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SENATE BILL 5102

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State of Washington

62nd Legislature

2011 Regular Session

By Senators Carrell, Stevens, Schoesler, Pflug, Ericksen, Roach, and Holmquist Newbry

Read first time 01/13/11. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to registered persons in adult family homes and  
2 boarding homes; amending RCW 18.20.190 and 70.128.160; adding a new  
3 section to chapter 9A.44 RCW; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 9A.44 RCW  
6 to read as follows:

7 (1) If an adult family home, as defined in chapter 70.128 RCW, or  
8 a boarding home, as defined in chapter 18.20 RCW, receives notice from  
9 a local law enforcement agency that a person required to register under  
10 this chapter is a resident or will become a resident of the facility,  
11 the facility must:

12 (a) Provide notice to all current residents and the legal  
13 representative or other designated representative for the resident  
14 within ten days of receiving notice from law enforcement; and

15 (b) Provide notice to any potential new resident and the legal  
16 representative or other designated representative for the potential  
17 resident prior to the resident's admission to the facility.

18 (2) Failure to provide notice as required under this section may  
19 result in penalties as provided in RCW 18.20.190 and 70.128.160.

1       **Sec. 2.** RCW 18.20.190 and 2003 c 231 s 6 are each amended to read  
2 as follows:

3       (1) The department of social and health services is authorized to  
4 take one or more of the actions listed in subsection (2) of this  
5 section in any case in which the department finds that a boarding home  
6 provider has:

7       (a) Failed or refused to comply with the requirements of this  
8 chapter or the rules adopted under this chapter;

9       (b) Operated a boarding home without a license or under a revoked  
10 license;

11       (c) Knowingly, or with reason to know, made a false statement of  
12 material fact on his or her application for license or any data  
13 attached thereto, or in any matter under investigation by the  
14 department; (~~(e)~~)

15       (d) Willfully prevented or interfered with any inspection or  
16 investigation by the department; or

17       (e) Failed to notify residents and their representatives of a  
18 registered sex offender or registered kidnapping offender as provided  
19 in section 1 of this act.

20       (2) When authorized by subsection (1) of this section, the  
21 department may take one or more of the following actions:

22       (a) Refuse to issue a license;

23       (b) Impose reasonable conditions on a license, such as correction  
24 within a specified time, training, and limits on the type of clients  
25 the provider may admit or serve;

26       (c) Impose civil penalties of not more than one hundred dollars per  
27 day per violation;

28       (d) Suspend, revoke, or refuse to renew a license;

29       (e) Suspend admissions to the boarding home by imposing stop  
30 placement; or

31       (f) Suspend admission of a specific category or categories of  
32 residents as related to the violation by imposing a limited stop  
33 placement.

34       (3) When the department orders stop placement or a limited stop  
35 placement, the facility shall not admit any new resident until the stop  
36 placement or limited stop placement order is terminated. The  
37 department may approve readmission of a resident to the facility from  
38 a hospital or nursing home during the stop placement or limited stop

1 placement. The department shall terminate the stop placement or  
2 limited stop placement when: (a) The violations necessitating the stop  
3 placement or limited stop placement have been corrected; and (b) the  
4 provider exhibits the capacity to maintain correction of the violations  
5 previously found deficient. However, if upon the revisit the  
6 department finds new violations that the department reasonably believes  
7 will result in a new stop placement or new limited stop placement, the  
8 previous stop placement or limited stop placement shall remain in  
9 effect until the new stop placement or new limited stop placement is  
10 imposed.

11 (4) After a department finding of a violation for which a stop  
12 placement or limited stop placement has been imposed, the department  
13 shall make an on-site revisit of the provider within fifteen working  
14 days from the request for revisit, to ensure correction of the  
15 violation. For violations that are serious or recurring or uncorrected  
16 following a previous citation, and create actual or threatened harm to  
17 one or more residents' well-being, including violations of residents'  
18 rights, the department shall make an on-site revisit as soon as  
19 appropriate to ensure correction of the violation. Verification of  
20 correction of all other violations may be made by either a department  
21 on-site revisit or by written or photographic documentation found by  
22 the department to be credible. This subsection does not prevent the  
23 department from enforcing license suspensions or revocations. Nothing  
24 in this subsection shall interfere with or diminish the department's  
25 authority and duty to ensure that the provider adequately cares for  
26 residents, including to make departmental on-site revisits as needed to  
27 ensure that the provider protects residents, and to enforce compliance  
28 with this chapter.

29 (5) RCW 43.20A.205 governs notice of a license denial, revocation,  
30 suspension, or modification. Chapter 34.05 RCW applies to department  
31 actions under this section, except that orders of the department  
32 imposing license suspension, stop placement, limited stop placement, or  
33 conditions for continuation of a license are effective immediately upon  
34 notice and shall continue pending any hearing.

35 (6) For the purposes of this section, "limited stop placement"  
36 means the ability to suspend admission of a specific category or  
37 categories of residents.

1       **Sec. 3.** RCW 70.128.160 and 2001 c 193 s 5 are each amended to read  
2 as follows:

3       (1) The department is authorized to take one or more of the actions  
4 listed in subsection (2) of this section in any case in which the  
5 department finds that an adult family home provider has:

6       (a) Failed or refused to comply with the requirements of this  
7 chapter or the rules adopted under this chapter;

8       (b) Operated an adult family home without a license or under a  
9 revoked license;

10       (c) Knowingly or with reason to know made a false statement of  
11 material fact on his or her application for license or any data  
12 attached thereto, or in any matter under investigation by the  
13 department; (~~or~~)

14       (d) Willfully prevented or interfered with any inspection or  
15 investigation by the department; or

16       (e) Failed to notify residents and their representatives of a  
17 registered sex offender or registered kidnapping offender as provided  
18 in section 1 of this act.

19       (2) When authorized by subsection (1) of this section, the  
20 department may take one or more of the following actions:

21       (a) Refuse to issue a license;

22       (b) Impose reasonable conditions on a license, such as correction  
23 within a specified time, training, and limits on the type of clients  
24 the provider may admit or serve;

25       (c) Impose civil penalties of not more than one hundred dollars per  
26 day per violation;

27       (d) Suspend, revoke, or refuse to renew a license; or

28       (e) Suspend admissions to the adult family home by imposing stop  
29 placement.

30       (3) When the department orders stop placement, the facility shall  
31 not admit any person until the stop placement order is terminated. The  
32 department may approve readmission of a resident to the facility from  
33 a hospital or nursing home during the stop placement. The department  
34 shall terminate the stop placement when: (a) The violations  
35 necessitating the stop placement have been corrected; and (b) the  
36 provider exhibits the capacity to maintain correction of the violations  
37 previously found deficient. However, if upon the revisit the

1 department finds new violations that the department reasonably believes  
2 will result in a new stop placement, the previous stop placement shall  
3 remain in effect until the new stop placement is imposed.

4 (4) After a department finding of a violation for which a stop  
5 placement has been imposed, the department shall make an on-site  
6 revisit of the provider within fifteen working days from the request  
7 for revisit, to ensure correction of the violation. For violations  
8 that are serious or recurring or uncorrected following a previous  
9 citation, and create actual or threatened harm to one or more  
10 residents' well-being, including violations of residents' rights, the  
11 department shall make an on-site revisit as soon as appropriate to  
12 ensure correction of the violation. Verification of correction of all  
13 other violations may be made by either a department on-site revisit or  
14 by written or photographic documentation found by the department to be  
15 credible. This subsection does not prevent the department from  
16 enforcing license suspensions or revocations. Nothing in this  
17 subsection shall interfere with or diminish the department's authority  
18 and duty to ensure that the provider adequately cares for residents,  
19 including to make departmental on-site revisits as needed to ensure  
20 that the provider protects residents, and to enforce compliance with  
21 this chapter.

22 (5) Chapter 34.05 RCW applies to department actions under this  
23 section, except that orders of the department imposing license  
24 suspension, stop placement, or conditions for continuation of a license  
25 are effective immediately upon notice and shall continue in effect  
26 pending any hearing.

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