

General (3157) v. B. Pass. 3/25 (p. 814)

Reprinted

FILED JAN 14 1991

SENATE FILE 10

BY TINSMAN

Passed Senate, Date 4/8/91 (p. 1113) Passed House, Date 4/16/91 (p. 1285)

Vote: Ayes 44 Nays 1 Vote: Ayes 96 Nays 1

Approved May 1, 1991

A BILL FOR

3157 1 An Act relating to the establishment and licensure of elder
2 family homes.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 10

3.57 amendments

1 Section 1. NEW SECTION. 135J.1 FINDINGS AND PURPOSE.

2 1. The general assembly finds that elder family homes are
3 an important part of the long-term care system in the state.
4 Elder family homes provide a less restrictive alternative for
5 those requiring long-term care and promote independent living
6 for residents.

7 2. The purposes of this chapter are to do all of the
8 following:

9 a. To encourage the establishment and maintenance of elder
10 family homes that provide a humane, safe, and homelike
11 environment for persons with functional limitations who need
12 personal and special care but who do not require the services
13 of a registered or licensed practical nurse except on an
14 intermittent or emergency basis.

15 b. To establish standards for regulating elder family
16 homes that adequately protect residents, but which are not
17 overly restrictive so as to discourage the provision of elder
18 family home care.

19 c. To encourage the public participation in the
20 development of elder family homes which provide quality care.

21 Sec. 2. NEW SECTION. 135J.2 DEFINITIONS.

22 As used in this chapter, unless the context otherwise
23 requires:

24 1. "Department" means the department of inspections and
25 appeals.

26 2. "Elder" means a person sixty years of age or older.

27 3. "Elder family home" means a home of a person who is
28 providing personal care, room, and board to more than one but
29 not more than four elders, or six elders as provided for in
30 section 135J.7, subsection 4, who are not related to the
31 person providing the service within the third degree of
32 consanguinity or affinity but does not include a family home
33 as defined by section 358A.25 or 414.22, a health care
34 facility as defined by section 135C.1, or another type of
35 protective living arrangement as defined by rule of the

1 department of human services.

2 4. "Imminent danger" means that serious physical harm to
3 or death of a resident has occurred or a serious threat is
4 posed to the life, health, or safety of a resident.

5 5. "Provider" means a person who is licensed under this
6 chapter to operate an elder family home.

7 6. "Resident" means an elder who is ambulatory and who is
8 admitted to an elder family home.

9 7. "Special care" means care beyond personal care as
10 defined by rule of the department.

11 Sec. 3. NEW SECTION. 135J.3 LICENSURE.

12 1. A person shall not establish or operate an elder family
13 home in this state without obtaining a license pursuant to
14 this chapter.

15 2. Application for licensure shall be made to the
16 department upon forms provided by the department and shall
17 contain information which the department reasonably requires.

18 3. The department shall issue a license to an applicant if
19 the department finds that the applicant and the elder family
20 home are in compliance with this chapter, if the applicant has
21 no prior violations of this chapter relating to the elder
22 family home which is the subject of the application or any
23 other elder family home, and if the applicant has no other
24 violation of any law or rule relating to the operation of a
25 health care facility or similar group facility.

26 4. Each application for licensure shall be accompanied by
27 an annual license fee prescribed by rule of the department.

28 5. The department shall not issue an elder family home
29 license until all of the following requirements have been met:

30 a. The department has ascertained that the staff and
31 equipment of the elder family home are adequate to provide the
32 care and services required of the home. Prior to the review
33 and approval of plans and specifications for a new elder
34 family home and the initial licensing under a new licensee, a
35 resume of the care and services to be furnished and of the

1 means available to the applicant for provision of the care and
2 services and for meeting the requirements for staffing,
3 equipment, and operation of the home shall be submitted in
4 writing to the department for review and approval. The resume
5 shall be reviewed by the department within ten working days
6 and returned to the applicant. The resume, upon the
7 department's request, shall be revised by the elder family
8 home as appropriate after issuance of a license.

9 b. The elder family home meets all applicable zoning,
10 building, and housing codes, and state and local fire safety
11 regulations.

12 6. A provider shall not be licensed for more than one
13 elder family home, unless otherwise authorized by rule of the
14 department.

15 7. A license shall be valid for one year.

16 8. The department shall serve the applicant with a copy of
17 the decision granting or denying an application for licensure.

18 9. At least ninety days prior to the expiration of a
19 license, the provider shall submit an application for renewal
20 of a license. The department shall send the provider an
21 application for renewal at least one hundred twenty days prior
22 to the expiration of a license.

23 Sec. 4. NEW SECTION. 135J.4 DENIAL, SUSPENSION, OR
24 REVOCATION OF A LICENSE.

25 1. The department may deny, suspend, or revoke a license.

26 2. The department may immediately suspend or revoke a
27 license if the department finds that conditions of the elder
28 family home constitute an imminent danger to the residents, or
29 if the department finds that there have been repeated failures
30 on the part of the provider to comply with this chapter or the
31 rules or minimum standards adopted pursuant to this chapter.

32 3. If the department finds that the elder family home is
33 in violation of this chapter, the department shall require the
34 home to correct the violation. If the department finds that
35 the elder family home is in compliance with this chapter, the

1 department shall renew the license of the home.

2 a. The denial, suspension, or revocation of a license
3 shall be effected by delivering to the applicant or provider
4 by certified mail or by personal service a notice setting
5 forth the particular reasons for the action. The denial,
6 suspension, or revocation shall become effective thirty days
7 after the mailing or service of the notice, unless the
8 applicant or licensee, within the thirty-day period, gives
9 written notice to the department requesting a hearing, in
10 which case the notice is deemed suspended. If a hearing has
11 been requested, the applicant or licensee shall be given an
12 opportunity for a prompt and fair hearing before the
13 department. At any time prior to the hearing the department
14 may rescind the notice of the denial, suspension, or
15 revocation upon satisfaction that the reasons for denial,
16 suspension, or revocation have been or will be removed. On
17 the basis of a hearing, or upon default of the applicant or
18 licensee, the determination involved in the notice may be
19 affirmed, modified, or set aside by the department. A copy of
20 the decision shall be sent by certified mail to, or served
21 personally upon the applicant or licensee.

22 b. The procedure governing hearings authorized by this
23 section shall be in accordance with the provisions of chapter
24 17A regarding contested cases.

25 4. Judicial review of an action of the department may be
26 sought pursuant to chapter 17A.

27 Sec. 5. NEW SECTION. 135J.5 INSPECTIONS.

28 1. An elder family home applying for licensure shall be
29 inspected at the time of licensure.

30 2. An elder family home licensed by the department shall
31 be inspected every eighteen months following initial
32 inspection.

33 3. An elder family home against which a complaint has been
34 filed may be inspected at any time.

35 4. During the inspection of an elder family home, the

1 department shall have access and authority to examine areas
2 and articles in the home used to provide care or support to
3 the residents, including the residents' records, accounts, and
4 the premises, including the buildings, grounds, and equipment.
5 The department may interview the provider and residents of the
6 home during an inspection.

7 5. Following the inspection of an elder family home, the
8 department shall prepare a written report of the information
9 obtained during the inspection, and if the home is in
10 violation of this chapter, the department shall serve a copy
11 of the inspection report upon the provider at the time that
12 notice of the violation is served. If the home is not in
13 violation of this chapter, a copy of the inspection report
14 shall be mailed to the provider within ten days of the
15 inspection of the home. Inspection reports shall be available
16 to the public through the department.

17 Sec. 6. NEW SECTION. 135J.6 REFERRAL OF UNLICENSED HOME
18 PROHIBITED.

19 1. A person shall not place, refer, or recommend the
20 placement of another person in an elder family home which is
21 not licensed pursuant to this chapter.

22 2. A person who has knowledge that an elder family home is
23 operating without a license shall report the name and address
24 of the home to the department. The department shall
25 investigate a report made pursuant to this section.

26 Sec. 7. NEW SECTION. 135J.7 RULES.

27 The department, in cooperation with the department of elder
28 affairs, shall adopt rules, pursuant to chapter 17A, which
29 establish all of the following:

30 1. Procedures and minimum standards for the licensing of
31 elder family homes. In developing the standards, the
32 department shall consider the less restrictive nature of the
33 homes and shall develop rules and procedures which are
34 appropriate to the needs of the residents and which are easily
35 understood and implemented by providers.

1 2. An authorization procedure for the licensing of more
2 than one elder family home by the same provider.

3 3. A requirement that a provider reside at the elder
4 family home and shall provide for exceptions to this rule.

5 4. A procedure for the determination of instances in which
6 a maximum of six elders may be allowed to reside in an elder
7 family home.

8 5. A fee for licensure and inspection of an elder family
9 home.

10 6. The minimum qualifications of an elder family home
11 provider which shall include basic training requirements.

12 7. The standards for maintenance of an elder family home
13 and for safety and care of the residents including sanitary
14 conditions, fire safety procedures, health care procedures
15 including administration of medication and emergency medical
16 care, and nutritional standards for meals provided to the
17 residents.

18 8. A procedure for appointing members of a care review
19 committee for each elder family home. The rules shall
20 incorporate the provisions, if applicable, for care review
21 committees pursuant to sections 135C.25, 135C.38, and 249D.44.
22 The rules shall also include a preadmission screening process
23 by which a determination is made regarding the appropriateness
24 of care which an elder family home is capable of providing the
25 prospective resident.

26 Sec. 8. Section 100.35, unnumbered paragraph 1, Code 1991,
27 is amended to read as follows:

28 The fire marshal shall adopt, and may amend rules under
29 chapter 17A, which include standards relating to exits and
30 exit lights, fire escapes, fire protection, fire safety and
31 the elimination of fire hazards, in and for churches, schools,
32 hotels, theaters, amphitheaters, hospitals, health care
33 facilities as defined in section 135C.1, boarding homes or
34 housing, rest homes, dormitories, college buildings, lodge
35 halls, club rooms, public meeting places, places of amusement,

1 apartment buildings, food establishments as defined in section
2 137A.1, subsection 2, food service establishments as defined
3 in section 137B.2, subsection 5, elder family homes as defined
4 in section 135J.2, and all other buildings or structures in
5 which persons congregate from time to time, whether publicly
6 or privately owned. Violation of a rule adopted by the fire
7 marshal is a simple misdemeanor. However, upon proof that the
8 fire marshal gave written notice to the defendant of the
9 violation, and proof that the violation constituted a clear
10 and present danger to life, and proof that the defendant
11 failed to eliminate the condition giving rise to the violation
12 within thirty days after receipt of notice from the fire
13 marshal, the penalty is that provided by law for a serious
14 misdemeanor. Each day of the continuing violation of a rule
15 after conviction of a violation of the rule is a separate
16 offense. A conviction is subject to appeal as in other
17 criminal cases.

18 Sec. 9. NEW SECTION. 358A.31 ELDER FAMILY HOMES.

19 A county, county board of supervisors, or county zoning
20 commission shall consider an elder family home a family home,
21 as defined in section 358A.25, for purposes of zoning.

22 Sec. 10. NEW SECTION. 414.29 ELDER FAMILY HOMES.

23 A city, city council, or city zoning commission shall
24 consider an elder family home a family home, as defined in
25 section 414.22, for purposes of zoning.

26 EXPLANATION

27 This bill provides for the establishment of elder family
28 homes which provide personal care, room, and board to more
29 than one but not more than four elders unless a maximum of six
30 elders is allowed by determination of departmental rule in a
31 home setting. The bill requires licensure of an elder family
32 home and establishes conditions and procedures for the
33 issuance, denial, suspension, or revocation of a license,
34 inspection procedures, the adoption of rules, and fire and
35 zoning provisions.

SENATE FILE 10

S-3157

1 Amend Senate File 10 as follows:

2 1. By striking everything after the enacting
3 clause and inserting the following:

4 "Section 1. NEW SECTION. 135K.1 DEFINITIONS.

5 As used in this chapter, unless the context
6 otherwise requires:

7 1. "Assessment" means the administration of a
8 standardized tool and the use of other procedures to
9 identify existing impairments, situations, and
10 problems which are barriers to a resident's ability to
11 function and to identify strengths and specific needs.

12 2. "Department" means the department of elder
13 affairs.

14 3. "Elder" means a person sixty years of age or
15 older.

16 4. "Elder family home" means a private household
17 owned by a responsible party offering a social living
18 arrangement for at least two but not more than five
19 persons, the majority of whom are elders, who are not
20 related within the third degree of consanguinity and
21 who are not able or willing to adequately maintain
22 themselves in an independent living arrangement, but
23 who are essentially capable of physical self care.

24 5. "Essentially capable of self care" means the
25 elder is ambulatory or can move from place to place;
26 is of sound mind; can manage the activities of daily
27 living including personal hygiene and grooming,
28 toileting, dressing and undressing, feeding, and
29 medicating; and can attend to the care of personal
30 property adequately with minimal support or occasional
31 assistance.

32 6. "Not able or willing to adequately maintain
33 themselves in an independent living arrangement" means
34 that the elders require some assistance,
35 encouragement, or social stimulation for adequate self
36 care or to maintain physical or mental health or
37 personal safety.

38 7. "Responsible party" means the person providing
39 room and board in an elder family home who resides in
40 the home. The responsible party may be but is not
41 required to be an elder.

42 Sec. 2. NEW SECTION. 135K.2 REGISTRATION OF
43 ELDER FAMILY HOMES.

44 1. The department shall establish a registration
45 program for elder family homes. In order to meet the
46 zoning requirements for classification as an elder
47 family home under section 358A.31 or 414.29, all of
48 the following conditions must be met:

49 a. The responsible party shall register the home
50 as an elder family home with the department.

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1 b. The responsible party shall comply with
2 visitation and assessment requirements as determined
3 by the department.

4 c. The responsible party shall attend annual
5 training as prescribed by the commission of elder
6 affairs.

7 2. If, following a visitation, the care review
8 committee finds that the needs of all of the residents
9 of an elder family home are not being adequately met,
10 the care review committee shall notify the appropriate
11 area agency on aging. The area agency on aging shall
12 cause to be performed a complete assessment of any of
13 the residents whose needs are not being met. If,
14 following the full assessment, the care review
15 committee determines that any of the residents require
16 additional services to meet the needs of the resident,
17 the care review committee shall inform the responsible
18 party that unless the resident relocates to a facility
19 which is able to provide necessary services, the elder
20 family home will no longer be designated as an elder
21 family home and will no longer be in compliance with
22 zoning requirements. The department shall notify the
23 city council or the county board of supervisors if an
24 elder family home is found to no longer be in
25 compliance.

26 3. If the responsible party does not comply with
27 the recommendations of the care review committee
28 pursuant to subsection 2, the elder family home shall
29 lose its designation for the purposes of zoning.

30 4. If the care review committee has probable cause
31 to believe that any elder family home is in fact
32 acting as a health care facility as defined under
33 chapter 135C, upon producing identification that an
34 individual is an inspector, an inspector of the
35 department of inspections and appeals may enter the
36 elder family home to determine if the home is in fact
37 operating as an unlicensed health care facility. If
38 the inspector is denied entrance, the inspector may,
39 with the assistance of the county attorney in the
40 county in which the elder family home is located,
41 apply to the district court for an order requiring the
42 responsible party to permit entry and inspection.

43 5. The department of elder affairs shall maintain
44 a registry of elder family homes and shall act as a
45 resource and referral agency for elder family homes.

46 6. Upon application for registration by a person
47 seeking approval for an elder family home, the
48 department shall notify the city council or county
49 board of supervisors of the city or county in which
50 the proposed elder family home is to be located. The

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Page 3

1 city council or county board of supervisors shall
2 respond to the application within thirty days of
3 notification.

4 7. The department may delegate any duties under
5 this section to local area agencies on aging.

6 8. The commission shall adopt by rule procedures
7 for appointing members of a care review committee for
X 8 each elder family home. The rules shall incorporate
9 the provisions, if applicable, for care review com-
10 mittees pursuant to sections 135C.25, 135C.38, and
11 249D.44.

12 9. The commission of elder affairs shall adopt
13 rules as necessary, to implement this section.

14 Sec. 3. NEW SECTION. 358A.31 ELDER FAMILY HOMES.

15 A county board of supervisors or county zoning
16 commission shall consider an elder family home a
17 family home, as defined in section 358A.25, for
18 purposes of zoning, in accordance with section 135K.2,
19 and may identify limitations regarding the proximity
20 of one proposed elder family home to another.

21 Sec. 4. NEW SECTION. 414.29 ELDER FAMILY HOMES.

22 A city council or city zoning commission shall
23 consider an elder family home a family home, as
24 defined in section 414.22, for purposes of zoning, in
25 accordance with section 135K.2, and may identify
26 limitations regarding the proximity of one proposed
27 elder family home to another."

28 2. Title page, line 1, by striking the word
29 "licensure" and inserting the following:
30 "registration".

By COMMITTEE ON STATE GOVERNMENT
JOHN P. KIBBIE, Chairperson

S-3157 FILED MARCH 25, 1991

*Adopted 4/8 (p. 1104) Recommended
amended (3545) & Resubmitted (p. 1112)*

SENATE FILE 10

S-3345

1 Amend the amendment, S-3157, to Senate File 10, as
2 follows:

3 1. Page 3, line 8, by inserting after the word
4 "home." the following: "To the maximum extent
5 possible, the care review committee appointed for an
6 elder family home shall include a person involved in a
7 local retired senior volunteer program."

By BEVERLY A. HANNON
MAGGIE TINSMAN

S-3345 FILED APRIL 8, 1991

ADOPTED (p. 1112)

SENATE FILE 10
BY TINSMAN

(AS AMENDED AND PASSED BY THE SENATE APRIL 8, 1991)

ALL New Language by the Senate

Passed Senate, Date 4/8/91 (p. 1113) Passed House, Date 4/16/91 (p. 1285)

Vote: Ayes 44 Nays 1 Vote: Ayes 96 Nays 1

Approved May 1, 1991 (p. 1548)

A BILL FOR

1 An Act relating to the establishment and registration of elder
2 family homes.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 10

1 Section 1. NEW SECTION. 135K.1 DEFINITIONS.

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "Assessment" means the administration of a standardized
5 tool and the use of other procedures to identify existing
6 impairments, situations, and problems which are barriers to a
7 resident's ability to function and to identify strengths and
8 specific needs.

9 2. "Department" means the department of elder affairs.

10 3. "Elder" means a person sixty years of age or older.

11 4. "Elder family home" means a private household owned by
12 a responsible party offering a social living arrangement for
13 at least two but not more than five persons, the majority of
14 whom are elders, who are not related within the third degree
15 of consanguinity and who are not able or willing to adequately
16 maintain themselves in an independent living arrangement, but
17 who are essentially capable of physical self care.

18 5. "Essentially capable of self care" means the elder is
19 ambulatory or can move from place to place; is of sound mind;
20 can manage the activities of daily living including personal
21 hygiene and grooming, toileting, dressing and undressing,
22 feeding, and medicating; and can attend to the care of
23 personal property adequately with minimal support or
24 occasional assistance.

25 6. "Not able or willing to adequately maintain themselves
26 in an independent living arrangement" means that the elders
27 require some assistance, encouragement, or social stimulation
28 for adequate self care or to maintain physical or mental
29 health or personal safety.

30 7. "Responsible party" means the person providing room and
31 board in an elder family home who resides in the home. The
32 responsible party may be but is not required to be an elder.

33 Sec. 2. NEW SECTION. 135K.2 REGISTRATION OF ELDER FAMILY
34 HOMES.

35 1. The department shall establish a registration program

1 for elder family homes. In order to meet the zoning
2 requirements for classification as an elder family home under
3 section 358A.31 or 414.29, all of the following conditions
4 must be met:

5 a. The responsible party shall register the home as an
6 elder family home with the department.

7 b. The responsible party shall comply with visitation and
8 assessment requirements as determined by the department.

9 c. The responsible party shall attend annual training as
10 prescribed by the commission of elder affairs.

11 2. If, following a visitation, the care review committee
12 finds that the needs of all of the residents of an elder
13 family home are not being adequately met, the care review
14 committee shall notify the appropriate area agency on aging.
15 The area agency on aging shall cause to be performed a
16 complete assessment of any of the residents whose needs are
17 not being met. If, following the full assessment, the care
18 review committee determines that any of the residents require
19 additional services to meet the needs of the resident, the
20 care review committee shall inform the responsible party that
21 unless the resident relocates to a facility which is able to
22 provide necessary services, the elder family home will no
23 longer be designated as an elder family home and will no
24 longer be in compliance with zoning requirements. The
25 department shall notify the city council or the county board
26 of supervisors if an elder family home is found to no longer
27 be in compliance.

28 3. If the responsible party does not comply with the
29 recommendations of the care review committee pursuant to
30 subsection 2, the elder family home shall lose its designation
31 for the purposes of zoning.

32 4. If the care review committee has probable cause to
33 believe that any elder family home is in fact acting as a
34 health care facility as defined under chapter 135C, upon
35 producing identification that an individual is an inspector,

1 an inspector of the department of inspections and appeals may
2 enter the elder family home to determine if the home is in
3 fact operating as an unlicensed health care facility. If the
4 inspector is denied entrance, the inspector may, with the
5 assistance of the county attorney in the county in which the
6 elder family home is located, apply to the district court for
7 an order requiring the responsible party to permit entry and
8 inspection.

9 5. The department of elder affairs shall maintain a
10 registry of elder family homes and shall act as a resource and
11 referral agency for elder family homes.

12 6. Upon application for registration by a person seeking
13 approval for an elder family home, the department shall notify
14 the city council or county board of supervisors of the city or
15 county in which the proposed elder family home is to be
16 located. The city council or county board of supervisors
17 shall respond to the application within thirty days of
18 notification.

19 7. The department may delegate any duties under this
20 section to local area agencies on aging.

21 8. The commission shall adopt by rule procedures for
22 appointing members of a care review committee for each elder
23 family home. To the maximum extent possible, the care review
24 committee appointed for an elder family home shall include a
25 person involved in a local retired senior volunteer program.
26 The rules shall incorporate the provisions, if applicable, for
27 care review committees pursuant to sections 135C.25, 135C.38,
28 and 249D.44.

29 9. The commission of elder affairs shall adopt rules as
30 necessary, to implement this section.

31 Sec. 3. NEW SECTION. 358A.31 ELDER FAMILY HOMES.

32 A county board of supervisors or county zoning commission
33 shall consider an elder family home a family home, as defined
34 in section 358A.25, for purposes of zoning, in accordance with
35 section 135K.2, and may identify limitations regarding the

1 proximity of one proposed elder family home to another.

2 Sec. 4. NEW SECTION. 414.29 ELDER FAMILY HOMES.

3 A city council or city zoning commission shall consider an
4 elder family home a family home, as defined in section 414.22,
5 for purposes of zoning, in accordance with section 135K.2, and
6 may identify limitations regarding the proximity of one
7 proposed elder family home to another.

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SENATE FILE 10
FISCAL NOTE

A fiscal note for Senate File 10 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 10 provides for the establishment and maintenance of elder family homes which provide personal care, room, and board to not more than 6 elders in a given home setting, as defined by rule of the Department of Human Services. The bill requires licensure of an elder family home and establishes conditions and procedures for the issuance, denial, suspension, revocation, and renewal of a license. The bill also outlines inspection procedures, the adoption of rules, and fire and zoning provisions.

Assumptions:

1. The establishment of rules would occur only in the first year.
2. One facility per year would be surveyed.
3. The assessment of licensure will be limited to counties with Case Management for the Frail Elderly.
4. The elder family homes will take 2 or more years to gain general acceptance and will appeal to a small number of persons.
5. The Department of General Services will tape a training video for the cost of materials.
6. The Care Review Committees Advisory Counsel will develop training materials.
7. The Care Review Committees will need to be provided different training materials.

Fiscal Effect:

The overall fiscal impact of this bill is anticipated to be minimal for the State.

Cost of establishing rules: The cost of establishing rules would be a 1 time estimated cost of \$768, assuming that the time it takes to process the information does not exceed 24 hours.

Surveying facilities: The projected cost of a surveyor reviewing the level of care at 1 facility each year would be \$609, based upon surveys conducted in the past for similar type services.

Recruitment and training of Care Review Committee (CRC) volunteers: The cost of recruiting and educating CRC volunteers would increase the current General Fund appropriation for the CRC Program by \$12,500 in Fiscal Year 1992 and \$7,500 in Fiscal Year 1993.

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Sources: Department of Elder Affairs
Department of Inspection and Appeals (LSB 1093xs, LAM)

FILED FEBRUARY 21, 1991

BY DENNIS PROUTY, FISCAL DIRECTOR

SENATE FILE 10

AN ACT

RELATING TO THE ESTABLISHMENT AND REGISTRATION OF ELDER FAMILY HOMES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 135K.1 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Assessment" means the administration of a standardized tool and the use of other procedures to identify existing impairments, situations, and problems which are barriers to a resident's ability to function and to identify strengths and specific needs.

2. "Department" means the department of elder affairs.

3. "Elder" means a person sixty years of age or older.

4. "Elder family home" means a private household owned by a responsible party offering a social living arrangement for at least two but not more than five persons, the majority of whom are elders, who are not related within the third degree of consanguinity and who are not able or willing to adequately maintain themselves in an independent living arrangement, but who are essentially capable of physical self care.

5. "Essentially capable of self care" means the elder is ambulatory or can move from place to place; is of sound mind; can manage the activities of daily living including personal hygiene and grooming, toileting, dressing and undressing, feeding, and medicating; and can attend to the care of personal property adequately with minimal support or occasional assistance.

6. "Not able or willing to adequately maintain themselves in an independent living arrangement" means that the elders require some assistance, encouragement, or social stimulation for adequate self care or to maintain physical or mental health or personal safety.

7. "Responsible party" means the person providing room and board in an elder family home who resides in the home. The responsible party may be but is not required to be an elder.

Sec. 2. NEW SECTION. 135K.2 REGISTRATION OF ELDER FAMILY HOMES.

1. The department shall establish a registration program for elder family homes. In order to meet the zoning requirements for classification as an elder family home under section 358A.31 or 414.29, all of the following conditions must be met:

- a. The responsible party shall register the home as an elder family home with the department.
 - b. The responsible party shall comply with visitation and assessment requirements as determined by the department.
 - c. The responsible party shall attend annual training as prescribed by the commission of elder affairs.
2. If, following a visitation, the care review committee finds that the needs of all of the residents of an elder family home are not being adequately met, the care review committee shall notify the appropriate area agency on aging. The area agency on aging shall cause to be performed a complete assessment of any of the residents whose needs are not being met. If, following the full assessment, the care review committee determines that any of the residents require additional services to meet the needs of the resident, the care review committee shall inform the responsible party that unless the resident relocates to a facility which is able to provide necessary services, the elder family home will no longer be designated as an elder family home and will no longer be in compliance with zoning requirements. The department shall notify the city council or the county board of supervisors if an elder family home is found to no longer be in compliance.
3. If the responsible party does not comply with the recommendations of the care review committee pursuant to subsection 2, the elder family home shall lose its designation for the purposes of zoning.
4. If the care review committee has probable cause to believe that any elder family home is in fact acting as a health care facility as defined under chapter 135C, upon producing identification that an individual is an inspector, an inspector of the department of inspections and appeals may enter the elder family home to determine if the home is in fact operating as an unlicensed health care facility. If the inspector is denied entrance, the inspector may, with the

assistance of the county attorney in the county in which the elder family home is located, apply to the district court for an order requiring the responsible party to permit entry and inspection.

5. The department of elder affairs shall maintain a registry of elder family homes and shall act as a resource and referral agency for elder family homes.

6. Upon application for registration by a person seeking approval for an elder family home, the department shall notify the city council or county board of supervisors of the city or county in which the proposed elder family home is to be located. The city council or county board of supervisors shall respond to the application within thirty days of notification.

7. The department may delegate any duties under this section to local area agencies on aging.

8. The commission shall adopt by rule procedures for appointing members of a care review committee for each elder family home. To the maximum extent possible, the care review committee appointed for an elder family home shall include a person involved in a local retired senior volunteer program. The rules shall incorporate the provisions, if applicable, for care review committees pursuant to sections 135C.25, 135C.38, and 249D.44.

9. The commission of elder affairs shall adopt rules as necessary, to implement this section.

Sec. 3. NEW SECTION. 358A.31 ELDER FAMILY HOMES.

A county board of supervisors or county zoning commission shall consider an elder family home a family home, as defined in section 358A.25, for purposes of zoning, in accordance with section 135K.2, and may identify limitations regarding the proximity of one proposed elder family home to another.

Sec. 4. NEW SECTION. 414.29 ELDER FAMILY HOMES.

A city council or city zoning commission shall consider an elder family home a family home, as defined in section 414.22,

for purposes of zoning, in accordance with section 135K.2, and may identify limitations regarding the proximity of one proposed elder family home to another.

JOE J. WELSH
President of the Senate

ROBERT C. ARNOULD
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 10, Seventy-fourth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved May 1, 1991

TERRY E. BRANSTAD
Governor

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