

NEW SECTION. Sec. 11. Sections 1 through 7 of this act shall constitute a new chapter in Title 75 RCW.

Passed the Senate April 23, 1989.

Passed the House April 23, 1989.

Approved by the Governor May 14, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 14, 1989.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 2, 3, 5, 6, 7, and 8, Substitute Senate Bill No. 5289 entitled:

"AN ACT Relating to fisheries enhancement."

Our commitment to enhance salmon resources is an empty promise unless we are all willing to provide the financial resources necessary to fulfill it. I believe that the funding mechanism envisioned in this bill can work to supplement other state and federal funds if properly structured.

I am supportive of approaching fisheries enhancement by way of regional and volunteer cooperative groups. I believe, however, that the portions of this bill relating to the formation of these regional groups are so poorly drafted that they could lead to excessive administrative work and lack of accountability for the use of state funds.

As an alternative to sections 2 and 3, I am directing the Department of Fisheries to use its general rule-making authority to implement the intent of the bill in a manner that is workable and, more importantly, accountable. Criteria must be in place requiring recipients of funds to be incorporated as non-profit groups with the Secretary of State. Additionally, requirements for audits must be included.

Sections 5 and 6 fail to establish a clear relationship between the authority of the department and the regional groups. These sections could imply control by the groups. This interference with the decision-making prerogatives of the department is unacceptable to me.

Section 7 is vetoed because it requires legislative approval of each loan application. Decisions on applications for funding should be made by the Department of Fisheries without legislative approval. This veto does not mean that I am not supportive of loans for funding fisheries enhancement. In fact, the opposite is true. Because I am unable to partially veto this language, I must veto the entire section.

I am vetoing section 8 because it will require the department to tag smolt and compile data at great expense in order to document specific fish catch related to enhancement projects.

With the exception of sections 2, 3, 5, 6, 7, and 8, Substitute Senate Bill No. 5289 is approved."

CHAPTER 427

[Substitute House Bill No. 1968]

LONG TERM CARE SERVICES

AN ACT Relating to long-term care; amending RCW 74.08.541, 74.08.545, 74.08.550, 74.08.570, 74.41.050, and 74.09.520; adding a new chapter to Title 74 RCW; adding a new chapter to Title 70 RCW; adding a new section to chapter 74.09 RCW; adding a new section to chapter 35.63 RCW; adding a new section to chapter 35A.63 RCW; adding a new section to chapter 36.70 RCW; adding a new section to chapter 35.22 RCW; adding a new section to chapter 36.32 RCW; creating new sections; repealing RCW 74.08.044; making an appropriation; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. The legislature finds that:

Washington's chronically functionally disabled population is growing at a rapid pace. This growth, along with economic and social changes and the coming age wave, presents opportunities for the development of long-term care community services networks and enhanced volunteer participation in those networks, and creates a need for different approaches to currently fragmented long-term care programs. The legislature further recognizes that persons with functional disabilities should receive long-term care services that encourage individual dignity, autonomy, and development of their fullest human potential.

NEW SECTION. Sec. 2. The purpose of this chapter is to:

(1) Establish a balanced range of community-based health, social, and supportive services that deliver long-term care services to chronically, functionally disabled persons of all ages;

(2) Ensure that functional disability shall be the determining factor in defining long-term care service needs and that these needs will be determined by a uniform system for comprehensively assessing functional disability;

(3) Ensure that services are provided in the most independent living situation consistent with individual needs;

(4) Ensure that long-term care service options shall be developed and made available that enable functionally disabled persons to continue to live in their homes or other community residential facilities while in the care of their families or other volunteer support persons;

(5) Ensure that long-term care services are coordinated in a way that minimizes administrative cost, eliminates unnecessarily complex organization, minimizes program and service duplication, and maximizes the use of financial resources in directly meeting the needs of persons with functional limitations;

(6) Develop a systematic plan for the coordination, planning, budgeting, and administration of long-term care services now fragmented between the division of developmental disabilities, division of mental health, aging and adult services administration, division of children and family services, division of vocational rehabilitation, office on AIDS, division of health, and bureau of alcohol and substance abuse;

(7) Encourage the development of a state-wide long-term care case management system that effectively coordinates the plan of care and services provided to eligible clients;

(8) Ensure that individuals and organizations affected by or interested in long-term care programs have an opportunity to participate in identification of needs and priorities, policy development, planning, and development, implementation, and monitoring of state supported long-term care programs;

(9) Support educational institutions in Washington state to assist in the procurement of federal support for expanded research and training in long-term care; and

(10) Facilitate the development of a coordinated system of long-term care education that is clearly articulated between all levels of higher education and reflective of both in-home care needs and institutional care needs of functionally disabled persons.

NEW SECTION. Sec. 3. A valuable option available to Washington state to achieve the goals of sections 1 and 2 of this act is the flexibility in personal care and other long-term care services encouraged by the federal government under Title XIX of the federal social security act. These services include options to expand community-based long-term care services, such as adult family homes, congregate care facilities, respite, chore services, hospice, and case management.

I. CHORE SERVICES

Sec. 4. Section 17, chapter 6, Laws of 1981 1st ex. sess. as last amended by section 1, chapter 222, Laws of 1986 and RCW 74.08.541 are each amended to read as follows:

(1) "Department" as used in this chapter, means the department of social and health services.

(2) "Long-term care facility" as used in this chapter, means a nursing home licensed under chapter 18.51 RCW or a residential habilitation center licensed under chapter 71A.20 RCW.

(3) "Chore services," as used in this chapter, means services in performing ~~((light work and household and other))~~ personal care and related tasks ~~((which eligible persons are unable to do for themselves because of frailty or handicapping conditions))~~ as provided in the department's medical assistance state plan provision addressing personal care.

~~((2))~~ (4) Persons eligible for chore services are adult ~~((individuals))~~ persons having resources less than a level determined by the department, ~~((and))~~ whose need for chore services and risk of being placed in a ~~((residential))~~ long-term care facility have been determined by the department, and who are not eligible to receive medical assistance personal care benefits under RCW 74.09.520.

(a) Persons are eligible for the level ~~((or amount))~~ of services determined by the department under RCW 74.08.545 if the persons ~~((are: (i) Adult recipients of supplemental security income or state supplementation; (ii) eligible at the time their eligibility for chore services is determined or redetermined, for limited casualty program medical care as defined by RCW 74.09.010; or (iii))~~ have an income at or below thirty percent of the state median income.

(b) For other persons, the department shall develop a scale which progressively reduces the level ~~((or amount))~~ of chore services provided by the

department based on the ability of applicants and ~~((recipients))~~ clients to purchase the chore services. ~~((To determine the ability of applicants and recipients to purchase chore services;))~~ The department shall not consider income below thirty percent of the state median income.

(c) Effort shall be made to obtain chore services from volunteer chore service providers under the senior citizens services act, chapter 74.38 RCW, for those individuals at risk of being placed in a residential care facility and who are age sixty or over but eligible for five hours of chore services per month or less, rather than have those services provided by paid providers. Any individual at risk of being placed in a residential care facility and who is age sixty or over but not eligible for chore services or eligible for a reduced amount of service shall be referred to a volunteer chore service program under the senior citizens services act, chapter 74.38 RCW, where available for needed services not authorized by the department.

(d) ~~((Individuals))~~ Persons determined by the department to be eligible for adult protective services are eligible to receive emergency chore services without regard to income if the services are essential to, and a subordinate part of, the adult protective services plan. Emergency chore services under adult protective services shall be provided only until the situation necessitating the services has stabilized, not to exceed ninety days.

~~((3))~~ (5) The department shall establish a monthly dollar lid on chore services expenditures as necessary to maintain such expenditures within the legislative appropriation. To maintain expenditures for chore services within the limits of funds appropriated for this purpose, the department may reduce the level ~~((or amount))~~ of services authorized below the level of need assessed pursuant to RCW 74.08.545 for some or all ~~((recipients, but))~~ clients. The reductions shall be done in a manner which maintains state-wide uniformity of eligibility and service authorization standards and which considers the level of need for services and the degree of risk of being placed in a ~~((residential))~~ long-term care facility of all applicants for, and recipients of, chore services: PROVIDED, That the department may implement a ratable reduction of hours or payment for some or all clients receiving chore services.

(6) The department may continue providing chore services for those clients who were receiving assistance only with household tasks prior to December 14, 1987, provided that those clients are receiving this same service as of June 1989.

(7) The department may continue providing chore services to clients who were receiving attendant care services prior to April 1, 1988, provided that those clients are receiving the same services as of June 1989.

Sec. 5. Section 16, chapter 6, Laws of 1981 1st ex. sess. and RCW 74.08.545 are each amended to read as follows:

It is the intent of the legislature that chore services be provided to eligible persons within the limits of funds appropriated for that purpose.

Therefore, the department shall provide services only to those persons identified as at risk of being placed in a ~~((residential))~~ long-term care facility in the absence of such services. Chore services shall be provided ~~((only))~~ to the extent necessary to maintain a safe and healthful living environment. It is the policy of the state to encourage the development of volunteer chore services in local communities as a means of meeting chore care service needs and directing financial resources. In determining ~~((an individual's))~~ eligibility for chore services, the department shall consider the following:

- (1) The kind of services needed;
- (2) The degree of service need, and the extent to which an individual is dependent upon such services to remain in his or her home or return to his or her home;
- (3) The availability of personal or community resources which may be utilized to meet the individual's need; and
- (4) Such other factors as the department considers necessary to insure service is provided only to those persons whose chore service needs cannot be met by relatives, friends, nonprofit organizations, or other persons.

In determining the level of services to be provided under this chapter, ~~((the department shall utilize a client review questionnaire designed))~~ client shall be assessed using an instrument designed by the department to determine ((both)) the ((degree and level of service)) level of functional disability, the need for service and the ((individual's)) person's risk of ((institutionalization if such needs are not met by this chapter)) long-term care facility placement.

Sec. 6. Section 3, chapter 51, Laws of 1973 1st ex. sess. as last amended by section 189, chapter 3, Laws of 1983 and RCW 74.08.550 are each amended to read as follows:

(1) The department ~~((of social and health services))~~ is authorized to develop a program to provide for those services enumerated in RCW 74.08.541.

(2) ~~((The department shall endeavor to assure that, for each individual receiving in-home services, a single caseworker is responsible for coordinating the delivery of all necessary in-home services for which the recipient is eligible.~~

~~((3))~~ The department may provide assistance in the recruiting of providers of the services enumerated in RCW 74.08.541 and seek to assure the timely provision of services in emergency situations.

~~((4))~~ (3) The department shall assure that all providers of the services enumerated in RCW 74.08.541 are compensated for the delivery of the services on a prompt and regular basis.

Sec. 7. Section 3, chapter 137, Laws of 1980 and RCW 74.08.570 are each amended to read as follows:

(1) An otherwise eligible disabled person shall not be deemed ineligible for chore services under this chapter if the person's gross income from employment, adjusted downward by the cost of the chore services to be provided and the disabled person's work expenses, does not exceed the maximum eligibility standard established by the department for such chore services. The department shall establish a sliding scale fee schedule for such disabled persons, taking into consideration the person's ability to pay and work expenses.

(2) If a disabled person arranges for chore services through an individual provider arrangement, the ~~((recipient's))~~ client's contribution shall be counted as first dollar toward the total amount owed to the provider for chore services rendered.

(3) As used in this section:

(a) "Gross income" means total earned wages, commissions, salary, and any bonus;

(b) "Work expenses" includes:

(i) Payroll deductions required by law or as a condition of employment, in amounts actually withheld;

(ii) The necessary cost of transportation to and from the place of employment by the most economical means, except rental cars; and

(iii) Expenses of employment necessary for continued employment, such as tools, materials, union dues, transportation to service customers if not furnished by the employer, and uniforms and clothing needed on the job and not suitable for wear away from the job;

(c) "Employment" means any work activity for which a recipient receives monetary compensation;

(d) "Disabled" means:

(i) Permanently and totally disabled as defined by the department and as such definition is approved by the federal social security ~~((agency))~~ administration for federal matching funds;

(ii) Eighteen years of age or older;

(iii) A resident of the state of Washington; and

(iv) Willing to submit to such examinations as are deemed necessary by the department to establish the extent and nature of the disability.

II. RESPITE SERVICES

Sec. 8. Section 5, chapter 158, Laws of 1984 as amended by section 4, chapter 409, Laws of 1987 and RCW 74.41.050 are each amended to read as follows:

The department shall ~~((select))~~ contract with area agencies on aging or other appropriate agencies to conduct respite care projects to the extent of available funding. The responsibilities of the ~~((selected area))~~ agencies ~~((on aging))~~ shall include but not be limited to: Negotiating rates of payment, administering sliding-fee scales to enable eligible participants to participate

in paying for respite care, and arranging for respite care services. Rates of payment to respite care service providers shall not exceed, and may be less than, rates paid by the department to providers for the same level of service. In evaluating the need for respite services, consideration shall be given to the mental and physical ability of the caregiver to perform necessary caregiver functions.

III. TITLE XIX COMMUNITY-BASED LONG-TERM CARE SERVICES

NEW SECTION. Sec. 9. Title XIX of the federal social security act offers valuable opportunities to increase federal funds available to provide community-based long-term care services to functionally disabled persons in their homes, and in noninstitutional residential facilities, such as adult family homes and congregate care facilities.

A. PERSONAL CARE, HOSPICE

Sec. 10. Section 5, chapter 30, Laws of 1967 ex. sess. as last amended by section 3, chapter 5, Laws of 1985 and RCW 74.09.520 are each amended to read as follows:

(1) The term "medical assistance" may include the following care and services: ~~((1))~~ (a) Inpatient hospital services; ~~((2))~~ (b) outpatient hospital services; ~~((3))~~ (c) other laboratory and x-ray services; ~~((4))~~ (d) skilled nursing home services; ~~((5))~~ (e) physicians' services, which shall include prescribed medication and instruction on birth control devices; ~~((6))~~ (f) medical care, or any other type of remedial care as may be established by the secretary; ~~((7))~~ (g) home health care services; ~~((8))~~ (h) private duty nursing services; ~~((9))~~ (i) dental services; ~~((10))~~ (j) physical therapy and related services; ~~((11))~~ (k) prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select; ~~((12))~~ (l) personal care services, as provided in this section; (m) hospice services; (n) other diagnostic, screening, preventive, and rehabilitative services: PROVIDED, That the department may not cut off any prescription medications, oxygen supplies, respiratory services, or other life-sustaining medical services or supplies.

"Medical assistance," notwithstanding any other provision of law, shall not include routine foot care, or dental services delivered by any health care provider, that are not mandated by Title XIX of the social security act unless there is a specific appropriation for these services.

(2) The department shall amend the state plan for medical assistance under Title XIX of the federal social security act to include personal care services, as defined in 42 C.F.R. 440.170(f), in the categorically needy program.

(3) The department shall adopt, amend, or rescind such administrative rules as are necessary to ensure that Title XIX personal care services are provided to eligible persons in conformance with federal regulations.

(a) These administrative rules shall include financial eligibility indexed according to the requirements of the social security act providing for medicaid eligibility.

(b) The rules shall require clients be assessed as having a medical condition requiring assistance with personal care tasks. Plans of care must be approved by a physician and reviewed by a nurse every ninety days.

(4) The department shall design and implement a means to assess the level of functional disability of persons eligible for personal care services under this section. The personal care services benefit shall be provided to the extent funding is available according to the assessed level of functional disability. Any reductions in services made necessary for funding reasons should be accomplished in a manner that assures that priority for maintaining services is given to persons with the greatest need as determined by the assessment of functional disability.

(5) The department shall report to the appropriate fiscal committees of the legislature on the utilization and associated costs of the personal care option under Title XIX of the federal social security act, as defined in 42 C.F.R. 440.170(f), in the categorically needy program. This report shall be submitted by January 1, 1990, and submitted on a yearly basis thereafter.

(6) Effective July 1, 1989, the department shall offer hospice services in accordance with available funds. The department shall provide a complete accounting of the costs of providing hospice services under this section by December 20, 1989. The report shall include an assessment of cost savings which may result by providing hospice to persons who otherwise would use hospitals, nursing homes, or more expensive care. The hospice benefit under this section shall terminate on April 1, 1990, unless extended by the legislature.

B. COPES RESPITE SERVICES

NEW SECTION. Sec. 11. The department shall request an amendment to its community options program entry system waiver under section 1905(c) of the federal social security act to include respite services as a service available under the waiver.

C. COMMUNITY-BASED SERVICES FOR PERSONS WITH AIDS

NEW SECTION. Sec. 12. A new section is added to chapter 74.09 RCW to read as follows:

The department shall prepare and request a waiver under section 1915(c) of the federal social security act to provide community based long-term care services to persons with AIDS or AIDS-related conditions who qualify for the medical assistance program under RCW 74.09.510 or the

limited casualty program for the medically needy under RCW 74.09.700. Respite services shall be included as a service available under the waiver.

IV. LONG-TERM CARE REFORM IMPLEMENTATION TEAM

NEW SECTION. Sec. 13. (1) A long-term care commission is created. It shall consist of:

(a) Four legislators who shall serve on the executive committee, one from each of the two largest caucuses in the house of representatives and the senate who shall be selected by the president of the senate and the speaker of the house of representatives;

(b) Six members, to be selected by the executive committee, who shall be authorities in gerontology, developmental disabilities, neurological impairments, physical disabilities, mental illness, nursing, long-term care service delivery, long-term care service financing, systems development, or systems analysis;

(c) Three members, to be selected by the executive committee, who represent long-term care consumers, services providers, or advocates;

(d) Two members, to be selected by the executive committee, who represent county government;

(e) One member, to be selected by the secretary of social and health services, to represent the department of social and health services long-term care programs, including at least developmental disabilities, mental health, aging and adult services, AIDS, children's services, alcohol and substance abuse, and vocational rehabilitation; and

(f) Two members, to represent the governor, who shall serve on the executive committee.

The legislative members shall select a chair from the membership of the commission.

The commission shall be staffed, to the extent possible, by staff from the appropriate senate and house of representatives committees.

The commission may form technical advisory committees to assist it with any particular matters deemed necessary by the commission.

The commission and technical advisory committee members shall receive no compensation, but except for publicly funded agency staff, shall, to the extent funds are available, be reimbursed for their expenses while attending any meetings in the same manner as legislators engaged in interim committee business as specified in RCW 44.04.120.

The commission may receive appropriations, grants, gifts, and other payments from any governmental or other public or private entity or person which it may use to defray the cost of its operations or to contract for technical assistance, with the approval of the senate committee on facilities and operations and the house of representatives executive rules committee.

(2) The long-term care commission shall develop legislation and recommend administrative actions necessary to achieve the following long-term care reforms:

(a) The systematic coordination, planning, budgeting, and administration of long-term care services currently administered by the department of social and health services, division of developmental disabilities, aging and adult services administration, division of vocational rehabilitation, office on AIDS, division of health, and the bureau of alcohol and substance abuse;

(b) Provision of long-term care services to persons based on their functional disabilities noncategorically and in the most independent living situation consistent with the person's needs;

(c) A consistent definition of appropriate roles and responsibilities for state and local government, regional organizations, and private organizations in the planning, administration, financing, and delivery of long-term care services;

(d) Technical assistance to enable local communities to have greater participation and control in the planning, administration, and provision of long-term care services;

(e) A case management system that coordinates an appropriate and cost-effective plan of care and services for eligible functionally disabled persons based on their individual needs and preferences;

(f) A sufficient supply of quality noninstitutional residential alternatives for functionally disabled persons, and supports for the providers of such services;

(g) Public and private alternative funding for long-term care services, such as federal Title XIX funding of personal care services through the limited casualty program for the medically needy and other optional services, a uniform fee scale for client participation in state-funded, long-term care programs, and private, long-term care insurance;

(h) A systematic and balanced long-term care services payment and reimbursement system, including nursing home reimbursement, that will provide access to needed services while controlling the rate of cost increases for such services;

(i) Active involvement of volunteers and advocacy groups;

(j) An integrated data base that provides long-term care client tracking;

(k) A coordinated education system for long-term care; and

(l) Other issues deemed appropriate by the implementation team.

The commission shall report to the legislature with its findings, recommendations, and proposed legislation by December 1, 1990.

V. ADULT FAMILY HOME LICENSING

NEW SECTION. Sec. 14. The legislature finds that adult family homes are an important part of the state's long-term care system. Adult family homes provide an alternative to institutional care and promote a high degree of independent living for residents.

NEW SECTION. Sec. 15. The purposes of this chapter are to:

(1) Encourage the establishment and maintenance of adult family homes that provide a humane, safe, and homelike environment for persons with functional limitations who need personal and special care;

(2) Establish standards for regulating adult family homes that adequately protect residents, but are consistent with the abilities and resources of an adult family home so as not to discourage individuals from serving as adult family home providers; and

(3) Encourage consumers, families, providers, and the public to become active in assuring their full participation in development of adult family homes that provide high quality care.

NEW SECTION. Sec. 16. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Adult family home" means a regular family abode of a person or persons who are providing personal care, room, and board to more than one but not more than four adults who are not related by blood or marriage to the person or persons providing the services; except that a maximum of six adults may be permitted if the department determines that the home is of adequate size and that the home and the provider are capable of meeting standards and qualifications as provided for in this act.

(2) "Provider" means any person who is licensed under this chapter to operate an adult family home. The provider shall reside at the adult family home, except that exceptions may be authorized by the department for good cause, as defined in rule.

(3) "Department" means the department of social and health services.

(4) "Resident" means an adult in need of personal or special care in an adult family home who is not related to the provider.

(5) "Adults" means persons who have attained the age of eighteen years.

(6) "Home" means an adult family home.

(7) "Imminent danger" means serious physical harm to or death of a resident has occurred, or there is a serious threat to resident life, health, or safety.

(8) "Special care" means care beyond personal care as defined by the department, in rule.

NEW SECTION. Sec. 17. The following residential facilities shall be exempt from the operation of this chapter:

(1) Nursing homes licensed under chapter 18.51 RCW;

- (2) Boarding homes licensed under chapter 18.20 RCW;
- (3) Facilities approved and certified under chapter 71A.22 RCW;
- (4) Residential treatment centers for the mentally ill licensed under chapter 71.24 RCW;
- (5) Hospitals licensed under chapter 70.41 RCW;
- (6) Homes for the developmentally disabled licensed under chapter 74.15 RCW.

NEW SECTION. Sec. 18. (1) The department shall adopt rules and standards with respect to all adult family homes and the operators thereof to be licensed under this chapter to carry out the purposes and requirements of this chapter. In developing rules and standards the department shall recognize the residential family-like nature of adult family homes and not develop rules and standards which by their complexity serve as an overly restrictive barrier to the development of the adult family homes in the state. Procedures and forms established by the department shall be developed so they are easy to understand and comply with. Paper work requirements shall be minimal. Easy to understand materials shall be developed for homes explaining licensure requirements and procedures.

(2) During the initial stages of development of proposed rules, the department shall provide notice of development of the rules to organizations representing adult family homes and their residents, and other groups that the department finds appropriate. The notice shall state the subject of the rules under consideration and solicit written recommendations regarding their form and content.

(3) Except where provided otherwise, chapter 34.05 RCW shall govern all department rule-making and adjudicative activities under this chapter.

NEW SECTION. Sec. 19. After July 1, 1990, no person shall operate or maintain an adult family home in this state without a license under this chapter.

NEW SECTION. Sec. 20. (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) 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; and that the applicant has no 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 five years that resulted in revocation or nonrenewal of a license.

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

(4) 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 ten days after receipt of the notice of denial.

(5) A provider shall not be licensed for more than one adult family home. Exceptions may be authorized by the department for good cause, as defined in rule. The department shall submit to appropriate committees of the legislature, by December 1, 1991, a report on the number and type of good cause exceptions granted.

(6) The license fee shall be set at fifty dollars per year for each home. A fifty dollar processing fee shall also be charged each home when the home is initially licensed.

NEW SECTION. Sec. 21. An adult family home shall have readily available for review:

- (1) Its license to operate; and
- (2) A copy of each inspection report received by the home from the department for the past three years.

NEW SECTION. Sec. 22. (1) A license shall be valid for one year.

(2) At least ninety days prior to expiration of the license, the provider shall submit an application for renewal of a license. The department shall send the provider an application for renewal prior to this time. The department shall have the authority to investigate any information included in the application for renewal of a license.

(3)(a) Homes applying for a license shall be inspected at the time of licensure.

(b) Homes licensed by the department shall be inspected every eighteen months subject to available funds.

(c) Licensed homes where a complaint has been received by the department may be inspected at any time.

(4) If the department finds that the home is not in compliance with this chapter, it shall require the home to correct any violations as provided in this chapter. If the department finds that the home is in compliance with this chapter and the rules adopted under this chapter, the department shall renew the license of the home.

NEW SECTION. Sec. 23. (1) No public agency contractor or employee shall place, refer, or recommend placement of a person into an adult family home that is operating without a license.

(2) Any public agency contractor or employee who knows that an adult family home is operating without a license shall report the name and address of the home to the department. The department shall investigate any report filed under this section.

NEW SECTION. Sec. 24. An adult family home provider shall have the following minimum qualifications:

- (1) Twenty-one years of age or older;
- (2) Good moral and responsible character and reputation;

(3) Literacy; and

(4) Management and administrative ability to carry out the requirements of this chapter.

****NEW SECTION. Sec. 25. The department shall promulgate a list of residents' rights for adult family homes, by rule, which shall be equal to those in rule as of January 1, 1989.***

**Sec. 25 was vetoed, see message at end of chapter.*

NEW SECTION. Sec. 26. (1) Adult family homes shall be maintained internally and externally in good repair and condition. Such homes shall have safe and functioning systems for heating, cooling, hot and cold water, electricity, plumbing, garbage disposal, sewage, cooking, laundry, artificial and natural light, ventilation, and any other feature of the home.

(2) Adult family homes shall be maintained in a clean and sanitary manner, including proper sewage disposal, food handling, and hygiene practices.

(3) Adult family homes shall develop a fire drill plan for emergency evacuation of residents, shall have smoke detectors in each bedroom where a resident is located, shall have fire extinguishers on each floor of the home, and shall not keep nonambulatory patients above the first floor of the home.

(4) Adult family homes shall have clean, functioning, and safe household items and furnishings.

(5) Adult family homes shall provide a nutritious and balanced diet and shall recognize residents' needs for special diets.

(6) Adult family homes shall establish health care procedures for the care of residents including medication administration and emergency medical care.

(a) Adult family home residents shall be permitted to self-administer medications.

(b) Adult family home providers may administer medications and deliver special care only to the extent that the provider is a licensed health care professional for whom the administration of medications is within the scope of practice under Washington law.

NEW SECTION. Sec. 27. Each adult family home shall meet applicable local licensing, zoning, building, and housing codes, and state and local fire safety regulations. It is the responsibility of the home to check with local authorities to ensure all local codes are met.

NEW SECTION. Sec. 28. Whenever possible adult family homes are encouraged to contact and work with local quality assurance projects such as the volunteer ombudsman with the goal of assuring high quality care is provided in the home.

****NEW SECTION. Sec. 29. The department shall develop written training material to distribute to adult family home providers. The material shall explain licensure requirements established by this chapter and cover other***

areas to include issues affecting the health, mental health, nutrition, and hygiene of residents as well as other areas pertinent to the care of residents or of the home. The department of social and health services shall provide a report to the long-term care commission by December 1, 1991, on the appropriate provider training and education on adult family homes.

*Sec. 29 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 30. (1) During inspections of an adult family home, the department shall have access and authority to examine areas and articles in the home used to provide care or support to residents, including residents' records, accounts, and the physical premises, including the buildings, grounds, and equipment. The department also shall have the authority to interview the provider and residents of an adult family home.

(2) Whenever an inspection is conducted, the department shall prepare a written report that summarizes all information obtained during the inspection, and if the home is in violation of this chapter, serve a copy of the inspection report upon the provider at the same time as a notice of violation. If the home is not in violation of this chapter, a copy of the inspection report shall be mailed to the provider within ten days of the inspection of the home. All inspection reports shall be made available to the public at the department during business hours.

(3) The inspection report shall describe any corrective measures on the part of the provider necessary to pass a reinspection. If the department finds upon reinspection of the home that the corrective measures have been satisfactorily implemented, the department shall cease any actions taken against the home. Nothing in this section shall require the department to license or renew the license of a home where serious physical harm or death has occurred to a resident.

NEW SECTION. Sec. 31. (1) The department is authorized to take one or more of the actions listed in subsection (2) of this section in any case in which the department finds that an adult family home provider has:

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

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

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

(d) Willfully prevented or interfered with any inspection or investigation by the department.

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

(a) Refuse to issue a license;

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

(c) Suspend admissions to the adult family home.

NEW SECTION. Sec. 32. The department has the authority to immediately suspend a license if it finds that conditions there constitute an imminent danger to residents.

NEW SECTION. Sec. 33. Nothing in this chapter or the rules adopted under it may be construed as authorizing the supervision, regulation, or control of the remedial care or treatment of residents in any adult family home conducted by and for the adherents of a church or religious denomination who rely upon spiritual means alone through prayer for healing in accordance with the tenets and practices of such church or religious denomination and the bona fide religious beliefs genuinely held by such adherents.

***NEW SECTION.** Sec. 34. *Section 11, chapter 172, Laws of 1969 ex. sess., section 1, chapter 52, Laws of 1975-'76 2nd ex. sess. and RCW 74.08.044 are each repealed.*

*Sec. 34 was vetoed, see message at end of chapter.

VI. RESIDENTIAL CARE FACILITY SITING

***NEW SECTION.** Sec. 35. *(1) Unless the context clearly requires otherwise, these definitions shall apply throughout this section and sections 36, 37, 38, 39, 40, and 41 of this act:*

(a) "Adult family home" means a residential care facility that is regulated by the department of social and health services.

(b) "Residential care facility" means a facility that cares for at least five, but not more than fifteen functionally disabled persons.

(c) "Department" means the department of social and health services.

(2) An adult family home shall be considered a residential use of property for zoning purposes. Adult family homes shall be a permitted use in all areas zoned for residential or commercial purposes, including areas zoned for single family dwellings.

*Sec. 35 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 36. A new section is added to chapter 35.63 RCW to read as follows:

Each municipality that does not provide for the siting of residential care facilities in zones or areas that are designated for single family or other residential uses, shall conduct a review of the need and demand for the facilities, including the cost of any conditional or special use permit that may be required. The review shall be completed by August 31, 1990. A copy of the findings, conclusions, and recommendations resulting from the review shall be sent to the department of community development by September 30, 1990.

On or before June 30, 1991, each municipality that plans and zones under this chapter shall have adopted an ordinance or ordinances that are necessary to implement the findings of this review, if the findings indicate

that such changes are necessary, or shall notify the department of community development as to why such implementing ordinances were not adopted.

NEW SECTION. Sec. 37. A new section is added to chapter 35A.63 RCW to read as follows:

Each municipality that does not provide for the siting of residential care facilities in zones or areas that are designated for single family or other residential uses, shall conduct a review of the need and demand for the facilities, including the cost of any conditional or special use permit that may be required. The review shall be completed by August 31, 1990. A copy of the findings, conclusions, and recommendations resulting from the review shall be sent to the department of community development by September 30, 1990.

On or before June 30, 1991, each municipality that plans and zones under this chapter shall have adopted an ordinance or ordinances that are necessary to implement the findings of this review, if the findings indicate that such changes are necessary, or shall notify the department of community development as to why such implementing ordinances were not adopted.

NEW SECTION. Sec. 38. A new section is added to chapter 36.70 RCW to read as follows:

Each county that does not provide for the siting of residential care facilities in zones that are designated for single family or other residential uses, shall conduct a review of the need and demand for the facilities, including the cost of any conditional or special use permit that may be required. The review shall be completed by August 30, 1990. A copy of the findings, conclusions, and recommendations resulting from the review shall be sent to the department of community development by September 30, 1990.

On or before June 30, 1991, each municipality that plans and zones under this chapter shall have adopted an ordinance or ordinances that are necessary to implement the findings of this review, if the findings indicate that such changes are necessary, or shall notify the department of community development as to why such implementing ordinances were not adopted.

NEW SECTION. Sec. 39. A new section is added to chapter 35.22 RCW to read as follows:

If a first class city zones pursuant to its inherent charter authority and not pursuant to chapter 35.63 RCW, and does not provide for the siting of residential care facilities in zones or areas that are designated for single family or other residential uses, the city shall conduct a review of the need and demand for the facilities, including the cost of any conditional or special use permit that may be required. The review shall be completed by

August 30, 1990. A copy of the findings, conclusions, and recommendations resulting from the review shall be sent to the department of community development by September 30, 1990.

On or before June 30, 1991, each municipality that plans and zones under this chapter shall have adopted an ordinance or ordinances that are necessary to implement the findings of this review, if the findings indicate that such changes are necessary, or shall notify the department of community development as to why such implementing ordinances were not adopted.

NEW SECTION. Sec. 40. A new section is added to chapter 36.32 RCW to read as follows:

If a county operating under home rule charter zones pursuant to its inherent charter authority and not pursuant to chapter 35.63 RCW, nor chapter 36.70 RCW, and that county does not provide for the siting of residential care facilities in zones or areas that are designated for single family or other residential uses, the county shall conduct a review of the need and demand for the facilities, including the cost of any conditional or special use permit that may be required. The review shall be completed by August 30, 1990. A copy of the findings, conclusions, and recommendations resulting from the review shall be sent to the department of community development by September 30, 1990.

On or before June 30, 1991, each municipality that plans and zones under this chapter shall have adopted an ordinance or ordinances that are necessary to implement the findings of this review, if the findings indicate that such changes are necessary, or shall notify the department of community development as to why such implementing ordinances were not adopted.

NEW SECTION. Sec. 41. The department of community development shall:

(1) Report to the appropriate committees of the legislature the results of the local reviews provided for in sections 36 through 40 of this act by December 31, 1990.

(2) In consultation with the association of Washington cities, the Washington association of counties, and the long-term care commission, develop a model ordinance for the siting of residential care facilities. The model ordinance shall be developed by December 31, 1990.

NEW SECTION. Sec. 42. The sum of one hundred fifty thousand dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 1991, from the general fund to the senate and house of representatives solely for the long-term care commission created under section 13 of this act.

NEW SECTION. Sec. 43. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or

the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 44. Sections 2 through 43 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 shall take effect immediately.

NEW SECTION. Sec. 45. Sections 2, 3, 9, 11, 13, and 35 of this act shall constitute a new chapter in Title 74 RCW.

NEW SECTION. Sec. 46. Sections 14 through 33 of this act shall constitute a new chapter in Title 70 RCW.

NEW SECTION. Sec. 47. Subchapter headings as used in this act do not constitute any part of the law.

Passed the House April 23, 1989.

Passed the Senate April 23, 1989.

Approved by the Governor May 14, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 14, 1989.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 25, 29, 34 and 35, Engrossed Substitute House Bill No. 1968 entitled:

"AN ACT Relating to long term care."

Section 25 requires the Department of Social and Health Services to promulgate rules regarding adult family home resident rights, but limits the rules by requiring them to be "equal" to those already in place. Senior advocates and caregivers may recommend the expansion or modification of resident rights, and the department would be prohibited from responding under this language.

Section 29 requires the department to create a written training program for adult family home operators and to report to the Legislature. No appropriation is made to carry out the requirements of this section.

Section 34 repeals the rule-making authority the department needs to regulate congregate care facilities.

Section 35 is a preemptive zoning statute that designates residential facilities serving up to 15 persons as permitted uses under local zoning statutes. The language is overly broad and vague as written and may present a problem to local governments. The Legislature will receive a report from all local governments on the need for these facilities in 1990.

With the exception of sections 25, 29, 34 and 35, Engrossed Substitute House Bill No. 1968 is approved."

CHAPTER 428

[House Bill No. 1656]

CONDOMINIUMS—WARRANTIES OF QUALITY AND CREATION OF CONDOMINIUM STUDY COMMITTEE

AN ACT Relating to the regulation of the sale of lands; creating new sections; and providing an effective date.