

# SENATE BILL REPORT

## HB 1492

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As of March 27, 2017

**Title:** An act relating to equalizing civil monetary penalties for assisted living facilities with other long-term care providers.

**Brief Description:** Equalizing civil monetary penalties for assisted living facilities with other long-term care providers.

**Sponsors:** Representatives Tharinger, Harris, Cody, Macri and Appleton.

**Brief History:** Passed House: 3/06/17, 69-29.

**Committee Activity:** Health Care: 3/27/17.

### Brief Summary of Bill

- Requires the Department of Social and Health Services to adopt rules that provide for the imposition of incrementally more severe civil penalties for deficiencies at assisted living facilities.
- Authorizes civil penalties up to \$3,000 per incident for violations of assisted living facility standards and up to \$10,000 for operating an assisted living facility without a license.

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### SENATE COMMITTEE ON HEALTH CARE

**Staff:** Kathleen Buchli (786-7488)

**Background:** The Department of Social and Health Services (Department) licenses assisted living facilities, which are community-based residences that provide housing and basic services to seven or more residents. Residents of assisted living facilities are generally adults who require support and supervision. Each assisted living facility provides a different set of services, but generally include housekeeping, meals, laundry, activities, assistance with activities of daily living, health support services, and intermittent nursing services.

The Department may take regulatory action against an assisted living facility for violations of licensing and inspection standards and requirements. Actions may include refusing to issue or renew a license, imposing conditions on a license, imposing up to \$100 in civil penalties,

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suspending or revoking a license, suspending admissions through a stop placement order, or suspending admission of a specific category of residents through a stop placement order.

Receipts from civil penalties must be deposited in the Assisted Living Facility Temporary Management account (Account). Funds from the Account may be used for the payment of relocating residents to other facilities, payment to maintain the operation of an assisted living facility pending correction of deficiencies or closure, and reimbursement to residents for personal funds or property that has been lost or stolen.

**Summary of Bill:** The \$100 limit on civil penalties against assisted living facilities for violations of licensing and inspection requirements is changed to a \$100 minimum civil penalty.

By January 1, 2018, the Department must adopt rules to specify criteria for imposing incrementally more severe penalties upon an assisted living facility for violations that are serious, recurring, uncorrected, pervasive, or present a threat to the health, safety, or welfare of a resident. Civil penalties for violations of assisted living facility licensing statutes and rules may not exceed \$3,000 for each incident. Each day in which a substantially similar action occurs is a separate penalty. Penalties for the operation of an assisted living facility without a license may not exceed \$10,000.

In addition to other permitted uses, the Account may be used for the protection of the health, safety, welfare, and property of residents of assisted living facilities that are not compliant with licensing standards.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

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

**Staff Summary of Public Testimony:** PRO: This is a fee bill on its face, but this actually an equity bill. This provides equity in fees across the spectrum of care. It provides a mechanism for the ombuds; it does not apply to all homes just those outliers who commit egregious infractions. This would apply to those facilities with a continual record of not treating vulnerable adults as they should. Many facilities offer quality care to residents but some fail to keep residents safe and secure. Currently, the Department is limited to a fine of \$100 per incident regardless of the severity of the offense; this is in contrast to adult family homes and nursing homes which can go up to \$3000 depending on severity. This makes the fines meaningful and ensures that our vulnerable residents are taken care of appropriately. This is about safety for vulnerable adults. People should be treated with care and respect and free from neglect. We work quickly to respond to complaints and sometimes we need the Department to step in and protect the residents. They do have a variety of tools to enforce the laws, one tool is a civil fine. We have put a lot of time and effort in putting together these laws to protect vulnerable adults. The Department has a per incident cap on fines. We are

not asking for a minimum cap of \$100 but would like to give the Department to pick the appropriate fine for the circumstance.

**Persons Testifying:** PRO: Representative Steve Tharinger, Prime Sponsor; Patricia Hunter, Washington State Longterm Care Ombuds; Neil Degerstedt, Southwest Washington Regional LTC Ombuds.

**Persons Signed In To Testify But Not Testifying:** No one.