

# HOUSE BILL REPORT

## ESHB 1548

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### As Passed Legislature

**Title:** An act relating to implementation of long-term care worker requirements regarding background checks and training.

**Brief Description:** Concerning the implementation of long-term care worker requirements regarding background checks and training.

**Sponsors:** House Committee on Ways & Means (originally sponsored by Representatives Hunter, Darneille and Kenney; by request of Department of Social and Health Services).

#### **Brief History:**

##### **Committee Activity:**

Ways & Means: 1/31/11, 4/15/11 [DPS].

##### **First Special Session**

##### **Floor Activity:**

Passed House: 5/24/11, 83-13.

Passed Senate: 5/25/11, 34-12.

Passed Legislature.

#### **Brief Summary of Engrossed Substitute Bill**

- Delays the implementation of long-term care worker home care aide certification, revised training requirements, and enhanced fingerprint-based background checks to begin with those hired on or after January 1, 2014, and delays long-term care worker continuing education requirements to July 1, 2014.

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### HOUSE COMMITTEE ON WAYS & MEANS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 24 members: Representatives Hunter, Chair; Darneille, Vice Chair; Hasegawa, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Carlyle, Chandler, Cody, Dickerson, Haigh, Haler, Hudgins, Hunt, Kagi, Kenney, Ormsby, Parker, Pettigrew, Seaquist, Springer, Sullivan and Wilcox.

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

**Minority Report:** Do not pass. Signed by 2 members: Representatives Hinkle and Schmick.

**Staff:** Carma Matti-Jackson (786-7140) and Chris Cordes (786-7103).

**Background:**

Long-term care (LTC) workers provide care to elderly and disabled clients, many of whom are eligible for publicly funded services through the Department of Social and Health Services' (DSHS) Aging and Disabilities Services Administration. These workers provide their clients personal care assistance with various tasks such as bathing, eating, toileting, dressing, ambulating, meal preparation, and household chores.

The services may be provided: (1) by LTC workers employed in various regulated residential settings; or (2) in the client's home by individual providers who contract directly with the DSHS or by agency providers who are employees of a licensed home care agency. A paid individual provider may be a relative or a household member, although the client's spouse may not be a paid individual provider under most programs.

The term "long-term care worker" does not include persons employed in nursing homes, hospitals, hospice agencies, or adult day care or health day care centers.

Training/Certification Requirements for LTC Workers.

Various statutory and administrative training requirements apply to LTC workers. In Initiative 1029 (I-1029) adopted in November 2008, mandatory training requirements were increased and home care aide certification was required for certain LTC workers. This law, as amended in 2009, requires the following:

- an increase from 35 hours of basic training under administrative rules to 75 hours of basic training, to be completed within 120 days of hire for LTC workers hired on or after January 1, 2011. Individual providers must be compensated for training time. Exceptions from the training requirements include:
  1. parents caring for only their developmentally disabled child, who must have 12 hours of relevant training within 120 days of becoming an individual provider; and
  2. individual providers caring only for their child or their parent and, until 2014, certain respite providers, who must have 35 hours of training within 120 days of becoming an individual provider;
- certification as home care aides for all LTC workers hired on or after January 1, 2011, except for supported living providers and individual providers caring only for their child or parent; and
- increased continuing education requirements for LTC workers beginning July 1, 2011, from 10 hours required in administrative rules to 12 hours. Exemptions from continuing education requirements are provided for individual providers caring only for their child and, until 2014, certain respite providers. Individual providers must be compensated for training time.

Advanced training opportunities must be offered to LTC workers beginning January 1, 2012, and a peer mentorship program must begin on July 1, 2011.

As of January 1, 2010, for individual providers represented by an exclusive bargaining representative, all required training and peer mentoring is provided by a training partnership. As of July 1, 2009, contributions to the training partnership are made pursuant to a collective bargaining agreement negotiated with the Governor.

Background Checks for LTC Workers.

Under various laws, the DSHS is responsible for investigating the suitability of applicants or service providers who provide in-home services under DSHS programs. These investigations include an examination of state criminal history record information, and under some statutes applicants must be fingerprinted through both the Washington State Patrol and the Federal Bureau of Investigation (FBI).

The passage of I-1029 in 2008, as amended in 2009, requires all LTC workers hired after January 1, 2012, to be screened through state and federal background checks, including checking against the FBI fingerprint identification records system and the National Sex Offenders Registry.

**Summary of Engrossed Substitute Bill:**

Implementation of the new basic training and certification requirements for LTC workers is delayed as follows:

- The new basic training requirements begin with LTC workers hired on or after January 1, 2014, instead of January 1, 2011. Agency rules are to be adopted by August 1, 2013. The exemption for respite workers until January 1, 2014, is deleted.
- The home care aide certification requirement begins January 1, 2014, instead of January 1, 2011. Agency rules are to be adopted by August 1, 2013.
- The increase to 12 hours of continuing education begins July 1, 2014, instead of July 1, 2011, and advanced training is offered beginning January 1, 2014, instead of January 1, 2012.
- Peer mentoring begins January 1, 2014, instead of July 1, 2011.

Persons who are exempt from home care aide certification because they hold a health credential are also exempt from the requirement for 12 hours of continuing education.

The requirement to conduct FBI fingerprint-based background checks for LTC workers applies to those hired after January 1, 2014, instead of January 1, 2012.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill contains an emergency clause and takes effect immediately, except for sections 6, 10, and 14 through 17, relating to background checks, which take effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) Delaying training saves the state money. Home health and hospice workers are concerned if they have to take this extra training because they care for private pay clients. They will have to pay out of pocket for this extra training. There is already a shortage of home care workers and this new cost for training for private pay workers will create barriers to entering the system. Training should be delayed entirely because there are at least 200 private pay agencies that cannot afford to pay for this training for their workers. The earlier the training delay can be implemented the more savings can be realized. The way the current economy is, additional training should not be the priority. Supported living providers already have significant training that is client centered. Delay training rather than cutting essential services. Licensing and regulations are the issues, not training.

(Opposed) The most pervasive problem with home care is that workers are not trained well enough to care for their clients. Training has already started and it is needed to keep clients out of nursing homes. Many vulnerable individuals have dementia or developmental disabilities and cannot verbalize their needs. Training needs to be structured around these special needs. Clients with critical needs are at risk of death without the appropriate training. Do not postpone training. Washington is a leader in preparing for the future. This training helps draw young people into home care as a path for employment. Training will help reduce the very high turnover in staff that is seen in this industry. Training standards benefit colleges, employees, clients, and health care providers. It creates a career pathway that does not exist today. Patients deserve the best level of care possible.

**Persons Testifying:** (In support) Leslie Emerick, Home Care Association of Washington and Washington State Hospice and Palliative Care; Julianne Ferguson, Washington Private Duty Association; Mary Anne Lindeblad, Aging and Disability Services Administration, Department of Social and Health Services; Terry Kohl, Frank Velasquez, and Dorothy W. Schlimme, Washington State Residential Care Council of Adult Family Homes; Cora Castor, Cora's Elder Adult Family Home; Scott Livengood, Community Residential Services Association; and Gerry Scully, L'Arche Noah Sealth of Seattle.

(Opposed) Nancy Dapper; Louise Ryan, Washington State Long-term Care Ombudsman; Joanne Maher, Alzheimer's Association of Western and Central Washington; Sharon Kitchel Purdue, Richmond Nguyen, and Deborah Osborn, Service Employees International Union Healthcare; Dave Budd, ElderHealth; Steve Miller, North Seattle Community College; Leslie Kennedy, Tacoma Community College; and Kris Mason, Highline Community College.

**Persons Signed In To Testify But Not Testifying:** None.