

# SENATE AMENDMENTS

## 2<sup>nd</sup> Printing

By: Turner of Dallas, Price, Coleman, Meyer,  
Rose

H.B. No. 3121

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to a voluntary quality standards certification process for  
3 certain private residential psychiatric treatment facilities that  
4 provide treatments and services to youth; imposing fees;  
5 authorizing civil and administrative penalties.

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

7 SECTION 1. This Act shall be known as Alec's Law.

8 SECTION 2. Subtitle C, Title 7, Health and Safety Code, is  
9 amended by adding Chapter 577A to read as follows:

10 CHAPTER 577A. PSYCHIATRIC RESIDENTIAL YOUTH TREATMENT FACILITIES

11 SUBCHAPTER A. GENERAL PROVISIONS

12 Sec. 577A.001. DEFINITIONS. In this chapter:

13 (1) "Commission" means the Health and Human Services  
14 Commission.

15 (2) "Executive commissioner" means the executive  
16 commissioner of the commission.

17 (3) "Psychiatric residential youth treatment  
18 facility" means a private facility that provides psychiatric health  
19 treatments and services in a residential, nonhospital setting  
20 exclusively to individuals who are 21 years of age or younger and  
21 that meets criteria to be licensed as a general residential  
22 operation under Chapter 42, Human Resources Code. The term  
23 includes a facility that provides room and board.

24 (4) "Severe emotional disturbance" means a mental,

1 behavioral, or emotional disorder of sufficient duration to result  
2 in functional impairment that substantially interferes with or  
3 limits an individual's role or ability to function in family,  
4 school, or community activities.

5 Sec. 577A.002. EXEMPTIONS. This chapter does not apply to:

6 (1) a mental hospital; or

7 (2) a private mental hospital or other mental health  
8 facility licensed under Chapter 577.

9 Sec. 577A.003. LICENSING AND OTHER REQUIREMENTS NOT  
10 AFFECTED. This chapter does not affect any licensing or other  
11 requirements of a psychiatric residential youth treatment facility  
12 under Chapter 42, Human Resources Code.

13 Sec. 577A.004. RULES. The executive commissioner shall  
14 adopt rules necessary to implement this chapter.

15 SUBCHAPTER B. CERTIFICATION, FEES, AND INSPECTIONS

16 Sec. 577A.051. VOLUNTARY QUALITY STANDARDS CERTIFICATION.  
17 The commission shall develop and implement a voluntary quality  
18 standards certification process to certify a psychiatric  
19 residential youth treatment facility that meets standards for  
20 certification under this chapter.

21 Sec. 577A.052. CERTIFICATE APPLICATION. (a) To obtain a  
22 certificate under this chapter, an applicant must submit to the  
23 commission an application in the form and manner prescribed by the  
24 commission.

25 (b) Each application must be accompanied by a fee  
26 established by the executive commissioner under Section 577A.053.

27 Sec. 577A.053. FEES. The executive commissioner by rule

1 shall establish a nonrefundable certificate application fee and a  
2 nonrefundable certificate renewal fee in amounts necessary to cover  
3 the costs of administering this chapter.

4 Sec. 577A.054. ISSUANCE AND RENEWAL OF CERTIFICATE. (a)  
5 The commission shall issue a certificate to an applicant if on  
6 inspection and investigation the commission determines the  
7 applicant meets the requirements of this chapter and commission  
8 rules.

9 (b) A certificate issued under this chapter expires on the  
10 second anniversary of the date the certificate is issued or  
11 renewed.

12 (c) The commission shall renew a certificate if:

13 (1) the certificate holder submits to the commission a  
14 fee established by the executive commissioner under Section  
15 577A.053; and

16 (2) on inspection and investigation the commission  
17 determines the certificate holder meets the requirements of this  
18 chapter and commission rules.

19 Sec. 577A.055. INSPECTIONS. In addition to the inspections  
20 required under Section 577A.054, the commission shall conduct an  
21 inspection not later than the first anniversary of the date a  
22 certificate is issued or renewed to ensure the certificate holder  
23 remains in compliance with the requirements of this chapter and  
24 commission rules.

25 SUBCHAPTER C. REGULATION OF CERTIFIED PSYCHIATRIC RESIDENTIAL  
26 YOUTH TREATMENT FACILITIES

27 Sec. 577A.101. MINIMUM STANDARDS. The executive

1 commissioner by rule shall establish minimum standards for the  
2 certification of psychiatric residential youth treatment  
3 facilities under this chapter. The minimum standards must require  
4 a facility to:

5 (1) obtain accreditation by The Joint Commission, the  
6 Commission on Accreditation of Rehabilitation Facilities, the  
7 Council on Accreditation, or another accrediting organization  
8 approved by the commission; and

9 (2) provide and prescribe guidelines for the provision  
10 of the following activities, treatments, and services:

11 (A) development and implementation of individual  
12 plans of care, including the provision of services provided by a  
13 licensed psychiatrist or physician to develop individual plans of  
14 care;

15 (B) individual therapy;

16 (C) family engagement activities;

17 (D) consultation services with qualified  
18 professionals, including case managers, primary care  
19 professionals, community-based mental health providers, school  
20 staff, and other support planners;

21 (E) 24-hour nursing services; and

22 (F) direct care and supervision services,  
23 supportive services for daily living and safety, and positive  
24 behavior management services.

25 Sec. 577A.102. ADMISSION CRITERIA. A facility certified  
26 under this chapter may not admit or provide treatments or services  
27 to an individual unless the individual:

1           (1) is 21 years of age or younger;

2           (2) has been diagnosed with a severe emotional  
3 disturbance by a licensed mental health professional;

4           (3) requires residential psychiatric treatment under  
5 the direction of a licensed physician to improve the individual's  
6 condition; and

7           (4) was referred for treatments or services in a  
8 psychiatric residential youth treatment facility by a licensed  
9 mental health professional.

10                           SUBCHAPTER D. ENFORCEMENT

11           Sec. 577A.151. PENALTIES. A facility certified under this  
12 chapter is subject to a civil penalty under Section 571.023 or an  
13 administrative penalty under Section 571.025, as applicable, for a  
14 violation of this chapter or a rule adopted under this chapter.

15           SECTION 3. Section 577.002, Health and Safety Code, is  
16 amended to read as follows:

17           Sec. 577.002. EXEMPTIONS [~~FROM LICENSING REQUIREMENT~~]. (a)  
18 A mental health facility operated by the department or a federal  
19 agency need not be licensed under this chapter.

20           (b) This chapter does not apply to a psychiatric residential  
21 youth treatment facility certified under Chapter 577A.

22           SECTION 4. As soon as practicable after the effective date  
23 of this Act, the executive commissioner of the Health and Human  
24 Services Commission shall adopt rules necessary to implement  
25 Chapter 577A, Health and Safety Code, as added by this Act.

26           SECTION 5. This Act takes effect September 1, 2021.

ADOPTED

VV  
MAY 26 2021

*Latey Law*  
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY:

*Nathan D. ...*

1 Amend H.B. No. 3121 (senate committee printing) in SECTION 2  
2 of the bill as follows:

3 (1) In added Section 577A.001(3), Health and Safety Code  
4 (page 1, line 39), strike "that meets criteria to be" and  
5 substitute "is".

6 (2) In added Section 577A.003, Health and Safety Code (page  
7 1, line 53), between "of" and "a", add "or create a separate  
8 license for".

9 (3) In added Section 577A.051, Health and Safety Code (page  
10 1, line 59), between "shall" and "develop", add ", using existing  
11 resources to the extent feasible,".

12 (4) In added Section 577A.054(a), Health and Safety Code  
13 (page 2, line 16), immediately following "rules.", add "The  
14 commission may not issue to an applicant a certificate under this  
15 chapter unless the applicant is licensed as a general residential  
16 operation under Chapter 42, Human Resources Code.".

**ADOPTED**

MAY 26 2021

*Lately Spaw*  
Secretary of the Senate

FLOOR AMENDMENT NO. 2

BY: *Nathan D. ...*

1 Amend H.B. No. 3121 (senate committee printing) by adding the  
2 following appropriately numbered SECTION to the bill and  
3 renumbering the SECTIONS of the bill accordingly:

4 SECTION \_\_\_\_\_. If the legislature does not appropriate money  
5 specifically for the purpose of implementing a provision of this  
6 Act, the Health and Human Services Commission may, but is not  
7 required to, implement a provision of this Act using other  
8 appropriations that are available for that purpose.

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**

**May 27, 2021**

**TO:** Honorable Dade Phelan, Speaker of the House, House of Representatives

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB3121** by Turner, John (Relating to a voluntary quality standards certification process for certain private residential psychiatric treatment facilities that provide treatments and services to youth; imposing fees; authorizing civil and administrative penalties.), **As Passed 2nd House**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB3121, As Passed 2nd House : a negative impact of (\$1,531,686) through the biennium ending August 31, 2023.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill. The Health and Human Services Commission is required to implement a provision of this Act only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the commission may, but is not required to, implement a provision of this Act using other appropriations available for that purpose.

**General Revenue-Related Funds, Five- Year Impact:**

<i>Fiscal Year</i>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2022	(\$1,323,108)
2023	(\$208,578)
2024	\$0
2025	\$0
2026	\$0

**All Funds, Five-Year Impact:**

<i>Fiscal Year</i>	<b>Probable Savings/(Cost) from General Revenue Fund 1</b>	<b>Probable Revenue Gain/(Loss) from General Revenue Fund 1</b>	<b>Change in Number of State Employees from FY 2021</b>
2022	(\$1,323,108)	\$0	6.4
2023	(\$208,578)	\$0	2.0
2024	(\$104,465)	\$104,465	1.0
2025	(\$104,646)	\$104,646	1.0
2026	(\$104,833)	\$104,833	1.0



## **Fiscal Analysis**

The bill would amend the Health and Safety Code to require the Health and Human Services Commission (HHSC) to develop and implement a voluntary quality standards certification process to certify that a psychiatric residential youth treatment facility meets certain standards. HHSC would be required to establish application and renewal fees in amounts necessary to cover the costs of administering the provisions of the bill. Facilities that violate certain laws and rules would be subject to civil and/or administrative penalties.

## **Methodology**

The analysis assumes HHSC would need an additional 3.0 full-time equivalents (FTEs) in Regulatory Services in fiscal years 2022 and 2.0 in fiscal year 2023 to coordinate information technology (IT) changes and develop rules and standards and 1.0 FTE in subsequent years to monitor standards long-term. The estimated cost for the additional FTEs is \$0.3 million in fiscal year 2022, \$0.2 million in fiscal year 2023, and \$0.1 million in each subsequent year.

According to HHSC, updates would need to be made to the Childcare Licensing Automated Support System (CLASS), Public Provider Portal, and CLASSMate systems. It is assumed HHSC would require a total of 3.4 FTEs in fiscal year 2022 to make necessary technology changes. The estimated cost for the upgrades is \$1.0 million in fiscal year 2022.

It is assumed that start-up activities and technology changes would occur during fiscal year 2022 and 2023, and no facilities would be certified during this time, therefore no revenue from application and renewal fees would be generated. It is assumed revenue generated from application and renewal fees in fiscal years 2024 through 2026 would be sufficient to cover costs related to implementing the provisions of the bill.

The amount of civil and administrative penalties cannot be determined at this time as it is unknown how many penalties would be levied by HHSC and the amount of the penalties.

## **Technology**

Upgrades to CLASS, the Public Provider Portal, and CLASSMate are assumed to require a total of 3.4 FTEs in fiscal year 2022 at an estimated cost of \$1.0 million in fiscal year 2022. FTE-related IT costs are estimated to be less than \$0.1 million each fiscal year.

## **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Admin, 304 Comptroller of Public Accounts, 529 Hlth & Human Svcs Comm

**LBB Staff:** JMc, AKI, JLI, RD

**LEGISLATIVE BUDGET BOARD**

Austin, Texas

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**

**May 20, 2021**

**TO:** Honorable Lois W. Kolkhorst, Chair, Senate Committee on Health & Human Services

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB3121** by Turner, John (Relating to a voluntary quality standards certification process for certain private residential psychiatric treatment facilities that provide treatments and services to youth; imposing fees; authorizing civil and administrative penalties.), **As Engrossed**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB3121, As Engrossed : a negative impact of (\$4,630,637) through the biennium ending August 31, 2023.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five- Year Impact:**

<i>Fiscal Year</i>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2022	(\$2,719,352)
2023	(\$1,911,285)
2024	\$0
2025	\$0
2026	\$0

**All Funds, Five-Year Impact:**

<i>Fiscal Year</i>	<b>Probable Savings/(Cost) from General Revenue Fund 1</b>	<b>Probable Revenue Gain/(Loss) from General Revenue Fund 1</b>	<i>Change in Number of State Employees from FY 2021</i>
2022	(\$2,719,352)	\$0	16.0
2023	(\$1,911,285)	\$0	13.4
2024	(\$1,081,005)	\$1,081,005	9.0
2025	(\$1,082,634)	\$1,082,634	9.0
2026	(\$1,084,317)	\$1,084,317	9.0

**Fiscal Analysis**

The bill would amend the Health and Safety Code to require the Health and Human Services Commission (HHSC) to develop and implement a voluntary quality standards certification process to certify that a psychiatric residential youth treatment facility meets certain standards. HHSC would be required to establish application and renewal fees in amounts necessary to cover the costs of administering the provisions of the bill. Facilities that violate certain laws and rules would be subject to civil and/or administrative penalties.

## **Methodology**

The analysis assumes HHSC would need an additional 3.2 full-time equivalents (FTEs) in Regulatory Services in fiscal years 2022 and 2023 to coordinate IT changes and develop rules and standards and 1.0 FTE in subsequent years to monitor standards long-term. The estimated cost for the additional FTEs is \$0.4 million in fiscal year 2022, \$0.3 million in fiscal year 2023, and \$0.1 million in each subsequent year.

According to HHSC, updates would need to be made to the Childcare Licensing Automated Support System (CLASS), Public Provider Portal, and CLASSMate systems. It is assumed HHSC would require a total of 12.8 FTEs in fiscal year 2022, 10.2 FTEs in fiscal year 2023, and 8.0 FTEs in subsequent years to make necessary technology changes and provide ongoing support. The estimated cost for the upgrades and ongoing support are \$2.3 million in fiscal year 2022, \$1.6 million in fiscal year 2023, \$1.0 million in subsequent years.

It is assumed that start-up activities and technology changes would occur during fiscal year 2022 and 2023, and no facilities would be certified during this time, therefore no revenue from application and renewal fees would be generated. It is assumed revenue generated from application and renewal fees in fiscal years 2024 through 2026 would be sufficient to cover costs related to implementing the provisions of the bill.

The analysis cannot determine the cost to certify psychiatric residential youth treatment facilities and manage related workload. Because psychiatric residential youth treatment facilities would be considered a type of residential child care operation, HHSC would need enough staff to comply with caseload guidelines imposed in relation to the foster care litigation.

The amount of civil and administrative penalties cannot be determined at this time as it is unknown how many penalties would be levied by HHSC and the amount of the penalties.

## **Technology**

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## **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Admin, 304 Comptroller of Public Accounts, 529 Hlth & Human Svcs Comm

**LBB Staff:** JMc, AKI, RD, JLI

**LEGISLATIVE BUDGET BOARD**  
Austin, Texas

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**

**April 28, 2021**

**TO:** Honorable Stephanie Klick, Chair, House Committee on Public Health

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB3121** by Turner, John (Relating to a voluntary quality standards certification process for certain private residential psychiatric treatment facilities that provide treatments and services to youth; imposing fees; authorizing civil and administrative penalties.), **Committee Report 1st House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB3121, Committee Report 1st House, Substituted : a negative impact of (\$4,630,637) through the biennium ending August 31, 2023.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

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## Technology

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**LBB Staff:** JMc, AKI, RD, JLI

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**

**April 13, 2021**

**TO:** Honorable Stephanie Klick, Chair, House Committee on Public Health

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB3121** by Turner, John (Relating to a voluntary quality standards certification process for certain private residential psychiatric treatment facilities that provide treatments and services to youth; imposing fees; authorizing civil and administrative penalties.), **As Introduced**

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**LBB Staff:** JMc, AKI, JLI, RD