

# SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

**BILL NO.** House Bill 649

**PRINTER NO.** 1026

**AMOUNT**

No Fiscal Impact

**FUND**

General Fund

**DATE INTRODUCED**

February 24, 2021

**PRIME SPONSOR**

Representative Rapp

**DESCRIPTION AND PURPOSE OF BILL**

House Bill 649 creates the Access to Congregate Care Facilities Act to provide access to congregate care facilities for essential caregivers.

The legislation defines “congregate care facility” as a facility licensed by the Department of Health (DOH) or the Department of Human Services (DHS), including, but not limited to, a long-term care nursing facility, a skilled nursing facility, an assisted living facility, a personal care home, an independent long-term care facility or an intermediate care facility for individuals with intellectual disabilities.

The bill defines “essential caregiver” as an individual, whether a family member or friend of a resident of a congregate care facility, who is designated by the resident or appointed by an individual with decision-making authority for the resident to provide physical or emotional support to the resident during a declaration of disaster emergency.

The bill requires the DOH, in consultation with the DHS, to establish a protocol for essential caregivers to have access to the congregate care facility. The protocols can be changed throughout the emergency declaration so long as they do not extend the lock-down period.

House Bill 649 allows the resident or an individual who has decision-making authority for the resident to name an individual to be their essential caregiver during a disaster emergency.

The bill states that the essential caregiver will meet the necessary qualifications to enter the congregate care facility to provide in-person physical or emotional support to the resident in accordance with the established protocols.

The protocols shall include the following:

- Safety measures for an essential caregiver including, but not limited to, restrictions on travel, enhanced testing for communicable diseases and necessary personal safety equipment required to protect the residents of the facility;

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- Procedures to replace an essential caregiver due to necessary circumstances, including illness or death of the essential caregiver; and
- A duration, not to exceed 45 days, for the congregate care facility to enter a lock-down phase to establish these safety measures.

The bill allows congregate care facilities to establish additional safety requirements to protect the residents of their facility so long as the requirements are directly linked to the disaster emergency and not so burdensome as to substantially prevent an essential caregiver from providing physical and emotional support to the resident. These restrictions can include limitations on the length of visits or the frequency of visits to ensure access to all essential caregivers and provide safety measures for residents.

In addition, a congregate care facility may suspend access to the facility for essential caregivers who violate the protocols established by the departments but must allow the resident to name a replacement essential caregiver. Finally, a congregate care facility may also require an essential caregiver to provide personal protective equipment for himself or herself to allow the in-person visitation.

House Bill 649 shall apply for the period commencing 15 days after an emergency declaration that results in the closure of congregate care facilities until 60 days after the declaration expires.

The bill provides that nothing in this act shall be construed to supersede federal authority or guidance concerning congregate care facilities or to prevent the departments from taking necessary actions to render the Commonwealth eligible for federal funds or reimbursement services provided in congregate care facilities.

This legislation shall take effect in 60 days.

### **FISCAL IMPACT:**

House Bill 649 will have no fiscal impact on the Commonwealth. The duties placed on the departments of Health and Human Services can be accomplished within existing budget and staffing levels.