

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 1320**

57th Legislature  
2001 Regular Legislative Session

Passed by the House April 16, 2001  
Yeas 93 Nays 0

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**Speaker of the House of Representatives**

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**Speaker of the House of Representatives**

Passed by the Senate April 5, 2001  
Yeas 49 Nays 0

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**President of the Senate**

Approved

CERTIFICATE

We, Timothy A. Martin and Cynthia Zehnder, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1320** as passed by the House of Representatives and the Senate on the dates hereon set forth.

\_\_\_\_\_  
**Chief Clerk**

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**Chief Clerk**

FILED

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Governor of the State of Washington

Secretary of State  
State of Washington

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**SUBSTITUTE HOUSE BILL 1320**

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AS AMENDED BY THE SENATE

Passed Legislature - 2001 Regular Session

**State of Washington                      57th Legislature                      2001 Regular Session**

**By** House Committee on Health Care (originally sponsored by Representatives Edmonds, Skinner, Pennington, Cody, Gombosky, Campbell, Darneille, Ruderman, Conway, Schual-Berke, Edwards, Mielke, Linville, Kenney, Jackley and Kagi)

Read first time 02/27/2001. Referred to Committee on .

1            AN ACT Relating to adult family homes; amending RCW 70.128.005,  
2 70.128.010, 18.52C.020, 70.24.017, 70.128.007, 70.128.010, 70.128.090,  
3 and 70.128.120; adding new sections to chapter 70.128 RCW; adding a new  
4 section to chapter 74.39A RCW; repealing RCW 70.128.061 and 70.128.062;  
5 and providing an effective date.

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

7            **Sec. 1.** RCW 70.128.005 and 2000 c 121 s 4 are each amended to read  
8 as follows:

9            The legislature finds that adult family homes are an important part  
10 of the state's long-term care system. Adult family homes provide an  
11 alternative to institutional care and promote a high degree of  
12 independent living for residents. Persons with functional limitations  
13 have broadly varying service needs. Adult family homes that can meet  
14 those needs are an essential component of a long-term system. The  
15 legislature further finds that different populations living in adult  
16 family homes, such as the developmentally disabled and the elderly,  
17 often have significantly different needs and capacities from one  
18 another.

1 It is the legislature's intent that department rules and policies  
2 relating to the licensing and operation of adult family homes recognize  
3 and accommodate the different needs and capacities of the various  
4 populations served by the homes. Furthermore, the development and  
5 operation of adult family homes that can provide quality personal care  
6 and special care services should be encouraged.

7 The legislature finds that many residents of community-based long-  
8 term care facilities are vulnerable and their health and well-being are  
9 dependent on their caregivers. The quality, skills, and knowledge of  
10 their caregivers are ((often)) the key to good care. The legislature  
11 finds that the need for well-trained caregivers is growing as the  
12 state's population ages and residents' needs increase. The legislature  
13 intends that current training standards be enhanced.

14 The legislature finds that the state of Washington has a compelling  
15 interest in protecting and promoting the health, welfare, and safety of  
16 vulnerable adults residing in adult family homes. The health, safety,  
17 and well-being of vulnerable adults must be the paramount concern in  
18 determining whether to issue a license to an applicant, whether to  
19 suspend or revoke a license, or whether to take other licensing  
20 actions.

21 **Sec. 2.** RCW 70.128.010 and 1995 c 260 s 2 are each amended to read  
22 as follows:

23 Unless the context clearly requires otherwise, the definitions in  
24 this section apply throughout this chapter.

25 (1) "Adult family home" means a regular family abode in which a  
26 person or persons provide personal care, special care, room, and board  
27 to more than one but not more than six adults who are not related by  
28 blood or marriage to the person or persons providing the services.

29 (2) "Provider" means any person who is licensed under this chapter  
30 to operate an adult family home. For the purposes of this section,  
31 "person" means any individual, partnership, corporation, association,  
32 or limited liability company.

33 (3) "Department" means the department of social and health  
34 services.

35 (4) "Resident" means an adult in need of personal or special care  
36 in an adult family home who is not related to the provider.

37 (5) "Adults" means persons who have attained the age of eighteen  
38 years.

1 (6) "Home" means an adult family home.

2 (7) "Imminent danger" means serious physical harm to or death of a  
3 resident has occurred, or there is a serious threat to resident life,  
4 health, or safety.

5 (8) "Special care" means care beyond personal care as defined by  
6 the department, in rule.

7 (9) "Capacity" means the maximum number of persons in need of  
8 personal or special care permitted in an adult family home at a given  
9 time. This number shall include related children or adults in the home  
10 and who received special care.

11 (10) "Resident manager" means a person employed or designated by  
12 the provider to manage the adult family home.

13 **Sec. 3.** RCW 18.52C.020 and 1997 c 392 s 527 are each amended to  
14 read as follows:

15 Unless the context clearly requires otherwise, the definitions in  
16 this section apply throughout this chapter.

17 (1) "Secretary" means the secretary of the department of health.

18 (2) "Health care facility" means a nursing home, hospital, hospice  
19 care facility, home health care agency, hospice agency, boarding home,  
20 (~~adult family home,~~) group home, or other entity for the delivery of  
21 health care or long-term care services, including chore services  
22 provided under chapter 74.39A RCW.

23 (3) "Nursing home" means any nursing home facility licensed  
24 pursuant to chapter 18.52 RCW.

25 (4) "Nursing pool" means any person engaged in the business of  
26 providing, procuring, or referring health care or long-term care  
27 personnel for temporary employment in health care facilities, such as  
28 licensed nurses or practical nurses, nursing assistants, and chore  
29 service providers. "Nursing pool" does not include an individual who  
30 only engages in providing his or her own services.

31 (5) "Person" includes an individual, firm, corporation,  
32 partnership, or association.

33 (6) "Adult family home" means a residential home licensed pursuant  
34 to chapter 70.128 RCW.

35 **Sec. 4.** RCW 70.24.017 and 1991 c 3 s 322 are each amended to read  
36 as follows:

1 Unless the context clearly requires otherwise, the definitions in  
2 this section apply throughout this chapter:

3 (1) "Acquired immunodeficiency syndrome" or "AIDS" means the  
4 clinical syndrome of HIV-related illness as defined by the board of  
5 health by rule.

6 (2) "Board" means the state board of health.

7 (3) "Department" means the department of health, or any successor  
8 department with jurisdiction over public health matters.

9 (4) "Health care provider" means any person who is a member of a  
10 profession under RCW 18.130.040 or other person providing medical,  
11 nursing, psychological, or other health care services regulated by the  
12 department of health.

13 (5) "Health care facility" means a hospital, nursing home,  
14 neuropsychiatric or mental health facility, home health agency,  
15 hospice, child care agency, (~~adult family home,~~) group care facility,  
16 family foster home, clinic, blood bank, blood center, sperm bank,  
17 laboratory, or other social service or health care institution  
18 regulated or operated by the department of health.

19 (6) "HIV-related condition" means any medical condition resulting  
20 from infection with HIV including, but not limited to, seropositivity  
21 for HIV.

22 (7) "Human immunodeficiency virus" or "HIV" means all HIV and HIV-  
23 related viruses which damage the cellular branch of the human immune or  
24 neurological systems and leave the infected person immunodeficient or  
25 neurologically impaired.

26 (8) "Test for a sexually transmitted disease" means a test approved  
27 by the board by rule.

28 (9) "Legal guardian" means a person appointed by a court to assume  
29 legal authority for another who has been found incompetent or, in the  
30 case of a minor, a person who has legal custody of the child.

31 (10) "Local public health officer" means the officer directing the  
32 county health department or his or her designee who has been given the  
33 responsibility and authority to protect the health of the public within  
34 his or her jurisdiction.

35 (11) "Person" includes any natural person, partnership,  
36 association, joint venture, trust, public or private corporation, or  
37 health facility.

38 (12) "Release of test results" means a written authorization for  
39 disclosure of any sexually transmitted disease test result which is

1 signed, dated, and which specifies to whom disclosure is authorized and  
2 the time period during which the release is to be effective.

3 (13) "Sexually transmitted disease" means a bacterial, viral,  
4 fungal, or parasitic disease, determined by the board by rule to be  
5 sexually transmitted, to be a threat to the public health and welfare,  
6 and to be a disease for which a legitimate public interest will be  
7 served by providing for regulation and treatment. The board shall  
8 designate chancroid, gonorrhea, granuloma inguinale, lymphogranuloma  
9 venereum, genital herpes simplex, chlamydia, nongonococcal urethritis  
10 (NGU), trachomitis, genital human papilloma virus infection, syphilis,  
11 acquired immunodeficiency syndrome (AIDS), and human immunodeficiency  
12 virus (HIV) infection as sexually transmitted diseases, and shall  
13 consider the recommendations and classifications of the centers for  
14 disease control and other nationally recognized medical authorities in  
15 designating other diseases as sexually transmitted.

16 (14) "State public health officer" means the secretary of health or  
17 an officer appointed by the secretary.

18 **Sec. 5.** RCW 70.128.007 and 1995 1st sp.s. c 18 s 19 are each  
19 amended to read as follows:

20 The purposes of this chapter are to:

21 (1) Encourage the establishment and maintenance of adult family  
22 homes that provide a humane, safe, and ((homelike)) residential home  
23 environment for persons with functional limitations who need personal  
24 and special care;

25 (2) Establish standards for regulating adult family homes that  
26 adequately protect residents;

27 (3) Encourage consumers, families, providers, and the public to  
28 become active in assuring their full participation in development of  
29 adult family homes that provide high quality and cost-effective care;

30 (4) Provide for appropriate care of residents in adult family homes  
31 by requiring that each resident have a care plan that promotes the most  
32 appropriate level of physical, mental, and psychosocial well-being  
33 consistent with client choice; and

34 (5) Accord each resident the right to participate in the  
35 development of the care plan and in other major decisions involving the  
36 resident and their care.

1       **Sec. 6.** RCW 70.128.010 and 1995 c 260 s 2 are each amended to read  
2 as follows:

3       Unless the context clearly requires otherwise, the definitions in  
4 this section apply throughout this chapter.

5       (1) "Adult family home" means a ~~((regular—family—abode))~~  
6 residential home in which a person or persons provide personal care,  
7 special care, room, and board to more than one but not more than six  
8 adults who are not related by blood or marriage to the person or  
9 persons providing the services.

10       (2) "Provider" means any person who is licensed under this chapter  
11 to operate an adult family home. For the purposes of this section,  
12 "person" means any individual, partnership, corporation, association,  
13 or limited liability company.

14       (3) "Department" means the department of social and health  
15 services.

16       (4) "Resident" means an adult in need of personal or special care  
17 in an adult family home who is not related to the provider.

18       (5) "Adults" means persons who have attained the age of eighteen  
19 years.

20       (6) "Home" means an adult family home.

21       (7) "Imminent danger" means serious physical harm to or death of a  
22 resident has occurred, or there is a serious threat to resident life,  
23 health, or safety.

24       (8) "Special care" means care beyond personal care as defined by  
25 the department, in rule.

26       (9) "Capacity" means the maximum number of persons in need of  
27 personal or special care permitted in an adult family home at a given  
28 time. This number shall include related children or adults in the home  
29 and who received special care.

30       **Sec. 7.** RCW 70.128.090 and 1995 1st sp.s. c 18 s 24 are each  
31 amended to read as follows:

32       (1) During inspections of an adult family home, the department  
33 shall have access and authority to examine areas and articles in the  
34 home used to provide care or support to residents, including residents'  
35 records, accounts, and the physical premises, including the buildings,  
36 grounds, and equipment. The personal records of the provider are not  
37 subject to department inspection nor is the separate bedroom of the  
38 provider, not used in direct care of a client, subject to review. The

1 department may inspect all rooms during the initial licensing of the  
2 home. However, during a complaint investigation, the department shall  
3 have access to the entire premises and all pertinent records when  
4 necessary to conduct official business. The department also shall have  
5 the authority to interview the provider and residents of an adult  
6 family home.

7 (2) Whenever an inspection is conducted, the department shall  
8 prepare a written report that summarizes all information obtained  
9 during the inspection, and if the home is in violation of this chapter,  
10 serve a copy of the inspection report upon the provider at the same  
11 time as a notice of violation. This notice shall be mailed to the  
12 provider within ten working days of the completion of the inspection  
13 process. If the home is not in violation of this chapter, a copy of  
14 the inspection report shall be mailed to the provider within ten  
15 calendar days of the inspection of the home. All inspection reports  
16 shall be made available to the public at the department during business  
17 hours.

18 (3) The provider shall develop corrective measures for any  
19 violations found by the department's inspection. The department  
20 (~~may~~) shall upon request provide consultation and technical  
21 assistance to assist the provider in developing effective corrective  
22 measures. The department shall include a statement of the provider's  
23 corrective measures in the department's inspection report.

24 **Sec. 8.** RCW 70.128.120 and 2000 c 121 s 5 are each amended to read  
25 as follows:

26 Each adult family home provider and each resident manager shall  
27 have the following minimum qualifications:

28 (1) Twenty-one years of age or older;

29 (2) For those applying after September 1, 2001, to be licensed as  
30 providers, and for resident managers whose employment begins after  
31 September 1, 2001, a high school diploma or general educational  
32 development (GED) certificate;

33 (3) Good moral and responsible character and reputation;

34 (~~((3))~~) (4) Literacy in the English language, however, a person not  
35 literate in the English language may meet the requirements of this  
36 subsection by assuring that there is a person on staff and available  
37 who is able to communicate or make provisions for communicating with  
38 the resident in his or her primary language and capable of



1 understanding and speaking English well enough to be able to respond  
2 appropriately to emergency situations and be able to read and  
3 understand resident care plans;

4 ~~((4))~~ (5) Management and administrative ability to carry out the  
5 requirements of this chapter;

6 ~~((5))~~ (6) Satisfactory completion of department-approved basic  
7 training and continuing education training as specified by the  
8 department in rule, based on recommendations of the community long-term  
9 care training and education steering committee and working in  
10 collaboration with providers, consumers, caregivers, advocates, family  
11 members, educators, and other interested parties in the rule-making  
12 process;

13 ~~((6))~~ (7) Satisfactory completion of department-approved, or  
14 equivalent, special care training before a provider may provide special  
15 care services to a resident;

16 ~~((7))~~ (8) Not been convicted of any crime listed in RCW 43.43.830  
17 and 43.43.842;~~((and~~

18 ~~(8) Effective July 1, 1996,))~~ (9) Registered with the department of  
19 health; and

20 (10) For those applying after September 1, 2001, to be licensed as  
21 providers, and for resident managers whose employment begins after  
22 September 1, 2001, at least three hundred twenty hours of successful,  
23 direct caregiving experience obtained after age eighteen to vulnerable  
24 adults in a licensed or contracted setting prior to operating or  
25 managing an adult family home.

26 NEW SECTION. Sec. 9. A new section is added to chapter 70.128 RCW  
27 to read as follows:

28 Adult family homes shall comply with the provisions of chapter  
29 70.24 RCW.

30 NEW SECTION. Sec. 10. A new section is added to chapter 70.128  
31 RCW to read as follows:

32 In order to prevent disruption to current residents, at the request  
33 of the current licensed provider, the department shall give processing  
34 priority to the application of a person seeking to be licensed as the  
35 new provider for the adult family home. The department may issue a  
36 provisional license when a currently licensed adult family home  
37 provider has applied to be licensed as the new provider for a currently

1 licensed adult family home, the application has been initially  
2 processed, and all that remains to complete the application process is  
3 an on-site inspection.

4 NEW SECTION. **Sec. 11.** A new section is added to chapter 70.128  
5 RCW to read as follows:

6 The department shall implement, as part of the required training  
7 and continuing education, food safety training integrated into the  
8 curriculum that meets the standards established by the state board of  
9 health pursuant to chapter 69.06 RCW. Individual food handler permits  
10 are not required for persons who successfully complete the training.

11 NEW SECTION. **Sec. 12.** A new section is added to chapter 70.128  
12 RCW to read as follows:

13 The department shall work with the providers and resident  
14 communities to develop opportunities for licensing and quality  
15 assurance staff to become familiar with the actual environment and the  
16 daily hands-on routine of care and services in an adult family home.

17 NEW SECTION. **Sec. 13.** A new section is added to chapter 74.39A  
18 RCW to read as follows:

19 An employer providing home and community services, including  
20 facilities licensed under chapters 18.51, 18.20, and 70.128 RCW, an  
21 employer of a program authorized under RCW 71A.12.040(10), or an in-  
22 home services agency employer licensed under chapter 70.127 RCW, who  
23 discloses information about a former or current employee to a  
24 prospective home and community services employer, nursing home  
25 employer, or are an in-home services agency employer, is presumed to be  
26 acting in good faith and is immune from civil and criminal liability  
27 for such disclosure or its consequences if the disclosed information  
28 relates to: (1) The employee's ability to perform his or her job; (2)  
29 the diligence, skill, or reliability with which the employee carried  
30 out the duties of his or her job; or (3) any illegal or wrongful act  
31 committed by the employee when related to his or her ability to care  
32 for a vulnerable adult. For purposes of this section, the presumption  
33 of good faith may only be rebutted upon a showing by clear and  
34 convincing evidence that the information disclosed by the employer was  
35 knowingly false or made with reckless disregard for the truth of the  
36 information disclosed. Should the employee successfully rebut the

1 presumption of good faith standard in a court of competent  
2 jurisdiction, and therefore be the prevailing party, the prevailing  
3 party shall be entitled to recover reasonable attorneys' fees against  
4 the employer. Nothing in this section shall affect or limit any other  
5 state, federal, or constitutional right otherwise available.

6 NEW SECTION. **Sec. 14.** The following acts or parts of acts are  
7 each repealed:

8 (1) RCW 70.128.061 (Moratorium on authorization of adult family  
9 home licenses) and 1997 c 392 s 402; and

10 (2) RCW 70.128.062 (Rule-making authority to implement RCW  
11 70.128.061) and 1997 c 392 s 403.

12 NEW SECTION. **Sec. 15.** Section 11 of this act takes effect March  
13 2, 2002.

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