

HOUSE BILL REPORT

E2SHB 2154

As Amended by Senate

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

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

Sponsors: By House Committee on Appropriations (originally sponsored by 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;
Passed House, February 10, 1994, 92-0;
Amended by Senate.

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).

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).

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 table 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 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 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. The protection of private funds is also extended to residents in veteran's boarding homes.

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, only if referenced and funded in the budget.

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.

EFFECT OF SENATE AMENDMENT(S): Legislative intent is clarified that residents of long-term care facilities should have clean, safe, comfortable environments which enhance the quality of their lives.

Legislative intent is specified that the remedies provided under the act are intended to be as informal as possible, relying on discussions with facility staff, facility and licensing grievance procedures, licensing agency action and other means. However, nothing in the act should be interpreted to either create or remove private causes of legal action, if they exist under other statutes or under common law, for violations of the provisions of the act.

The definition of physical restraint is qualified to include only those restraints which are "used for discipline or convenience and not required to treat the resident's medical symptoms."

The term "legal representative" is modified to "representative" and means the person who is authorized to make medical decisions for incompetent persons under RCW 7.70.065.

The requirement to provide "periodic" notice of the rights and services available to residents is specified to be once every 24 months.

The provision which renders null and void any rule or regulation which unreasonably restricts the rights of a resident is deleted.

The standard for notifying the legal representatives and interested family members of injuries or changes in residents' conditions is reduced to "make reasonable efforts."

The standard for notifying interested family members of moves, transfers or discharges is also reduced to "make reasonable efforts."

The prohibition against hiring persons who are barred from employment because of prior convictions for certain offenses is removed.

Residents' rights related to quality of life are limited to being within the bounds of reasonable facility rules designed to protect the rights and quality of life of other residents.

Residents' rights to refuse medications, to refuse treatments, to make changes in their service plans and to refuse services must be documented in their records.

The section is removed from the bill which would have rendered null and void the section on free criminal background checks if funds are not appropriated. Instead, the requirement that the Department of Social and Health Services provide free criminal background checks on prospective employees of long-term care facilities is qualified as a requirement within available resources.

The House of Representatives study on the impact of the act on the development of the long-term care system is deleted.

Fiscal Note: Available.

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

Testimony For: (Health Care) 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.

(Appropriations) 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: (Health Care) None.

(Appropriations) None.

Witnesses: (Health Care) 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).

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

VOTE ON FINAL PASSAGE:

Yeas 92; Excused 6

Excused: Representatives Dunshee, Forner, Riley, Romero, Springer, Wineberry