

SENATE BILL REPORT

SSB 5733

As Passed Senate, January 26, 2004

Title: An act relating to fairness and protection in boarding homes and adult family homes.

Brief Description: Improving fairness and protection in boarding homes and adult family homes.

Sponsors: Senate Committee on Health & Long-Term Care (originally sponsored by Senators Winsley, Thibaudeau and Kohl-Welles).

Brief History:

Committee Activity: Health & Long-Term Care: 2/26/03, 3/5/03 [DPS].

Passed Senate: 3/19/03, 49-0; 1/26/04, 48-0.

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Majority Report: That Substitute Senate Bill No. 5733 be substituted therefor, and the substitute bill do pass.

Signed by Senators Deccio, Chair; Winsley, Vice Chair; Brandland, Franklin, Keiser and Parlette.

Staff: Rhoda Donkin (786-7198)

Background: Boarding homes, and adult family homes are regulated by the Department of Social and Health Services. The department makes regular unannounced inspections, and must respond to complaints under terms described in statute. Complaints involving imminent danger to the health, safety or well-being of a resident must be responded to within two days. The department is authorized to take actions if licensees fail to meet licensing requirements, if they operate without a license, provide false information, or interfere with inspections or investigations. Any of the above may be cause for the department to refuse an initial license, or to impose reasonable conditions on a contract, to levy civil penalties, or to suspend, revoke or deny a renewal. The department is also authorized to suspend admissions to any facility found in violation of licensure or contract agreements.

After the department has imposed a stop placement due to serious, recurring, or uncorrected violations, and in situations where there has been an actual or threatened harm to one or more residents, the department must make an on-site revisit as soon as appropriate to ensure that the violation has been corrected. The language in statute concerning serious, recurring and uncorrected violations has been interpreted as providing too much latitude for enforcement purposes. Facility operators report that heavy sanctions are being levied for violations that are not serious, and the long-term care ombudsman reports that the department is issuing insignificant fines against operators who commit serious and repeated violations.

Summary of Bill: Change of ownership rules of boarding homes and adult family homes are clarified and simplified.

A new owner is responsible for fixing problems identified in previous owners' inspections, and correcting plans of action.

If a facility has violations when a new owner takes over, the new owner must make sure they are corrected.

Appropriation: None.

Fiscal Note: Requested on February 21, 2003.

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

Testimony For: Original bill: Better enforcement rules need to be established. Clearer definitions of "harm" and "serious harm" are necessary because inspectors are overlooking serious problems, and in some cases citing things that are not very serious.

Testimony Against: Original bill: It is wrong to define a bruised elderly individual as "harmed." Many situations result in people looking harmed, when they are not. Stringent definitions will cause more damage than protections.

Testified: Bill Day, Adult Family Home Association (concerns); Harry Steinmetz, WAHSA (con); Pat Lashway, DSHS (con); Terry Kohl, WSRCC (con); Kary Hyre, LTC Ombudsman (pro); Jeff Crollard, LTC Ombudsman Attorney (pro); Hilke Faber, Resident Councils of Washington (pro); Ruth Shearer, senior (pro).

House Amendment(s): The department may deny, suspend, revoke, or refuse to renew a license if the applicant or licensee operated a boarding home without a license, or with a revoked or suspended license, made false statements related to the license, or violated other statutory standards.

The definition of an "affiliated person" is broadened to include the spouse of the applicant, or is listed on the license application as a partner, officer, director, resident manager or majority owner of the applying entity.

Change of ownership rules of boarding homes and adult family homes are clarified and simplified.

A new owner of a boarding home or an adult family home is responsible for correcting all violations that may exist at the time of the new license.