

BILL ANALYSIS

Senate Research Center

H.B. 3121
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Health & Human Services
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

When a young person has a mental health emergency, they often receive short-term crisis stabilization at a psychiatric hospital. Texas lags behind other states in providing high-quality options for post hospitalization residential treatment for adolescents experiencing serious mental health challenges. Although there are a significant number of residential treatment centers for teens and adolescents, the centers vary in quality and much of the care is provided within Child Protective Services or the juvenile justice system for youth with a variety of mental health, behavioral, and substance abuse problems.

To assist adolescents and families in this difficult situation locate a residential treatment center that is focused on mental health and that meets certain quality and accreditation standards, as well as to encourage existing centers that provide psychiatric care to voluntarily meet heightened quality standards and incentivize new high quality psychiatric care facilities for youth to open up in Texas, H.B. 3121 seeks to provide for the voluntary state certification of facilities providing high-quality residential youth psychiatric care.

H.B. 3121 would increase access to quality mental health services, encourage existing facilities that provide psychiatric residential care to voluntarily meet heightened standards, and verify new high-quality psychiatric care facilities for adolescents that open in Texas.

H.B. 3121 amends current law relating to a voluntary quality standards certification process for certain private residential psychiatric treatment facilities that provide treatments and services to youth, imposes fees, and authorizes civil and administrative penalties.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 2 (Section 577A.004, 577A.053, and 577A.101, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Requires that this Act be known as Alec's Law.

SECTION 2. Amends Subtitle C, Title 7, Health and Safety Code, by adding Chapter 577A, as follows:

CHAPTER 577A. PSYCHIATRIC RESIDENTIAL YOUTH TREATMENT FACILITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 577A.001. DEFINITIONS. Defines "commission," "executive commissioner," "psychiatric residential youth treatment facility," and "severe emotional disturbance."

Sec. 577A.002. EXEMPTIONS. Provides that this chapter does not apply to a mental hospital, or a private mental hospital or other mental health facility licensed under Chapter 577 (Private Mental Hospitals and Other Mental Health Facilities).

Sec. 577A.003. LICENSING AND OTHER REQUIREMENTS NOT AFFECTED. Provides that this chapter does not affect any licensing or other requirements of a psychiatric residential youth treatment facility under Chapter 42 (Regulation of Certain Facilities, Homes, and Agencies that Provide Child-Care Services), Human Resources Code.

Sec. 577A.004. RULES. Requires the executive commissioner of the Health and Human Services Commission (executive commissioner) to adopt rules necessary to implement this chapter.

SUBCHAPTER B. CERTIFICATION, FEES, AND INSPECTIONS

Sec. 577A.051. VOLUNTARY QUALITY STANDARDS CERTIFICATION. Requires the Health and Human Services Commission (HHSC) to develop and implement a voluntary quality standards certification process to certify a psychiatric residential youth treatment facility that meets standards for certification under this chapter.

Sec. 577A.052. CERTIFICATE APPLICATION. (a) Requires an applicant, to obtain a certificate under this chapter, to submit to HHSC an application in the form and manner prescribed by HHSC.

(b) Requires that each application be accompanied by a fee established by the executive commissioner under Section 577A.053.

Sec. 577A.053. FEES. Requires the executive commissioner by rule to establish a nonrefundable certificate application fee and a nonrefundable certificate renewal fee in amounts necessary to cover the costs of administering this chapter.

Sec. 577A.054. ISSUANCE AND RENEWAL OF CERTIFICATE. (a) Requires HHSC to issue a certificate to an applicant if on inspection and investigation HHSC determines the applicant meets the requirements of this chapter and HHSC rules.

(b) Provides that a certificate issued under this chapter expires on the second anniversary of the date the certificate is issued or renewed.

(c) Requires HHSC to renew a certificate if the certificate holder submits to HHSC a fee established by the executive commissioner under Section 577A.053, and on inspection and investigation HHSC determines the certificate holder meets the requirements of this chapter and HHSC rules.

Sec. 577A.055. INSPECTIONS. Requires HHSC, in addition to the inspections required under Section 577A.054, to conduct an inspection not later than the first anniversary of the date a certificate is issued or renewed to ensure the certificate holder remains in compliance with the requirements of this chapter and HHSC rules.

SUBCHAPTER C. REGULATION OF CERTIFIED PSYCHIATRIC RESIDENTIAL YOUTH TREATMENT FACILITIES

Sec. 577A.101. MINIMUM STANDARDS. Requires the executive commissioner by rule to establish minimum standards for the certification of psychiatric residential youth treatment facilities under this chapter. Requires that the minimum standards require a facility to:

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

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

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

(B) individual therapy;

(C) family engagement activities;

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

(E) 24-hour nursing services; and

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

Sec. 577A.102. **ADMISSION CRITERIA.** Prohibits a facility certified under this chapter from admitting or providing treatments or services to an individual unless the individual:

(1) is 21 years of age or younger;

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

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

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

SUBCHAPTER D. ENFORCEMENT

Sec. 577A.151. **PENALTIES.** Provides that a facility certified under this chapter is subject to a civil penalty under Section 571.023 (Civil Penalty) or an administrative penalty under Section 571.025 (Administrative Penalty), as applicable, for a violation of this chapter or a rule adopted under this chapter.

SECTION 3. Amends Section 577.002, Health and Safety Code, as follows:

Sec. 577.002. New heading: **EXEMPTIONS.** (a) Creates this subsection from existing text. Provides that a mental health facility operated by the Department of State Health Services or a federal agency need not be licensed under this chapter.

(b) Provides that this chapter does not apply to a psychiatric residential youth treatment facility certified under Chapter 577A.

SECTION 4. Requires the executive commissioner, as soon as practicable after the effective date of this Act, to adopt rules necessary to implement Chapter 577A, Health and Safety Code, as added by this Act.

SECTION 5. Effective date: September 1, 2021.