

By: Hinojosa

S.B. No. 44

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to civil and administrative penalties assessed for  
3 violations of statutes or rules governing chemical dependency  
4 treatment facilities.

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

6 SECTION 1. Section 464.017(a), Health and Safety Code, is  
7 amended to read as follows:

8 (a) A person or facility is subject to a civil penalty of not  
9 more than \$25,000 for each day of violation and for each act of  
10 violation of this subchapter or a rule adopted under this  
11 subchapter. In determining the amount of the civil penalty, the  
12 court shall consider:

13 (1) the person's or facility's previous violations;

14 (2) the seriousness of the violation, including the  
15 nature, circumstances, extent, and gravity of the violation;

16 (3) whether the health and safety of the public was  
17 threatened by the violation;

18 (4) the demonstrated good faith of the person or  
19 facility; ~~and~~

20 (5) the amount necessary to deter future violations;

21 (6) the person's or facility's ability to pay the  
22 penalty; and

23 (7) if the person's or facility's license is not  
24 revoked under Section 464.014 because of the violation, the ability

1 of the person or facility to continue providing services under this  
2 chapter after paying the penalty.

3 SECTION 2. Sections 464.019(c) and (s), Health and Safety  
4 Code, are amended to read as follows:

5 (c) The amount of the penalty shall be based on:

6 (1) the seriousness of the violation, including the  
7 nature, circumstances, extent, and gravity of any prohibited acts,  
8 and the hazard or potential hazard created to the health, safety, or  
9 economic welfare of the public;

10 (2) enforcement costs relating to the violation;

11 (3) the history of previous violations;

12 (4) the amount necessary to deter future violations;

13 (5) efforts to correct the violation; ~~and~~

14 (6) the person's ability to pay the penalty;

15 (7) if the person's license is not revoked under  
16 Section 464.014 because of the violation, the person's ability to  
17 continue providing services under this chapter after paying the  
18 penalty;

19 (8) the degree of the person's culpability in causing  
20 the violation; and

21 (9) any other matter that justice may require.

22 (s) The commission shall post on the commission's Internet  
23 website current administrative penalty schedules applicable to a  
24 person licensed or regulated under this chapter. The commission  
25 shall ensure that the administrative penalties listed in the posted  
26 schedules are accurate. The administrative penalty schedules must  
27 be based on a consideration of the economic impact of a penalty

1 assessed against a person licensed or regulated under this chapter  
2 and the factors described by Subsection (c).

3 SECTION 3. The changes in law made by this Act apply only to  
4 a violation that occurs on or after the effective date of this Act.  
5 A violation that occurred before the effective date of this Act is  
6 governed by the law in effect when the violation occurred, and the  
7 former law is continued in effect for that purpose.

8 SECTION 4. This Act takes effect on the 91st day after the  
9 last day of the legislative session.