

HOUSE BILL REPORT

HB 2154

As Reported By House Committee On:
Health Care
Appropriations

Title: An act relating to residents of long-term care facilities.

Brief Description: Providing protection for residents of long-term care facilities.

Sponsors: Representatives R. Meyers, Valle, Carlson, Jones, Dellwo, Roland, Campbell, Dorn, Ogden, Kessler, Holm, Wineberry and Thibaudeau.

Brief History:

Reported by House Committee on:
Health Care, February 1, 1994, DPS;
Appropriations, February 7, 1994, DP2S.

HOUSE COMMITTEE ON HEALTH CARE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 16 members: Representatives Dellwo, Chair; L. Johnson, Vice Chair; Dyer, Ranking Minority Member; Ballasiotes, Assistant Ranking Minority Member; Appelwick; Backlund; Conway; Cooke; Flemming; R. Johnson; Lemmon; Lisk; Mastin; Morris; Thibaudeau and Veloria.

Staff: Antonio Sanchez (786-7383).

Background: Since 1987 all nursing home residents in our state have been protected by a set of basic rights concerning information, care, privacy, treatment and their personal property and activities in the residence. Currently, however, these same basic rights do not uniformly exist in statute for other long-term care residential facilities such as boarding homes and adult family homes. The following chart indicates the areas of protection granted by law for each of these long-term care residential facilities. The blank spaces indicate that no law currently exists.

COMPARISON OF LONG-TERM CARE RESIDENT RIGHTS

A comparison chart is available from the Health Care Committee.

Residents of these long-term care residencies currently have the opportunity to have their complaints addressed by the State Long Term care Ombudsman or the Department of Social and Health Services Complaint Resolution Program. The Long-Term Care Ombudsman Program trains, certifies and supervises volunteers who mediate, resolve concerns and complaints, and stop verbal and physical abuse for Washington's 50,000 citizens living in nursing homes, boarding homes and adult family homes. Last year, the program handled nearly 5,500 complaints with 170 volunteers.

NURSING HOME DEPOSIT FEES

Currently, there are no regulations that either discourage or require a nursing home to refund a portion of a private nursing home resident's deposit fee in the event the resident does not reside in the nursing home. All nursing homes, except those who take only private-pay residents, are required to provide the residents or their representatives full disclosure of deposit and fees upon admissions. There are no requirements stipulated when deposit funds owed are to be returned to the resident or their representative.

Summary of Substitute Bill: The rights currently available to all nursing home residents are extended to residents in veteran's homes, adult family homes and boarding homes. These rights include: being appropriately informed of rights; protection of private funds and personal property; privacy and confidentiality; the ability to voice grievances; access and visitation rights; transfer and discharge requirements; freedom from any physical or chemical restraints imposed for discipline or convenience; freedom from abuse; and a number of rights to ensure that residents are able to choose their own lifestyle.

Boarding homes are provided with the ability to obtain criminal background checks on their employees from the Department of Social and Health Services without charge, in the same way nursing homes and adult family homes obtain them.

\$150,000 is appropriated to the Department of Social and Health Services to administer the collection of background check information for boarding homes.

Specific limitations are placed on minimum-stay fees or admission deposits, and on waivers of liability for personal property losses. Full disclosure of these limitations is

required in admission contracts for nursing homes, boarding homes, adult family homes and veteran's homes.

The long-term care ombudsman is given the responsibility to monitor the implementation of the act and report to the Legislature by July 1, 1995.

Substitute Bill Compared to Original Bill: Sections 11 and 15 were removed from the original bill. These sections provided residents, the Department of Social and Health Services or the ombudsman with the authority to seek an injunction to stop a continuation of abuse of rights. Also removed was language that created a private cause of action and linked all the rights to the Consumer Protection Act. These two sections are replaced with language requesting a study be conducted by the ombudsman on the implementation of the act.

New language was added to allow the long-term care facility to charge a minimum-stay fee. However, in the substitute bill, residents are not automatically entitled to a refund if they decide to leave. If a resident goes to the hospital or dies, the resident or the resident's survivor gets a refund for the unused days. Nursing homes that have contracts with third-party payers are exempted from limitations on admission charges and refunds.

Also added were a definition of legal representative and clarification of visitation rights and the right of consenting spouses to live together in a double room.

The requirement for long-term care facilities to provide safekeeping for and track resident funds was made optional.

A new section is added to the substitute bill that includes an appropriation of \$150,000 and allows the Department of Social and Health Services to speed up the processing for criminal background checks.

A study is required to be conducted on the impact this act will have on the administration of an integrated long-term care system for persons with functional disabilities. The study is due December 12, 1994.

Fiscal Note: Requested January 20, 1994.

Appropriation: \$150,000 from the state general fund.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: Residents in other long-term care facilities deserve the same rights and protection under the law that people now receive in nursing homes. This measure provides the ombudsman the ability to adequately address abuses of resident rights in adult family homes, facilities for people with developmental disabilities and other community facilities. The bill recognizes and reinforces the guarantee of equal rights and protection provided by the federal Americans with Disabilities Act. Expediting background checks is very important and money well spent.

Testimony Against: None.

Witnesses: Representative R. Meyers, prime sponsor (pro); Representative Carlson (pro); Representative Jones (pro); Evan Iverson, Senior Citizens' Lobby (pro); June Blikre, resident advocate (pro); Kary Hyre, Long-term Care Ombudsman (pro); Jackie Coombs (pro); Tom Jacobs, Volunteer Long-term Care Ombudsman (pro); Gordon Verrill, Long-term Care Ombudsman (pro); Terry Burnemann, Long-term Care Ombudsman (pro); Frank Winslow (pro/con), Alzheimer Society of Washington; Peggy Papsdorf, organizer, Washington Citizen Action (pro); Mark Stroh, Washington Protection and Advocacy System (pro); Red Meyer, American Association of Retired Persons (pro); Kathleen West (pro); Kathy Leitch, Department of Social and Health Services (pro); Kathy Stout, Department of Health (pro); Jeff Larsen, Adult Licensed Family Homes of Washington; Gail Hiestand, Washington Association of Area Agencies on Aging (pro); Sharon McIntyre, Washington State Nursing Home Resident Council (pro); and Scott Sigman, Washington Health Care Association (pro).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass. Signed by 25 members: Representatives Sommers, Chair; Valle, Vice Chair; Carlson, Assistant Ranking Minority Member; Appelwick; Ballasiotes; Basich; Cooke; Dellwo; Dorn; Dunshee; G. Fisher; Foreman; Jacobsen; Lemmon; Linville; H. Myers; Peery; Rust; Sehlin; Sheahan; Stevens; Talcott; Wang; Wineberry and Wolfe.

Staff: John Woolley (786-7154).

Summary of Recommendation of Committee on Appropriations Compared to Recommendation of Committee on Health Care: The appropriations section is removed. A null and void clause is placed on the subsection relating to criminal background checks. If that subsection is not referenced and funded in the budget, it will not become statute.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: As there is an ever growing population of seniors and the disabled that are getting care in places other than nursing homes, it is essential to provide those people the same protection provided to nursing home residents. The bill simply takes the rights guaranteed to nursing home residents in federal law and extends those to other long term care facilities. The criminal background checks are very important.

Testimony Against: None.

Witnesses: Evan Iverson, President, Senior Citizens' Lobby, Scott Sigmund, Washington Health Care Association; and Kary Hyre, Long-Term Care Ombudsman.