

SENATE BILL REPORT

ESSB 5640

As Passed Senate, January 17, 2024

Title: An act relating to establishing an independent living residents' rights work group.

Brief Description: Establishing an independent living residents' rights work group.

Sponsors: Senate Committee on Housing (originally sponsored by Senators Hunt, Kuderer and Wilson, C.).

Brief History:

Committee Activity: Housing: 2/10/23, 2/15/23 [DPS].

Floor Activity: Passed Senate: 1/17/24, 48-0.

Brief Summary of Engrossed First Substitute Bill

- Establishes a living residents' rights work group to recommend a bill of rights for nonresidents residing in an assisted living facility.

SENATE COMMITTEE ON HOUSING

Majority Report: That Substitute Senate Bill No. 5640 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kuderer, Chair; Frame, Vice Chair; Fortunato, Ranking Member; Braun, Cleveland, Gildon, Rivers, Saldaña, Shewmake, Trudeau and Wilson, J..

Staff: Melissa Van Gorkom (786-7491)

Background: Assisted Living Facility. Assisted living facilities are a type of long-term care (LTC) facility that provide housing and basic services to seven or more residents. Each assisted living facility provides a range of services which may include housekeeping, meals, laundry, activities, assistance with activities of daily living, health support services, and intermittent nursing services.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

A nonresident is any person who resides in an unlicensed room located within an assisted living facility. Nonresidents may receive certain services from an assisted living facility, but are not afforded the same services and protections as residents. Assisted living facilities must notify nonresidents that certain protections, such as LTC resident rights, available to residents do not apply to them.

Department of Social and Health Services. The Department of Social and Health Services (DSHS) oversees licensing and regulatory compliance for LTC facilities in Washington State and is authorized to take enforcement actions against a facility for noncompliance.

Long-Term Care Ombuds. The LTC Ombuds is authorized to monitor LTC facilities to determine the extent to which their residents are able to exercise their rights. LTC facility residents are afforded specific rights under the statute that cover a broad range of topics, including self-determination, communication, access to clinical records, availability of services, management of financial affairs, privacy and confidentiality of personal and clinical records, expression of grievances, visitation, and personal possessions.

Dementia Action Collaborative. The Dementia Action Collaborative (Collaborative) was established by the Legislature to assess the current and future impact of Alzheimer's disease and other dementias on Washington residents. The Collaborative is co-chaired by the Secretary of DSHS, or the Secretary's designee, and either the member representing an Alzheimer's disease advocacy organization or the member representing the Washington-based organization of volunteers, family, and friends of those affected by Alzheimer's disease and other dementias.

Summary of Engrossed First Substitute Bill: The Independent Living Resident's Work Group (work group) is established, subject to appropriations, to recommend a bill of rights for nonresidents residing in an assisted living facility that allows the nonresidents to have a process to resolve disputes regarding contracted services with the owners and management of the assisted living facility in which they reside. To establish these requirements the work group must:

- hold multiple stakeholder meetings with nonresidents residing in an assisted living facility to identify the barriers and issues impacting the nonresidents;
- consider the impacts and evaluate the options for nonresidents residing in an assisted living facility;
- conduct an analysis of the barriers and issues regarding contracted services that may not be resolved through the current appeals process for residential landlord-tenant policies; and
- develop recommendations for a process for nonresidents residing in an assisted living facility to resolve problems.

The work group is composed of the following eleven members:

- one representative from DSHS, and a community based organization that advocates

for seniors and other individuals who wish to age in place, appointed by the Secretary of DSHS;

- one representative from two different associations representative assisted living facilities, appointed by the Secretary of DSHS from a list provided by the associations;
- three representatives who are current nonresidents residing in an assisted living facility, appointed by the Secretary of DSHS based on recommendations of the Collaborative, the LTC Ombuds, and the independent resident commission of Bonaventure of Lacey;
- one representative from the Attorney General's Office, appointed by the Attorney General or their designee;
- an attorney with expertise in landlord-tenant law;
- one representative from the Office of the LTC Ombuds, appointed by the LTC Ombuds; and
- the co-chair of the Collaborative that is not the Secretary of DSHS or their designee.

The work group must:

- elect a chair from among its current or previous nonresident members residing in an assisted living facility during its first meeting which must occur by August 1, 2024;
- provide a public comment period at every meeting; and
- submit its findings and recommendations to the Governor and the appropriate committees of the Legislature by January 1, 2025.

DSHS will arrange the initial meeting and provide staff support for the work group.

Appropriation: The bill contains a section or sections to limit implementation to the availability of amounts appropriated for that specific purpose.

Fiscal Note: Available.

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

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: The independent living folks in these facilities don't really have any protections other than the landlord tenant law which does not address the concerns about services provided at the facility. This bill creates a work group that would provide a foundation for seniors in an independent living situation like this. Many older Washingtonians chose to live in communities that also have assisted living services so they can age in place. Independent living residents sometimes fall through the cracks because it is not clear which rules apply and sometimes causes two spouses living in the same unit to have different legal rights if one is receiving assisted living services and the other is independent. Moved into Bonaventure to age in place with

expectations for a community and support that would help us through my husband's illness. We formed a group to let residents know what was going on so that they could have a voice but the management would not let us post materials on a bulletin board and threatened eviction. There are many injustices independent living seniors deal with due to lack of protections. Would like to add an additional representative from a LTC association to the Work group and extend the timeline so the final recommendation is due in July 2024 to give more time to dive in and come back with thoughtful work for the Legislature's consideration.

Persons Testifying: PRO: Senator Sam Hunt, Prime Sponsor; Brad Forbes, Alzheimer's Association; Gail O'Grady; Patricia Hunter, WA State Long Term Care Ombuds; Jeff Gombosky, Washington Health Care Association.

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