

# SENATE BILL REPORT

## E2SHB 1850

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As of April 15, 1997

**Title:** An act relating to the long-term care reorganization and standards of care reform act.

**Brief Description:** Adopting the long-term care reorganization and standards of care reform act.

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives Dyer, Backlund, Skinner, Talcott, Schoesler, Mitchell and Cooke).

**Brief History:**

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**Staff:** Rhoda Jones (786-7198)

**Background:** Over the past several years the long-term care system in the state has undergone significant changes and the number of people using the system has grown. The variety of options for placing residents in the community has increased, and the types of services rendered in all settings has diversified.

Long-term care is used by a wide range of individuals who have chronic disabilities and need some level of support. They can be elderly, developmentally disabled, mentally ill, children with special needs, traumatically injured and others. Each category of long-term care recipient receives services from different departments within the Department of Social and Health Services (DSHS). Regulation of programs and services spans five divisions at DSHS and several within the Department of Health.

Over the past two years, the long-term care ombudsman program has monitored care at many community long-term care residential programs, including boarding homes and adult family homes. They have provided the Legislature with their findings.

There has been concern that the fragmentation of the long-term care system and the increasing diversification of services and programs needs to be addressed.

**Summary of Bill:** A joint legislative committee on long-term care oversight is created. It includes four members of the House of Representatives and four members of the Senate. The joint committee is 1) mandated to review the need for reorganization and reform of long-term care, 2) review the quality standards developed, 3) initiate or review relevant studies on long-term care, 4) review and eliminate unnecessary rules and paperwork, 5) suggest cost efficiencies, 6) list all non-means tested programs and activities funded by state and federal government, 7) suggest methods for a single point of entry for service eligibility, and 8) evaluate long-term care training.

Whistleblower provisions are established for persons who experience workplace reprisal or retaliatory action as a result of communication with government agencies concerning abuse, neglect, financial exploitation or abandonment. Protection is granted to employees in a nursing home, adult family home, state hospital or boarding home. Measures for confidentiality are established. Employees can be terminated or suspended for other lawful purposes. However, facilities with fewer than six residents can also terminate employees if they demonstrate to DSHS they are unable to meet payroll. The department is given rule-making authority to implement the whistleblower complaints.

DSHS is required to interview residents and their representatives during inspections. All complainants may receive a copy of the inspection report. DSHS must use a scope and severity scale when imposing sanctions. Retaliation against residents, employees, and others for filing complaints and facility interference with duties of the ombudsman is prohibited.

Long-term care facilities are required to admit only those individuals whom they can safely care for. Medicaid clients must receive a comprehensive assessment consisting of their medical history, necessary medications, diagnosis, significant known behaviors and other information.

Facilities are required to clearly inform residents at least every two years about the services, items and activities that are customarily available in the facility or arranged by the facility and the charges for those services. Residents must be informed 30 days in advance of any changes in charges or services. Exceptions can be made for unusual circumstances and for facilities that have six or fewer residents.

Long-term care facilities must fully disclose to potential clients who are Medicaid eligible the service capabilities of the facility prior to their admission.

Facilities are required to disclose in writing prepaid charges that will be refunded to the resident if the resident leaves. If the facility does not comply with the required notice, the deposits, admissions fees, prepaid charges cannot be kept by the facility. Facilities are allowed to retain an additional amount of a deposit to cover reasonable and actual expenses resulting from a resident's move.

All long-term care facilities are prohibited from requesting that residents waive their resident rights.

Hospitals are permitted to opt out of the DSHS long-term care discharge program, but they must provide their own. Requirements of the discharge program are outlined.

Facilities found to have delivered care that seriously endangered safety or well-being of residents are subject to prompt action by DSHS. Background checks of all caregivers are required within available funds. Any caregivers with unsupervised access to vulnerable adults with a finding of abuse or neglect, exploitation or abandonment or a minor or vulnerable adult are prohibited from employment in these settings.

DSHS is required to promote the development of a training system for long-term care that is relevant to the needs of residents, providers and staff and to improve access to training that qualifies towards the requirement for a nursing assistant certificate.

New protocols for complaint investigations are described. These include requiring the department to investigate a serious complaint within two days and several others. After a finding that is serious, recurring or uncorrected the department must make an on-site revisit of the facility to ensure correction. Substantiated complaints of neglect, abuse, exploitation or abandonment of residents or suspected criminal violations, must also be referred to appropriate law enforcement agency, the Attorney General and appropriate professional disciplining authority.

DSHS is mandated to seek reimbursement for nursing home care or at-home services provided prior to October 1, 1993 from the estate of a deceased recipient and the department is given the authority to file liens to secure the state's interest in real property. The use of community property agreements as a way to avoid debt owed the state for long-term care costs is eliminated. Adult Protective Service costs are exempt from recovery.

The department must fully disclose the terms and conditions of estate recovery and by November 15, 1997, report to the Legislature the costs of identifying direct and indirect costs associated with the individual provider program. Long-term care facilities are required to only admit individuals whose needs they can safely and appropriately service in the facility with current staff and accommodations. All long-term care facilities are required to fully disclose the service capabilities of the facility.

A limited moratorium is established on new adult family home licenses. An advisory committee within the department is authorized to determine when it is safe to remove the moratorium. The moratorium is lifted in December 1997 or at a date determined by the secretary.

DSHS must develop a plan for implementing a pilot program for accreditation boarding homes with a recognized non-governmental accreditation organization. The pilot plan must be presented to the Legislature by January 5, 1998.

Within existing funds, the Department of Community, Trade, and Economic Development must conduct a study and make recommendations to implement a single umbrella ombudsman organization to assist persons with developmental disabilities, older Americans and mentally ill persons. The department is required to report to the appropriate committees of the House of Representatives and the Senate by January 10, 1998.

Within existing funds, DSHS may review the cost and feasibility of implementing developmental disabilities certification standards for community residential programs and facilities.

DSHS may study the feasibility of creating an Adult Family Home Advisory Committee using existing funds.

DSHS is directed to implement a nursing home resident protection program in cooperation with the Department of Health and disciplining authorities according to guidelines established by the federal government. DSHS conducts a timely review and investigation of all credible allegations of nursing home neglect, abuse and misappropriation of resident property. If the department finds the violation occurred by someone licensed, certified or registered under 18.130.020, DSHS refers its determination over to the Department of Health or the

disciplinary authority for that regulated individual. Nursing assistants are notified of a fair hearing by DSHS.

**Appropriation:** None.

**Fiscal Note:** Available

**Effective Date:** The bill contains several effective dates. Please refer to the bill.