

By: Miles

S.B. No. 1368

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to an emergency preparedness and contingency operations  
3 plan, including temperature regulation, for nursing facility and  
4 assisted living facility residents during an emergency; providing  
5 penalties.

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

7 SECTION 1. Subchapter K, Chapter 242, Health and Safety  
8 Code, is amended by adding Section 242.405 to read as follows:

9 Sec. 242.405. EMERGENCY PREPAREDNESS AND CONTINGENCY  
10 OPERATIONS PLAN; TEMPERATURE REGULATION. (a) In this section:

11 (1) "Area of refuge" means a climate-controlled area  
12 of a nursing facility that is designated for use during a power  
13 outage or other emergency to provide safety, care, and other  
14 resources to residents.

15 (2) "Bedfast resident" means a resident who is unable  
16 to transfer out of bed and unable to turn and position themselves in  
17 bed.

18 (b) A nursing facility shall adopt and implement an  
19 emergency preparedness and contingency operations plan that  
20 requires the facility to provide in an emergency:

21 (1) for each resident other than a bedfast resident, a  
22 climate-controlled area of refuge with at least 15 square feet per  
23 resident;

24 (2) for each bedfast resident, a climate-controlled

1 room; and

2 (3) notice to the commission of an unplanned  
3 interruption or loss for more than 12 hours of electric utility  
4 service.

5 (c) An emergency preparedness and contingency operations  
6 plan adopted in accordance with this section must require a nursing  
7 facility to maintain a temperature between 68 and 82 degrees  
8 Fahrenheit for:

9 (1) each area of refuge designated for facility  
10 residents; and

11 (2) each climate-controlled room for bedfast  
12 residents.

13 (d) The executive commissioner shall adopt rules to enforce  
14 this section.

15 (e) A nursing facility shall submit the emergency  
16 preparedness and contingency operations plan required by this  
17 section to the commission in the form and manner prescribed by the  
18 commission.

19 (f) A nursing facility shall include in the emergency  
20 preparedness and contingency operations plan adopted in accordance  
21 with this section its policies and information on:

22 (1) building equipment, including the location of and  
23 type of on-site generator equipment or backup power source; and

24 (2) residents, including residents who are bedfast and  
25 residents who are dependent on electrically powered equipment.

26 (g) The commission shall assess a penalty in accordance with  
27 Subchapter C against a nursing facility found in violation of this

1 section.

2 SECTION 2. Subchapter D, Chapter 247, Health and Safety  
3 Code, is amended by adding Section 247.073 to read as follows:

4 Sec. 247.073. EMERGENCY PREPAREDNESS AND CONTINGENCY  
5 OPERATIONS PLAN; TEMPERATURE REGULATION. (a) In this section:

6 (1) "Area of refuge" means a climate-controlled area  
7 in an assisted living facility that is designated for use during a  
8 power outage or other emergency to provide safety, care, and other  
9 resources to residents.

10 (2) "Bedfast resident" means an assisted living  
11 facility resident who is unable to transfer out of bed and unable to  
12 turn and position themselves in bed.

13 (b) An assisted living facility shall adopt and implement an  
14 emergency preparedness and contingency operations plan that  
15 requires the facility to provide in an emergency:

16 (1) for each assisted living facility resident other  
17 than a bedfast resident, a climate-controlled area of refuge with  
18 at least 15 square feet per resident;

19 (2) for each bedfast assisted living facility  
20 resident, a climate-controlled room; and

21 (3) notice to the commission of an unplanned  
22 interruption or loss for more than 12 hours of electric utility  
23 service.

24 (c) An emergency preparedness and contingency operations  
25 plan adopted in accordance with this section must require an  
26 assisted living facility to maintain a temperature between 68 and  
27 82 degrees Fahrenheit for:

1           (1) each area of refuge designated for assisted living  
2 facility residents; and

3           (2) each climate-controlled room for bedfast assisted  
4 living facility residents.

5           (d) The executive commissioner shall adopt rules to enforce  
6 this section.

7           (e) The commission shall establish construction and  
8 licensure standards for assisted living facilities constructed  
9 after September 1, 2026, including standards for:

10           (1) the integration of backup power systems or a  
11 connection point for a backup power system; and

12           (2) the evacuation of assisted living facility  
13 residents in emergencies to other buildings on the same premises.

14           (f) An assisted living facility shall submit the emergency  
15 preparedness and contingency operations plan required by this  
16 section to the commission in the form and manner prescribed by the  
17 commission.

18           (g) An assisted living facility shall include in the  
19 emergency preparedness and contingency operations plan adopted in  
20 accordance with this section its policies and information on:

21           (1) building equipment, including the location of and  
22 type of on-site generator equipment or backup power source; and

23           (2) assisted living facility residents, including  
24 residents who are bedfast and residents who are dependent on  
25 electrically powered equipment.

26           (h) The commission shall assess a penalty in accordance with  
27 Subchapter C against an assisted living facility found in violation

1 of this section.

2 SECTION 3. (a) Not later than January 1, 2026:

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

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

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

15 SECTION 4. This Act takes effect September 1, 2025.