S-3951.1

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**SUBSTITUTE SENATE BILL 5606**

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**State of Washington 67th Legislature 2022 Regular Session**

**By** Senate Health & Long Term Care (originally sponsored by Senators Mullet, Conway, Hunt, Keiser, and Randall)

AN ACT Relating to expanding the use of air conditioning in adult family homes; amending RCW 70.128.060; creating new sections; making an appropriation; providing expiration dates; and declaring an emergency.

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

NEW SECTION. **Sec.**  The sum of $5,000,000, or as much thereof as may be necessary, is appropriated for the fiscal biennium ending June 30, 2023, from the general fund to the department of social and health services for the establishment of a grant program to expand the use of air conditioning in adult family homes that are serving individuals whose services are funded through medicaid or state funded long-term care programs.

NEW SECTION. **Sec.**  (1) A qualifying adult family home may receive up to $5,000 in grant funding. Grants must be used for one-time costs associated with equipping and installing portable air conditioning units in resident's bedrooms and common areas, or updating the adult family home's heating, ventilation, and air conditioning system to include air conditioning.

(2) The department of social and health services shall verify that the grant was used appropriately at the inspection immediately following the adult family home's receipt of the grant.

(3) The department of social and health services may adopt rules to implement this section. In implementing this section, the department shall consult with consumers, advocates, and organizations representing adult family homes.

(4) This section expires June 30, 2023.

NEW SECTION. **Sec.**  (1) During the inspection of an adult family home, the department of social and health services shall survey the home's air conditioning capabilities including, but not limited to, whether the home is using portable air conditioners or has air conditioning as part of their home's heating, ventilation, and air conditioning system.

(2) By December 1, 2023, the department of social and health services shall report to the legislature the number of adult family homes with air conditioning and break this out by the number of homes using portable air conditioners, the number of homes with air conditioning as part of their home's heating, ventilation, and air conditioning system, and whether the homes are private pay or publicly funded. The department shall include in the report their recommendations for increasing the number of homes with air conditioning capabilities.

(3) This section expires January 1, 2024.

**Sec.**  RCW 70.128.060 and 2020 c 220 s 3 are each amended to read as follows:

(1) An application for license shall be made to the department upon forms provided by it and shall contain such information as the department reasonably requires.

(2) Subject to the provisions of this section, the department shall issue a license to an adult family home if the department finds that the applicant and the home are in compliance with this chapter and the rules adopted under this chapter. The department may not issue a license if (a) the applicant or a person affiliated with the applicant has prior violations of this chapter relating to the adult family home subject to the application or any other adult family home, or of any other law regulating residential care facilities within the past ten years that resulted in revocation, suspension, or nonrenewal of a license or contract with the department; or (b) the applicant or a person affiliated with the applicant has a history of significant noncompliance with federal, state, or local laws, rules, or regulations relating to the provision of care or services to vulnerable adults or to children. A person is considered affiliated with an applicant if the person is listed on the license application as a partner, officer, director, resident manager, or majority owner of the applying entity, or is the spouse of the applicant.

(3) The license fee shall be submitted with the application.

(4) Proof of financial solvency must be submitted when requested by the department.

(5) The department shall serve upon the applicant a copy of the decision granting or denying an application for a license. An applicant shall have the right to contest denial of his or her application for a license as provided in chapter 34.05 RCW by requesting a hearing in writing within twenty-eight days after receipt of the notice of denial.

(6) The department shall not issue a license to a provider if the department finds that the provider or spouse of the provider or any partner, officer, director, managerial employee, or majority owner has a history of significant noncompliance with federal or state regulations, rules, or laws in providing care or services to vulnerable adults or to children.

(7) The department shall license an adult family home for the maximum level of care that the adult family home may provide. The department shall define, in rule, license levels based upon the education, training, and caregiving experience of the licensed provider or staff.

(8) For adult family homes that serve residents with special needs such as dementia, developmental disabilities, or mental illness, specialty training is required of providers and resident managers consistent with RCW 70.128.230, and also is required for caregivers, with standardized competency testing for caregivers hired after July 28, 2013, as set forth by the department in rule. The department shall examine, with input from experts, providers, consumers, and advocates, whether the existing specialty training courses are adequate for providers, resident managers, and caregivers to meet these residents' special needs, are sufficiently standardized in curricula and instructional techniques, and are accompanied by effective tools to fairly evaluate successful student completion. The department may enhance the existing specialty training requirements by rule, and may update curricula, instructional techniques, and competency testing based upon its review and stakeholder input. In addition, the department shall examine, with input from experts, providers, consumers, and advocates, whether additional specialty training categories should be created for adult family homes serving residents with other special needs, such as traumatic brain injury, skilled nursing, or bariatric care. The department may establish, by rule, additional specialty training categories and requirements for providers, resident managers, and caregivers, if needed to better serve residents with such special needs.

(9) The department shall establish, by rule, standards used to license nonresident providers and multiple facility operators.

(10) The department shall establish, by rule, for multiple facility operators educational standards substantially equivalent to recognized national certification standards for residential care administrators.

(11)(a)(i) At the time of an application for an adult family home license and upon the annual fee renewal date set by the department, the licensee shall pay a license fee. Beginning July 1, 2011, the per bed license fee and any processing fees, including the initial license fee, must be established in the omnibus appropriations act and any amendment or additions made to that act. The license fees established in the omnibus appropriations act and any amendment or additions made to that act may not exceed the department's annual licensing and oversight activity costs and must include the department's cost of paying providers for the amount of the license fee attributed to medicaid clients.

(ii) In addition to the fees established in (a)(i) of this subsection, the department shall charge the licensee a nonrefundable fee to increase bed capacity at the adult family home to seven or eight beds or in the event of a change in ownership of the adult family home. The fee must be established in the omnibus appropriations act and any amendment or additions made to that act.

(b) The department may authorize a one-time waiver of all or any portion of the licensing, processing, or change of ownership fees required under this subsection (11) in any case in which the department determines that an adult family home is being relicensed because of exceptional circumstances, such as death or incapacity of a provider, and that to require the full payment of the licensing, processing, or change of ownership fees would present a hardship to the applicant.

(12) A provider who receives notification of the department's initiation of a denial, suspension, nonrenewal, or revocation of an adult family home license may, in lieu of appealing the department's action, surrender or relinquish the license. The department shall not issue a new license to or contract with the provider, for the purposes of providing care to vulnerable adults or children, for a period of twenty years following the surrendering or relinquishment of the former license. The licensing record shall indicate that the provider relinquished or surrendered the license, without admitting the violations, after receiving notice of the department's initiation of a denial, suspension, nonrenewal, or revocation of a license.

(13) The department shall establish, by rule, the circumstances requiring a change in the licensed provider, which include, but are not limited to, a change in ownership or control of the adult family home or provider, a change in the provider's form of legal organization, such as from sole proprietorship to partnership or corporation, and a dissolution or merger of the licensed entity with another legal organization. The new provider is subject to the provisions of this chapter, the rules adopted under this chapter, and other applicable law. In order to ensure that the safety of residents is not compromised by a change in provider, the new provider is responsible for correction of all violations that may exist at the time of the new license.

(14) Any application received by the department on or after July 1, 2024, for a new adult family home license shall demonstrate that the home has air conditioning or another cooling system. In implementing this requirement, the department shall consult with consumers, advocates, and organizations representing adult family homes.

NEW SECTION. **Sec.**  Sections 1 through 3 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

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