec. 242.0613. PROGRESSIVE SANCTIONS. (a) The executive
2 commissioner by rule shall create a matrix of progressive sanctions
3 that the department must use to assess penalty amounts and impose
4 disciplinary actions under this chapter appropriately and fairly
5 for a violation of a law, rule, standard, or order adopted or
6 license issued under this chapter or for a violation of other law
7 for which this chapter provides a sanction.

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

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

24 SECTION 5. Section [242.0665](#)(b), Health and Safety Code, is
25 amended to read as follows:

26 (b) The executive commissioner by rule shall define types of
27 minor violations a facility may correct under Subsection (a) before

1 imposing an administrative penalty. The executive commissioner
2 shall ensure that all other violations are not subject to a right to
3 correct [~~Subsection (a) does not apply:~~

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

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

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

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

11 [~~(2) to a violation described by Sections~~
12 ~~242.066(a)(2)-(7);~~

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

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

17 SECTION 6. Subchapter C, Chapter 247, Health and Safety
18 Code, is amended by adding Section 247.0415 to read as follows:

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

27 (b) The matrix of progressive sanctions adopted under this

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

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

16 SECTION 7. Section 247.0451(b), Health and Safety Code, is
17 amended to read as follows:

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

22 SECTION 8. Section 247.0452(b), Health and Safety Code, is
23 amended to read as follows:

24 (b) The executive commissioner of the Health and Human
25 Services Commission by rule shall define types of minor violations
26 an assisted living facility may correct under Subsection (a) before
27 imposing an administrative penalty. The executive commissioner

1 shall ensure that all other violations are not subject to a right to
2 correct [~~Subsection (a) does not apply:~~
3 ~~[(1) to a violation that the department determines~~
4 ~~results in serious harm to or death of a resident;~~
5 ~~[(2) to a violation described by Sections~~
6 ~~247.0451(a)(2)-(7) or a violation of Section 260A.014 or 260A.015;~~
7 ~~[(3) to a second or subsequent violation of:~~
8 ~~[(A) a right of the same resident under Section~~
9 ~~247.064; or~~
10 ~~[(B) the same right of all residents under~~
11 ~~Section 247.064; or~~
12 ~~[(4) to a violation described by Section 247.066,~~
13 ~~which contains its own right to correct provisions].~~

14 SECTION 9. Subchapter C, Chapter 252, Health and Safety
15 Code, is amended by adding Section 252.0615 to read as follows:

16 Sec. 252.0615. PROGRESSIVE SANCTIONS. (a) The executive
17 commissioner of the Health and Human Services Commission by rule
18 shall create a matrix of progressive sanctions that the department
19 must use to assess penalty amounts and impose disciplinary actions
20 under this chapter appropriately and fairly for a violation of a
21 law, rule, standard, or order adopted or license issued under this
22 chapter or for a violation of other law for which this chapter
23 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 10. Sections 252.065(b) and (e), Health and Safety
14 Code, are amended to read as follows:

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

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

1 implemented. The executive commissioner of the Health and Human
2 Services Commission by rule shall define types of minor violations
3 a facility may correct before assessing an administrative penalty.
4 The executive commissioner shall ensure that all other violations
5 are not subject to a right to correct [~~This subsection does not~~
6 ~~apply to a violation described by Subsections (a)(2)-(8) or to a~~
7 ~~violation that the department 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 11. Subchapter B, Chapter 533, Health and Safety
15 Code, is amended by adding Section 533.054 to read as follows:

16 Sec. 533.054. CRISIS INTERVENTION TEAMS. (a) In this
17 section:

18 (1) "Crisis intervention team" means a team of
19 individuals specially trained to provide services and support to
20 persons with intellectual and developmental disabilities who have
21 behavioral health needs and who are at risk of
22 institutionalization.

23 (2) "Department" means the Department of Aging and
24 Disability Services.

25 (b) The department shall evaluate the effectiveness of
26 various models of crisis intervention teams that are funded under a
27 waiver under Section 1115 of the federal Social Security Act (42

1 U.S.C. Section 1315) and operated by a local intellectual and
2 developmental disability authority.

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

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

13 SECTION 12. 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
3 evaluate each state supported living center in the state to
4 determine whether closure of the center is recommended to maintain
5 only the number of centers necessary to meet the level of need in
6 the state. In evaluating each state supported living center, the
7 restructuring commission shall consider:

8 (1) the quality of services provided by the center,
9 including the center's most recent certification inspections and
10 the center's 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 between the department and the United States Department
14 of Justice regarding services provided to individuals with
15 intellectual and developmental disabilities 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; and

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

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

19 (e) The restructuring commission is abolished and this
20 section expires January 1, 2017.

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

1 (b) If the legislation described by Subsection (a) is
2 enacted and becomes law, the department shall ensure that each
3 state supported living center approved by the legislature for
4 closure under Subsection (a) is closed not later than August 31,
5 2025.

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

7 Sec. 555.203. CLOSURE OF AUSTIN STATE SUPPORTED LIVING
8 CENTER. (a) The department shall establish a closure plan for the
9 Austin State Supported Living Center. The plan must provide for
10 closure of the facility and operations of the Austin State
11 Supported Living Center not later than August 31, 2017.

12 (b) The closure plan must provide procedures to transition
13 to the community each resident for whom transition to the community
14 is practicable while maintaining respect for resident choice.

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

20 (d) The proceeds from the closure, including from the sale
21 or lease of facilities or other property, may be appropriated only
22 for services for persons with intellectual and developmental
23 disabilities, including persons with a dual diagnosis of
24 intellectual and developmental disabilities and mental illness.

25 (e) Not later than August 31, 2018, the department shall
26 evaluate the closure process, including how well the closure plan
27 worked, and, if appropriate, establish policies for improving the

1 closure process for future closures of other state supported living
2 centers.

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

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

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

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

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

14 (3) staffing information, if available, including for
15 each year the number of staff members who began employment with the
16 provider during that year and the number of staff members who ceased
17 employment with the provider during that year;

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

19 (5) the provider's regulatory performance, as
20 available.

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

25 (e) The Department of Aging and Disability Services shall
26 periodically solicit input regarding the content of the information
27 required under this section and the usability and accessibility of

1 the website on which the information is located from consumers,
2 consumer advocates, long-term care services providers, and the
3 general public.

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

6 Sec. 48.15221. REPORTS CONCERNING DAY HABILITATION
7 SERVICES PROVIDERS. (a) In this section "day habilitation
8 services" and "day habilitation services provider" have the
9 meanings assigned by Section 161.401.

10 (b) The department shall prepare and submit to the
11 Department of Aging and Disability Services an annual report of the
12 number of investigations arising from a report of abuse, neglect,
13 or exploitation of a person with an intellectual or developmental
14 disability that was allegedly committed by or on the premises of a
15 day habilitation services provider, and whether the investigation
16 concluded that the report of alleged abuse, neglect, or
17 exploitation was confirmed, unconfirmed, inconclusive, or
18 unfounded.

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

25 SECTION 15. Chapter 103, Human Resources Code, is amended
26 by adding Section 103.0085 to read as follows:

27 Sec. 103.0085. PROGRESSIVE SANCTIONS. (a) The executive

1 commissioner of the Health and Human Services Commission by rule
2 shall create a matrix of progressive sanctions that the department
3 must use to assess penalty amounts and impose disciplinary actions
4 under this chapter appropriately and fairly for a violation of a
5 law, rule, standard, or order adopted or license issued under this
6 chapter or for a violation of other law for which this chapter
7 provides a sanction.

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

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

24 SECTION 16. Section 103.013(b), Human Resources Code, is
25 amended to read as follows:

26 (b) The executive commissioner of the Health and Human
27 Services Commission by rule shall define types of minor violations

1 an adult day-care facility may correct under Subsection (a) before
2 assessing an administrative penalty. The executive commissioner
3 shall ensure that all other violations are not subject to a right to
4 correct [~~Subsection (a) does not apply to:~~

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

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

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

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

12 ~~[(2) a violation described by Sections~~
13 ~~103.012(a)(2)-(7); or~~

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

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

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

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

27 SUBCHAPTER J. POWERS AND DUTIES RELATING TO DAY HABILITATION

SERVICES PROVIDERS

Sec. 161.401. DEFINITIONS. In this subchapter:

(1) "Day habilitation services" means services to assist persons with intellectual and developmental disabilities in acquiring, retaining, and improving the self-help, socialization, and adaptive skills necessary to reside successfully in the community, including prevocational, educational, and supported employment services.

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

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

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

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

(3) the services provided to those clients; and

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

(b) The department shall maintain information obtained

1 during a department inspection of a day habilitation services
2 provider concerning conduct or conditions that would constitute a
3 violation of federal or state law or of department rules applicable
4 to the community-based intellectual and developmental disabilities
5 services provider or intermediate care facility with which the day
6 habilitation services provider contracts.

7 (c) The department shall maintain information concerning an
8 investigation of abuse, neglect, or exploitation concerning a day
9 habilitation services provider that the department receives from
10 the Department of Family and Protective Services under Section
11 48.15221.

12 Sec. 161.403. DAY HABILITATION PROGRAM ADVISORY COMMITTEE.

13 (a) Not later than September 1, 2015, the department shall
14 establish a day habilitation program advisory committee composed of
15 members that represent community-based waiver providers, owners of
16 day habilitation services providers, and advocates for persons with
17 intellectual and developmental disabilities.

18 (b) The day habilitation program advisory committee shall
19 consider and make recommendations concerning whether the provision
20 of day habilitation services in this state should be redesigned and
21 whether day habilitation services providers should be subject to
22 regulation, including by licensure or certification.

23 (c) In considering the redesign of the provision of day
24 habilitation services in this state, the day habilitation program
25 advisory committee shall examine whether day habilitation service
26 providers currently comply with the requirements of 42 C.F.R.
27 Section 441.301.

1 (d) The day habilitation program advisory committee shall
2 also consider and make recommendations concerning issues relevant
3 to the provision of day habilitation services, including the
4 appropriate funding for services, reimbursable settings and
5 services, staff-to-client ratio requirements, safety requirements,
6 and other required or applicable standards.

7 (e) Not later than September 1, 2016, the day habilitation
8 program advisory committee shall submit to the governor, the
9 lieutenant governor, the speaker of the house of representatives,
10 and the presiding officers of the standing committees of the senate
11 and house of representatives having primary jurisdiction over
12 intellectual and developmental disability issues a report
13 containing the committee's recommendations concerning the redesign
14 of the provision of day habilitation services in this state and the
15 necessity for regulation, licensure, or certification of day
16 habilitation services providers.

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

19 SECTION 19. Section [101.049](#), Human Resources Code, is
20 repealed.

21 SECTION 20. (a) Not later than September 1, 2016, the
22 executive commissioner of the Health and Human Services Commission
23 shall adopt by rule the matrices of progressive sanctions required
24 by Sections 142.0125, 242.0613, 247.0415, and 252.0615, Health and
25 Safety Code, and Section 103.0085, Human Resources Code, as added
26 by this Act.

27 (b) Not later than September 1, 2015, the governor shall

1 appoint five members of the state supported living center
2 restructuring commission, as required by Section 555.201, Health
3 and Safety Code, as added by this Act.

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

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