

SENATE BILL REPORT

2SHB 2914

As of February 24, 2006

Title: An act relating to compliance with certification standards for providers of residential services and support to persons with developmental disabilities.

Brief Description: Regarding compliance with certification standards for providers of residential services and support to persons with developmental disabilities.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Roberts, Haler, Darneille, Kagi, Dickerson, Morrell, Hankins, Green and Simpson).

Brief History: Passed House: 2/14/06, 98-0.

Committee Activity: Health & Long-Term Care: 2/23/06.

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Staff: Sharon Swanson (786-7447)

Background: A developmental disability is defined as a disability that:

- originates before the age of eighteen years;
- is attributable to mental retardation, cerebral palsy, epilepsy, autism, or another neurological or other condition closely related to, or requiring treatment similar to, that required by mental retardation;
- is expected to continue indefinitely; and
- constitutes a substantial handicap.

The Department of Social and Health Services (DSHS) is authorized to contract for a variety of services to persons with developmental disabilities. Residential services and supports include a wide array of supported living services, many of which may be provided in the person's own home.

Providers of supported living services must be certified by DSHS. Certification differs from licensing, primarily because the certification process assesses the ability and appropriateness of the agency and its employees to provide particular services, whereas licensure focuses on a specific facility that provides services at a particular location.

For licensed facilities, DSHS has comprehensive compliance enforcement authority. For certified providers, however, DSHS does not have the same authority to enforce compliance with certification standards.

Summary of Amended Bill: The Department of Social and Health Services is authorized to take action when a certified provider fails to comply with certification requirements or the certification process, or with the mandatory reporting requirements under the vulnerable adult statute. DSHS can take action if a certified provider interferes with an inspection or

knowingly provides false information during the certification process or during an investigation.

DSHS is permitted to take the following actions:

- decertify or refuse to renew the certification;
- impose conditions on a provider's certification status;
- impose civil fines of not more than \$300 per day, per violation;
- suspend referrals to the providers; or
- require a provider to implement a corrective action plan.

When determining what enforcement to take, DSHS must select actions commensurate with the seriousness of the threat or harm to the persons being served. For violations that remain uncorrected or are repeated or pervasive, DSHS may take actions that are more severe.

DSHS is directed to adopt rules governing criteria to be used for the selection and implementation of enforcement actions. Rules must include a process for informal review. The Administrative Procedures Act applies to the enforcement actions authorized.

DSHS may require a provider to implement a plan of correction developed by DSHS and to cooperate with subsequent monitoring of the providers progress. In the event a provider fails to comply with the plan of correction or subsequent monitoring, DSHS may impose civil penalties of not more than three hundred dollars per day, per violation.

Amended Bill Compared to Second Substitute Bill: In the event a provider fails to comply with a plan of correction or fails to comply with subsequent monitoring, DSHS may impose civil penalties of not more than three hundred dollars per day, per violation.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 22, 2006.

Committee/Commission/Task Force Created: No.

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

Testimony For: Currently, the Department of Social and Health Services has no intermediate steps available to deal with an errant licensee or certified provider. The department can either pull a contract from a provider or do nothing. This bill provides for an array of sanctions that the department can utilize to address concerns or infractions by a licensee. The ability to fine a provider is somewhat controversial but the bill can be amended to reflect the fact that monetary fines are meant as a tool of last resort and are only to be implemented when other measures have failed.

Testimony Against: None.

Testimony Other: Fines are very difficult for providers to deal with. Many providers are either non-profits or are barely able to make it financially. We believe a compromise can be reached in regards to fines.

Who Testified: PRO: Joyce Stockwell, Department of Social and Health Services; Donna Patrick, Developmental Disabilities Council.

OTHER: Cara Lee Cook, Community Residential Services Association.