

BILL ANALYSIS

Senate Research Center

S.B. 1368
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

After Hurricane Beryl, it became clear that more collaboration is needed to ensure the safety of nursing and assisted living facility residents during power outages and emergencies. Emergency situations and extreme temperatures can create challenges, particularly for residents with medical needs. Reliable climate control and designated refuge areas are needed for both immobile and mobile residents who face serious health risks. Strengthening coordination and preparedness efforts can help facilities better protect their residents in times of crisis.

To protect vulnerable populations, facilities must implement emergency preparedness plans that ensure stable temperature control, maintain adequate space for sheltering in place, and establish clear guidelines for maintaining power during extended outages. Strong oversight is necessary to require timely reporting of outages to the Texas Health and Human Services Commission, allowing the state to monitor and respond to potential risks. Additionally, safety measures should provide families and prospective residents with summaries of shelter-in-place procedures, fostering trust in facility operations.

S.B. 1368 strengthens emergency preparedness by requiring skilled nursing and assisted living facilities to maintain temperatures between 68 and 82 degrees Fahrenheit in designated refuge areas and report power outages lasting more than 12 hours. This bill also ensures clear and enforceable regulations by integrating power supply requirements into new construction standards, mandating backup power systems or connection points for emergency power to enhance infrastructure resilience statewide.

As proposed, S.B. 1368 amends current law relating to an emergency preparedness and contingency operations plan, including temperature regulation, for nursing facility and assisted living facility residents during an emergency; providing penalties.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 (Section 242.405, Health and Safety Code) and SECTION 2 (Section 242.073, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter K, Chapter 242, Health and Safety Code, by adding Section 242.405, as follows:

Sec. 242.405. EMERGENCY PREPAREDNESS AND CONTINGENCY OPERATIONS PLAN; TEMPERATURE REGULATION. (a) Defines "area of refuge" and "bedfast resident."

(b) Requires a nursing facility to adopt and implement an emergency preparedness and contingency operations plan that requires the facility to provide in an emergency for each resident other than a bedfast resident, a climate-controlled area of refuge with at least 15 square feet per resident; for each bedfast resident, a climate-controlled room; and notice to the Health and Human Services

Commission (HHSC) of an unplanned interruption or loss for more than 12 hours of electric utility service.

(c) Requires that an emergency preparedness and contingency operations plan adopted in accordance with this section require a nursing facility to maintain a temperature between 68 and 82 degrees Fahrenheit for each area of refuge designated for facility residents and each climate-controlled room for bedfast residents.

(d) Requires the executive commissioner of HHSC (executive commissioner) to adopt rules to enforce this section.

(e) Requires a nursing facility to submit the emergency preparedness and contingency operations plan required by this section to HHSC in the form and manner prescribed by HHSC.

(f) Requires a nursing facility to include in the emergency preparedness and contingency operations plan adopted in accordance with this section its policies and information on building equipment, including the location of and type of on-site generator equipment or backup power source, and residents, including residents who are bedfast and residents who are dependent on electrically powered equipment.

(g) Requires HHSC to assess a penalty in accordance with Subchapter C (General Enforcement) against a nursing facility found in violation of this section.

SECTION 2. Amends Subchapter D, Chapter 247, Health and Safety Code, by adding Section 247.073, as follows:

Sec. 242.073. EMERGENCY PREPAREDNESS AND CONTINGENCY OPERATIONS PLAN; TEMPERATURE REGULATION. (a) Defines "area of refuge" and "bedfast resident."

(b) Requires an assisted living facility to adopt and implement an emergency preparedness and contingency operations plan that requires the facility to provide in an emergency for each resident other than a bedfast resident, a climate-controlled area of refuge with at least 15 square feet per resident; for each bedfast resident, a climate-controlled room; and notice to HHSC of an unplanned interruption or loss for more than 12 hours of electric utility service.

(c) Requires that an emergency preparedness and contingency operations plan adopted in accordance with this section require an assisted living facility to maintain a temperature between 68 and 82 degrees Fahrenheit for each area of refuge designated for facility residents and each climate-controlled room for bedfast residents.

(d) Requires the executive commissioner to adopt rules to enforce this section.

(e) Requires HHSC to establish construction and licensure standards for assisted living facilities constructed after September 1, 2026, including standards for the integration of backup power systems or a connection point for a backup power system and the evacuation of assisted living facility residents in emergencies to other buildings on the same premises.

(f) Requires an assisted living facility to submit the emergency preparedness and contingency operations plan required by this section to HHSC in the form and manner prescribed by HHSC.

(g) Requires an assisted living facility to include in the emergency preparedness and contingency operations plan adopted in accordance with this section its

policies and information on building equipment, including the location of and type of on-site generator equipment or backup power source, and residents, including residents who are bedfast and residents who are dependent on electrically powered equipment.

(h) Requires HHSC to assess a penalty in accordance with Subchapter C against an assisted living facility found in violation of this section.

SECTION 3. (a) Provides that, not later than January 1, 2026:

(1) each nursing facility is required to adopt and implement an emergency preparedness and contingency operations plan as required by Section 242.405, Health and Safety Code, as added by this Act; and

(2) each assisted living facility is required to adopt and implement an emergency preparedness and contingency operations plan as required by Section 247.073, Health and Safety Code, as added by this Act.

(b) Provides that a nursing facility or assisted living facility, notwithstanding Sections 242.405 and 247.073, Health and Safety Code, as added by this Act, is not subject to assessment of a penalty for a violation of those sections until on or after January 1, 2027.

SECTION 4. Effective date: September 1, 2025.