

# HOUSE BILL REPORT

## HB 1492

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**As Passed House:**  
March 6, 2017

**Title:** An act relating to equalizing civil monetary penalties for assisted living facilities with other long-term care providers.

**Brief Description:** Equalizing civil monetary penalties for assisted living facilities with other long-term care providers.

**Sponsors:** Representatives Tharinger, Harris, Cody, Macri and Appleton.

**Brief History:**

**Committee Activity:**

Health Care & Wellness: 2/10/17, 2/17/17 [DP].

**Floor Activity:**

Passed House: 3/6/17, 69-29.

**Brief Summary of Bill**

- Directs the Department of Social and Health Services to adopt rules to specify criteria for imposing incrementally more severe civil penalties against assisted living facilities.
- Authorizes civil penalties up to \$3,000 per incident for violations of assisted living facility standards and up to \$10,000 for operating an assisted living facility without a license.

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### HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

**Majority Report:** Do pass. Signed by 15 members: Representatives Cody, Chair; Macri, Vice Chair; Schmick, Ranking Minority Member; Graves, Assistant Ranking Minority Member; Clibborn, DeBolt, Harris, Jinkins, Maycumber, Riccelli, Robinson, Rodne, Slatter, Stonier and Tharinger.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Caldier and MacEwen.

**Staff:** Chris Blake (786-7392).

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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.*

**Background:**

The Department of Social and Health Services (Department) licenses assisted living facilities which are community-based residences that provide housing and basic services to seven or more residents. Residents of assisted living facilities are generally adults who require support and supervision. Each assisted living facility provides a different set of services, but generally include: housekeeping, meals, laundry, activities, assistance with activities of daily living, health support services, and intermittent nursing services.

The Department may take regulatory action against an assisted living facility for violations of licensing and inspection standards and requirements. Actions may include refusing to issue or renew a license, imposing conditions on a license, imposing civil penalties up to \$100, suspending or revoking a license, suspending admissions through a stop placement order, or suspending admission of a specific category of residents through a stop placement order. Receipts from civil penalties must be deposited in the Assisted Living Facility Temporary Management Account (Account). Funds from the Account may be used for the payment of relocating residents to other facilities, payment to maintain the operation of an assisted living facility pending correction of deficiencies or closure, and reimbursement to residents for personal funds or property that has been lost or stolen.

**Summary of Bill:**

The \$100 limit on civil penalties against assisted living facilities for violations of licensing and inspection requirements is changed to a \$100 minimum civil penalty.

By January 1, 2018, the Department of Social and Health Services must adopt rules to specify criteria for imposing incrementally more severe penalties upon an assisted living facility for violations that are serious, recurring, uncorrected, pervasive, or present a threat to the health, safety, or welfare of a resident. Civil penalties for violations of assisted living facility licensing statutes and rules may not exceed \$3,000 for each incident. Each day in which a substantially similar action occurs is a separate penalty. Penalties for the operation of an assisted living facility without a license may not exceed \$10,000.

In addition to other permitted uses, the Assisted Living Facility Temporary Management Account may be used for the protection of the health, safety, welfare, and property of residents of assisted living facilities that are not compliant with licensing standards.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) This looks like a bill to provide equity between different long-term care providers, but it is also about protecting some of the most vulnerable adults. There has been

a disparity in fines between assisted living facilities and adult family homes. This bill does not impact the majority of assisted living facilities that are doing the right thing. This bill will provide additional tools to the Department of Social and Health Services (Department) as well as the Long-Term Care Ombuds. Most care at assisted living facilities is provided with the best intentions for the residents, but sometimes facilities do not exercise due diligence and caregivers are disrespectful and, in some cases, harm residents. This bill helps to hold facilities and caregivers accountable for more than just \$100 when real actual harm occurs as a result of their actions.

This is a bill about safety and protecting vulnerable adults. The state has the responsibility to protect the health and safety of residents from abuse and neglect as well as to protect their dignity. The Department has a variety of enforcement tools to help facilities become compliant, including civil fines, but the amounts of the fines are not meaningful. One hundred dollars per incident per day is arbitrarily low, does not offer flexibility, and does not convey seriousness. The resident rights statute finds that residents have the same basic rights in all long-term care settings. Different fine levels for assisted living facilities is unfair and not in the public interest. A larger fine helps to encourage changes that will avoid harm to the resident. Having the ability to match the seriousness of what is occurring is important. This will help to handle issues before they become issues for the court system.

(Opposed) None.

(Other) The state is not meeting its obligation to fund quality long-term care. Medicaid rates for assisted living facilities have suffered over 10 years of neglect. The first consideration should be ensuring adequate funding on the front end to assure quality. The conversation should be about tying fines to a scope and severity grid.

**Persons Testifying:** (In support) Representative Tharinger, prime sponsor; Jeremy Bell, King County Ombudsman Program; Joanne Sanders; Patricia Hunter, Washington State Long-Term Care Ombudsman Program; and David Lord, Disability Rights Washington.

(Other) Emily Murphy, LeadingAge Washington.

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