

SENATE BILL NO. 74

INTRODUCED BY REGAN, ECK, VAUGHN, STIMATZ, KEATING

BY REQUEST OF THE DEPARTMENT OF FAMILY SERVICES

IN THE SENATE

JANUARY 6, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON PUBLIC HEALTH, WELFARE & SAFETY.
	FIRST READING.
FEBRUARY 6, 1989	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 7, 1989	PRINTING REPORT.
FEBRUARY 8, 1989	SECOND READING, DO PASS.
FEBRUARY 9, 1989	ENGROSSING REPORT.
FEBRUARY 10, 1989	THIRD READING, PASSED. AYES, 45; NOES, 1.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 10, 1989	INTRODUCED AND REFERRED TO COMMITTEE ON HUMAN SERVICES & AGING.
FEBRUARY 20, 1989	FIRST READING.
MARCH 2, 1989	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 4, 1989	SECOND READING, CONCURRED IN.
MARCH 6, 1989	THIRD READING, CONCURRED IN. AYES, 82; NOES, 10.
	RETURNED TO SENATE.

IN THE SENATE

MARCH 7, 1989	RECEIVED FROM HOUSE.
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SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *74*
2 INTRODUCED BY *Rep. Erik Thompson*
3 BY REQUEST OF THE DEPARTMENT OF FAMILY SERVICES
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING MANDATORY
6 LICENSING OF ADULT FOSTER FAMILY CARE HOMES; PROVIDING FOR
7 APPLICATION AND RECORDKEEPING REQUIREMENTS; ESTABLISHING
8 PENALTIES; AND PROVIDING AN EFFECTIVE DATE."
9

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 **Section 1. License required.** No person, group of
12 persons, or corporation may establish or operate an adult
13 foster family care home unless licensed by the department.
14 No fee may be charged for the license.

15 **Section 2. License application -- investigation.** (1)
16 Application for a license must be made to the department on
17 forms prescribed by the department.

18 (2) Within 30 days of receipt of the application, the
19 department shall investigate the following to determine
20 whether a license should be issued:

21 (a) the character, suitability, and qualifications of
22 the applicant and persons directly responsible for the care
23 of residents;

24 (b) the programs and practices necessary to ensure the
25 health, safety, and well-being of the residents; and

1 (c) the adequacy and safety of the applicant's
2 physical facilities.

3 **Section 3. Inspections -- records -- reports.** Each
4 applicant and licensee shall:

5 (1) give the right of entry to and allow the
6 inspection of premises by representatives of the department;

7 (2) keep and maintain records as prescribed by the
8 department and permit departmental inspection of these
9 records; and

10 (3) report required facts on forms furnished by the
11 department.

12 **Section 4. Penalty -- remedies.** (1) A person, group of
13 persons, or corporation that establishes or operates an
14 adult foster family care home without first obtaining a
15 license from the department as provided for in this part is
16 guilty of a misdemeanor and, upon conviction, may be
17 punished by a fine not to exceed \$500.

18 (2) The department shall investigate if it is advised
19 or has reason to believe that a person, group of persons, or
20 corporation is operating an adult foster family care home
21 without a license. If the department finds that the adult
22 foster family care home is being or has been operated
23 without a license, it may report the results of the
24 investigation to the attorney general or to the county
25 attorney of the county in which the home is being operated

LC 0106/01

1 and may request that an injunction be issued against the
2 operator until a license is obtained.

3 (3) The department may, through its attorney, any
4 county attorney, or the attorney general, institute any
5 action necessary to enforce compliance with this part.

6 **Section 5. Extension of authority.** Any existing
7 authority to make rules on the subject of the provisions of
8 [this act] is extended to the provisions of [this act].

9 **Section 6. Codification instruction.** [Sections 1
10 through 4] are intended to be codified as an integral part
11 of Title 53, chapter 5, part 3, and the provisions of Title
12 53, chapter 5, part 3, apply to [sections 1 through 4].

13 **Section 7. Effective date.** [This act] is effective
14 July 1, 1989.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB074, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act requiring mandatory licensing of adult foster family care homes; providing for application and recordkeeping requirements; establishing penalties; and providing an effective date.

ASSUMPTIONS:

1. It is assumed that the Department of Family Services would absorb the additional workload with existing staff and resources. There would be no fiscal impact.

FISCAL IMPACT:

There would be no fiscal impact.

Ray Shackelford 1/13/89
RAY SHACKLEFORD, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

PAT REGAN 1-13-89
PAT REGAN, PRIMARY SPONSOR DATE
Fiscal Note for SB074, as introduced
SB 74

APPROVED BY COMMITTEE
ON PUBLIC HEALTH, WELFARE
& SAFETY

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LICENSING OF ADULT FOSTER FAMILY CARE HOMES; PROVIDING FOR
APPLICATION AND RECORDKEEPING REQUIREMENTS; ESTABLISHING
PENALTIES; AMENDING SECTION 53-5-303, MCA; AND PROVIDING AN
EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. License required. No person,
group of persons, or corporation may establish or operate an
adult foster family care home unless licensed by the
department. No fee may be charged for the license.

NEW SECTION. Section 2. License application --
investigation. (1) Application for a license must be made to
the department on forms prescribed by the department.

(2) Within 30 days of receipt of the application, the
department shall investigate the following to determine
whether a license should be issued:

(a) the character, suitability, and qualifications of
the applicant and persons directly responsible for the care
of residents;

(b) the programs and practices necessary to ensure the

health, safety, and well-being of the residents; and

(c) the adequacy and safety of the applicant's
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department and permit departmental inspection of these
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NEW SECTION. Section 4. Penalty -- remedies. (1) A
person, group of persons, or corporation that establishes or
operates an adult foster family care home without first
obtaining a license from the department as provided for in
this part is guilty of a misdemeanor and, upon conviction,
may be punished by a fine not to exceed \$500.

(2) The department shall investigate if it is advised
or has reason to believe that a person, group of persons, or
corporation is operating an adult foster family care home
without a license. If the department finds that the adult
foster family care home is being or has been operated
without a license, it may report the results of the
investigation to the attorney general or to the county

1 attorney of the county in which the home is being operated
2 and may request that an injunction be issued against the
3 operator until a license is obtained.

4 (3) The department may, through its attorney, any
5 county attorney, or the attorney general, institute any
6 action necessary to enforce compliance with this part.

7 **SECTION 5.** SECTION 53-5-303, MCA, IS AMENDED TO READ:

8 "53-5-303. Purpose. (1) In order to ensure the proper
9 care of aged persons or disabled adults in foster family
10 care homes and to implement provisions of Title XX of the
11 Social Security Act, Public Law 93-647, the department may
12 obtain, license, and supervise adult foster family care
13 homes for four or fewer aged persons or disabled adults in
14 need of such care.

15 (2) Subsection (1) is not intended to apply to those
16 persons who voluntarily live together in a private home and
17 agree to share living expenses and responsibilities."

18 **NEW SECTION.** Section 6. Extension of authority. Any
19 existing authority to make rules on the subject of the
20 provisions of [this act] is extended to the provisions of
21 [this act].

22 **NEW SECTION.** Section 7. Codification instruction.
23 [Sections 1 through 4] are intended to be codified as an
24 integral part of Title 53, chapter 5, part 3, and the
25 provisions of Title 53, chapter 5, part 3, apply to

1 [sections 1 through 4].

2 **NEW SECTION.** Section 8. Effective date. [This act] is
3 effective July 1, 1989.

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1 attorney of the county in which the home is being operated
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11 **Social Security Act, Public Law 93-647, the department may**
12 **obtain, license, and supervise adult foster family care**
13 **homes for four or fewer aged persons or disabled adults in**
14 **need of such care.**

15 **(2) Subsection (1) is not intended to apply to those**
16 **persons who voluntarily live together in a private home and**
17 **agree to share living expenses and responsibilities."**

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21 **[this act].**

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