

2SSB 5459 - H COMM AMD

By Committee on Ways & Means

ADOPTED 05/25/2011

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that:

4 (1) A developmental disability is a natural part of human life and
5 the presence of a developmental disability does not diminish a person's
6 rights or the opportunity to participate in the life of the local
7 community;

8 (2) The system of services for people with developmental
9 disabilities should provide a balanced range of health, social, and
10 supportive services at home or in other residential settings. The
11 receipt of services should be coordinated so as to minimize
12 administrative cost and service duplication, and eliminate
13 unnecessarily complex system organization;

14 (3) The public interest would best be served by a broad array of
15 services that would support people with developmental disabilities at
16 home or in the community, whenever practicable, and that promote
17 individual autonomy, dignity, and choice;

18 (4) In Washington state, people living in residential habilitation
19 centers and their families are satisfied with the services they
20 receive, and deserve to continue receiving services that meet their
21 needs if they choose to receive those services in a community setting;

22 (5) As other care options for people with developmental
23 disabilities become more available, the relative need for residential
24 habilitation center beds is likely to decline. The legislature
25 recognizes, however, that residential habilitation centers will
26 continue to be a critical part of the state's long-term care options;
27 and that such services should promote individual dignity, autonomy, and
28 a home-like environment; and

29 (6) In a time of fiscal restraint, the state should consider the

1 needs of all persons with developmental disabilities and spend its
2 limited resources in a manner that serves more people, while not
3 compromising the care people require.

4 NEW SECTION. **Sec. 2.** It is the intent of the legislature that:

5 (1) Community-based residential services supporting people with
6 developmental disabilities should be available in the most integrated
7 setting appropriate to individual needs; and

8 (2) An extensive transition planning and placement process should
9 be used to ensure that people moving from a residential habilitation
10 center to a community setting have the services and supports needed to
11 meet their assessed health and welfare needs.

12 **Sec. 3.** RCW 71A.10.020 and 2010 c 94 s 21 are each amended to read
13 as follows:

14 As used in this title, the following terms have the meanings
15 indicated unless the context clearly requires otherwise.

16 (1) "Community residential support services," or "community support
17 services," and "in-home services" means one or more of the services
18 listed in RCW 71A.12.040.

19 (2) "Crisis stabilization services" means services provided to
20 persons with developmental disabilities who are experiencing behaviors
21 that jeopardize the safety and stability of their current living
22 situation. Crisis stabilization services include:

23 (a) Temporary intensive services and supports, typically not to
24 exceed sixty days, to prevent psychiatric hospitalization,
25 institutional placement, or other out-of-home placement; and

26 (b) Services designed to stabilize the person and strengthen their
27 current living situation so the person may continue to safely reside in
28 the community during and beyond the crisis period.

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

31 ~~((+3))~~ (4) "Developmental disability" means a disability
32 attributable to intellectual disability, cerebral palsy, epilepsy,
33 autism, or another neurological or other condition of an individual
34 found by the secretary to be closely related to an intellectual
35 disability or to require treatment similar to that required for
36 individuals with intellectual disabilities, which disability originates

1 before the individual attains age eighteen, which has continued or can
2 be expected to continue indefinitely, and which constitutes a
3 substantial limitation to the individual. By January 1, 1989, the
4 department shall promulgate rules which define neurological or other
5 conditions in a way that is not limited to intelligence quotient scores
6 as the sole determinant of these conditions, and notify the legislature
7 of this action.

8 ~~((+4))~~ (5) "Eligible person" means a person who has been found by
9 the secretary under RCW 71A.16.040 to be eligible for services.

10 ~~((+5))~~ (6) "Habilitative services" means those services provided
11 by program personnel to assist persons in acquiring and maintaining
12 life skills and to raise their levels of physical, mental, social, and
13 vocational functioning. Habilitative services include education,
14 training for employment, and therapy.

15 ~~((+6))~~ (7) "Legal representative" means a parent of a person who
16 is under eighteen years of age, a person's legal guardian, a person's
17 limited guardian when the subject matter is within the scope of the
18 limited guardianship, a person's attorney-at-law, a person's
19 attorney-in-fact, or any other person who is authorized by law to act
20 for another person.

21 ~~((+7))~~ (8) "Notice" or "notification" of an action of the
22 secretary means notice in compliance with RCW 71A.10.060.

23 ~~((+8))~~ (9) "Residential habilitation center" means a state-
24 operated facility for persons with developmental disabilities governed
25 by chapter 71A.20 RCW.

26 ~~((+9))~~ (10) "Respite services" means relief for families and other
27 caregivers of people with disabilities, typically not to exceed ninety
28 days, to include both in-home and out-of-home respite care on an hourly
29 and daily basis, including twenty-four hour care for several
30 consecutive days. Respite care workers provide supervision,
31 companionship, and personal care services temporarily replacing those
32 provided by the primary caregiver of the person with disabilities.
33 Respite care may include other services needed by the client, including
34 medical care which must be provided by a licensed health care
35 practitioner.

36 (11) "Secretary" means the secretary of social and health services
37 or the secretary's designee.

1 ((+10)) (12) "Service" or "services" means services provided by
2 state or local government to carry out this title.

3 ((+11)) (13) "State-operated living alternative" means programs
4 for community residential services which may include assistance with
5 activities of daily living, behavioral, habilitative, interpersonal,
6 protective, medical, nursing, and mobility supports to individuals who
7 have been assessed by the department as meeting state and federal
8 requirements for eligibility in home and community-based waiver
9 programs for individuals with developmental disabilities. State-
10 operated living alternatives are operated and staffed with state
11 employees.

12 (14) "Supported living" means community residential services and
13 housing which may include assistance with activities of daily living,
14 behavioral, habilitative, interpersonal, protective, medical, nursing,
15 and mobility supports provided to individuals with disabilities who
16 have been assessed by the department as meeting state and federal
17 requirements for eligibility in home and community-based waiver
18 programs for individuals with developmental disabilities. Supported
19 living services are provided under contracts with private agencies or
20 with individuals who are not state employees.

21 (15) "Vacancy" means an opening at a residential habilitation
22 center, which when filled, would not require the center to exceed its
23 biennially budgeted capacity.

24 **Sec. 4.** RCW 71A.20.010 and 1988 c 176 s 701 are each amended to
25 read as follows:

26 (1) This chapter covers the operation of residential habilitation
27 centers. The selection of persons to be served at the centers is
28 governed by chapters 71A.16 and 71A.18 RCW. The purposes of this
29 chapter are: To provide for those ~~((children and adults))~~ persons who
30 are exceptional in their needs for care, treatment, and education by
31 reason of developmental disabilities, residential care designed to
32 develop their individual capacities to their optimum; to provide for
33 admittance, withdrawal and discharge from state residential
34 habilitation centers upon application; and to insure a comprehensive
35 program for the education, guidance, care, treatment, and
36 rehabilitation of all persons admitted to residential habilitation
37 centers.

1 (2) Effective no later than July 1, 2012, no person under the age
2 of sixteen years may be admitted to receive services at a residential
3 habilitation center. Effective no later than July 1, 2012, no person
4 under the age of twenty-one years may be admitted to receive services
5 at a residential center, unless there are no service options available
6 in the community to appropriately meet the needs of the individual.
7 Such admission is limited to the provision of short-term respite or
8 crisis stabilization services.

9 **Sec. 5.** RCW 71A.20.020 and 1994 c 215 s 1 are each amended to read
10 as follows:

11 (1) Except as provided in subsection (2) of this section, the
12 following residential habilitation centers are permanently established
13 to provide services to persons with developmental disabilities:
14 Lakeland Village, located at Medical Lake, Spokane county; Rainier
15 School, located at Buckley, Pierce county; Yakima Valley School,
16 located at Selah, Yakima county; and Fircrest School, located at
17 Seattle, King county(~~(; and Frances Haddon Morgan Children's Center,~~
18 ~~located at Bremerton, Kitsap county)).~~

19 (2) The Yakima Valley School, located at Selah, Yakima county,
20 shall cease to operate as a residential habilitation center when the
21 conditions in section 6(2)(b) are met.

22 NEW SECTION. **Sec. 6.** A new section is added to chapter 71A.20 RCW
23 to read as follows:

24 (1) By December 31, 2011, the department shall:

25 (a) Close Frances Haddon Morgan residential rehabilitation center
26 and relocate current residents consistent with the requirements of
27 section 7 of this act; and

28 (b) Establish at least two state operating living alternatives on
29 the campus of the Frances Haddon Morgan center, if residents have
30 chosen to receive care in such a setting and subject to federal
31 requirements related to the receipt of federal medicaid matching funds.

32 (2)(a) Upon the effective date of this section, the department
33 shall not permit any new admission to Yakima Valley School unless such
34 admission is limited to the provision of short-term respite or crisis
35 stabilization services. Except as provided in (b) of this subsection,

1 no current permanent resident of Yakima Valley School shall be required
2 or compelled to relocate to a different care setting as a result of
3 this act.

4 (b) The Yakima Valley School shall continue to operate as a
5 residential habilitation center until such time that the census of
6 permanent residents has reached sixteen persons. As part of the
7 closure plan, at least two cottages will be converted to state-operated
8 living alternatives, subject to federal requirements related to the
9 receipt of federal medicaid matching funds.

10 (3) To assure the successful implementation of subsections (1) and
11 (2) of this section, the department, within available funds:

12 (a) Shall establish state-operated living alternatives to provide
13 community residential services to residential habilitation center
14 residents transitioning to the community under this act who prefer a
15 state-operated living alternative. The department shall offer
16 residential habilitation center employees opportunities to work in
17 state-operated living alternatives as they are established;

18 (b) May use existing supported living program capacity in the
19 community for former residential habilitation center residents who
20 prefer and choose a supported living program;

21 (c) Shall continue to staff and operate at Yakima Valley School
22 crisis stabilization beds and respite service beds at the existing bed
23 capacity as of June 1, 2011, for individuals with developmental
24 disabilities requiring such services;

25 (d) Shall establish up to eight state-staffed crisis stabilization
26 beds and up to eight state-staffed respite beds based upon funding
27 provided in the appropriations act and the geographic areas with the
28 greatest need for those services; and

29 (e) Shall establish regional or mobile specialty services evenly
30 distributed throughout the state, such as dental care, physical
31 therapy, occupational therapy, and specialized nursing care, which can
32 be made available to former residents of residential habilitation
33 centers and, within available funds, other individuals with
34 developmental disabilities residing in the community.

35 NEW SECTION. **Sec. 7.** A new section is added to chapter 71A.20 RCW
36 to read as follows:

37 The department:

1 (1) May, within sixty days of admission to a residential
2 habilitation center, ensure that each resident's individual
3 habilitation plan includes a plan for discharge to the community;

4 (2) Shall use a person-centered approach in developing the
5 discharge plan to assess the resident's needs and identify services the
6 resident requires to successfully transition to the community,
7 including:

8 (a) Engaging families and guardians of residents by offering
9 family-to-family mentoring provided by family members who themselves
10 experienced moving a family member with developmental disabilities from
11 an institution to the community. The department shall contract with
12 the developmental disabilities council to provide mentoring services;

13 (b) Employees of the residential habilitation centers and the
14 department providing transition planning for residents. To strengthen
15 continuity of care for residents leaving residential habilitation
16 centers, the department shall provide opportunities for residential
17 habilitation center employees to obtain employment in state-operated
18 living alternatives;

19 (c) Providing choice of community living options and providers,
20 consistent with federal requirements, including offering to place, with
21 the consent of the resident or his or her guardian, each resident of
22 the residential habilitation center on the appropriate home and
23 community-based waiver, as authorized under 42 U.S.C. Sec. 1396n, and
24 provide continued access to the services that meet his or her assessed
25 needs;

26 (d) Providing residents and their families or guardians
27 opportunities to visit state-operated living alternatives and supported
28 living options in the community;

29 (e) Offering residents leaving a residential habilitation center a
30 "right to return" to a residential habilitation center during the first
31 year following their move;

32 (f) Addressing services in addition to those that will be provided
33 by residential services providers that are necessary to address the
34 resident's assessed needs, including:

35 (i) Medical services;

36 (ii) Nursing services;

37 (iii) Dental care;

38 (iv) Behavioral and mental health supports;

- 1 (v) Habilitation services;
- 2 (vi) Employment or other day support; and
- 3 (vii) Transportation or other supports needed to assist family and
- 4 friends in maintaining regular contact with the resident;
- 5 (3) Shall assure that, prior to discharge from a residential
- 6 habilitation center, clients continue to be eligible for services for
- 7 which they have an assessed need;
- 8 (4) Shall maximize federal funding for transitioning clients
- 9 through the roads to community living grant;
- 10 (5) Shall limit the ability of a state-operated living alternative
- 11 to reject clients;
- 12 (6) Shall use any savings achieved through efficiencies to extend
- 13 services, including state-staffed crisis stabilization and respite
- 14 services, to people with developmental disabilities currently receiving
- 15 limited or no services; and
- 16 (7)(a) Shall employ the quality assurance process currently in use
- 17 by the department to monitor the adjustment of each resident who leaves
- 18 a residential habilitation center; and
- 19 (b) Convene a work group to review findings from the quality
- 20 assurance for people moving process and provide feedback on the
- 21 transition process. The work group shall include representatives of
- 22 the developmental disabilities council, disability rights Washington,
- 23 University of Washington center for human development and disability,
- 24 providers, and families and advocates of persons with disabilities.

25 NEW SECTION. **Sec. 8.** A new section is added to chapter 70.02 RCW

26 to read as follows:

27 (1) A developmental disability service system task force is

28 established.

29 (2) The task force shall be convened by September 1, 2011, and

30 consist of the following members:

31 (a) Two members of the house of representatives appointed by the

32 speaker of the house of representatives, from different political

33 caucuses;

34 (b) Two members of the senate appointed by the president of the

35 senate, from different political caucuses;

36 (c) The following members appointed by the governor:

37 (i) Two advocates for people with developmental disabilities;

1 (ii) A representative from the developmental disabilities council;
2 (iii) A representative of families of residents in residential
3 habilitation centers;
4 (iv) Two representatives of labor unions representing workers who
5 serve residents in residential habilitation centers;
6 (d) The secretary of the department of social and health services
7 or their designee; and
8 (e) The secretary of the department of general administration or
9 their designee.

10 (3) The members of the task force shall select the chair or
11 cochairs of the task force.

12 (4) Staff assistance for the task force will be provided by
13 legislative staff and staff from the agencies listed in subsection (2)
14 of this section.

15 (5) The task force shall make recommendations on:

16 (a) The development of a system of services for persons with
17 developmental disabilities that is consistent with the goals
18 articulated in section 1 of this act;

19 (b) The state's long-term needs for residential habilitation center
20 capacity, including the benefits and disadvantages of maintaining one
21 center in eastern Washington and one center in western Washington;

22 (c) A plan for efficient consolidation of institutional capacity,
23 including whether one or more centers should be downsized or closed
24 and, if so, a time frame for closure;

25 (d) Mechanisms through which any savings that result from the
26 downsizing, consolidation, or closure of residential habilitation
27 center capacity can be used to create additional community-based
28 capacity;

29 (e) Strategies for the use of surplus property that results from
30 the closure of one or more centers;

31 (f) Strategies for reframing the mission of Yakima Valley School
32 consistent with this act that consider:

33 (i) The opportunity, where cost-effective, to provide medical
34 services, including centers of excellence, to other clients served by
35 the department; and
36 (ii) The creation of a treatment team consisting of crisis
37 stabilization and short-term respite services personnel, with the long-
38 term goal of expanding to include the provisions of specialty services

1 such as dental care, physical therapy, occupational therapy, and
2 specialized nursing care to individuals with developmental disabilities
3 residing in the surrounding community.

4 (6) The task force shall report their recommendations to the
5 appropriate committees of the legislature by December 1, 2012.

6 **Sec. 9.** RCW 71A.18.040 and 1989 c 175 s 142 are each amended to
7 read as follows:

8 (1) A person who is receiving a service under this title or the
9 person's legal representative may request the secretary to authorize a
10 service that is available under this title in place of a service that
11 the person is presently receiving.

12 (2) The secretary upon receiving a request for change of service
13 shall consult in the manner provided in RCW 71A.10.070 and within
14 ninety days shall determine whether the following criteria are met:

15 (a) The alternative plan proposes a less dependent program than the
16 person is participating in under current service;

17 (b) The alternative service is appropriate under the goals and
18 objectives of the person's individual service plan;

19 (c) The alternative service is not in violation of applicable state
20 and federal law; and

21 (d) The service can reasonably be made available.

22 (3) If the requested alternative service meets all of the criteria
23 of subsection (2) of this section, the service shall be authorized as
24 soon as reasonable, but not later than one hundred twenty days after
25 completion of the determination process, unless the secretary
26 determines that:

27 (a) The alternative plan is more costly than the current plan;

28 (b) Current appropriations are not sufficient to implement the
29 alternative service without reducing services to existing clients; or

30 (c) Providing alternative service would take precedence over other
31 priorities for delivery of service.

32 (4) The secretary shall give notice as provided in RCW 71A.10.060
33 of the grant of a request for a change of service. The secretary shall
34 give notice as provided in RCW 71A.10.060 of denial of a request for
35 change of service and of the right to an adjudicative proceeding.

36 (5)(a) When the secretary has changed service from a residential
37 habilitation center to a setting other than a residential habilitation

1 center, the secretary shall reauthorize service at the residential
2 habilitation center if the secretary in reevaluating the needs of the
3 person finds that the person needs service in a residential
4 habilitation center.

5 (b) A person who has moved from a residential habilitation center
6 that has closed to a community-based setting shall be offered a right
7 to return to a residential habilitation center during the first year
8 following their move to the community.

9 (6) If the secretary determines that current appropriations are
10 sufficient to deliver additional services without reducing services to
11 persons who are presently receiving services, the secretary is
12 authorized to give persons notice under RCW 71A.10.060 that they may
13 request the services as new services or as changes of services under
14 this section.

15 **Sec. 10.** RCW 71A.20.080 and 1989 c 175 s 143 are each amended to
16 read as follows:

17 (1) Whenever in the judgment of the secretary, the treatment and
18 training of any resident of a residential habilitation center has
19 progressed to the point that it is deemed advisable to return such
20 resident to the community, the secretary may grant placement on such
21 terms and conditions as the secretary may deem advisable after
22 consultation in the manner provided in RCW 71A.10.070. The secretary
23 shall give written notice of the decision to return a resident to the
24 community as provided in RCW 71A.10.060. The notice must include a
25 statement advising the recipient of the right to an adjudicative
26 proceeding under RCW 71A.10.050 and the time limits for filing an
27 application for an adjudicative proceeding. The notice must also
28 include a statement advising the recipient of the right to judicial
29 review of an adverse adjudicative order as provided in chapter 34.05
30 RCW.

31 (2) A placement decision shall not be implemented at any level
32 during any period during which an appeal can be taken or while an
33 appeal is pending and undecided, unless authorized by court order so
34 long as the appeal is being diligently pursued.

35 ~~((The department of social and health services shall periodically~~
36 ~~evaluate at reasonable intervals the adjustment of the resident to the~~

1 ~~specific placement to determine whether the resident should be~~
2 ~~continued in the placement or returned to the institution or given a~~
3 ~~different placement.))~~

4 NEW SECTION. **Sec. 11.** A new section is added to chapter 71A.20
5 RCW to read as follows:

6 Beginning November 1, 2012, and annually thereafter, the department
7 shall submit information to the appropriate committees of the
8 legislature regarding persons who have transitioned from residential
9 habilitation centers to the community, for the first two years
10 following each person's new placement, including:

- 11 (1) Progress toward meeting the requirements of this act;
- 12 (2) Client and guardian satisfaction with services;
- 13 (3) Stability of placement and provider turnover, including
14 information on returns to a residential habilitation center under
15 section 7(2)(e) of this act;
- 16 (4) Safety and health outcomes;
- 17 (5) Types of services received by clients transitioned to the
18 community; and
- 19 (6) Continued accessibility of former residents to family.

20 **Sec. 12.** RCW 71A.20.170 and 2008 c 265 s 1 are each amended to
21 read as follows:

22 (1) The developmental disabilities community trust account is
23 created in the state treasury. All net proceeds from the use of excess
24 property identified in the 2002 joint legislative audit and review
25 committee capital study or other studies of the division of
26 developmental disabilities residential habilitation centers (~~at~~
27 ~~Lakeland Village, Yakima Valley school, Francis Haddon Morgan Center,~~
28 ~~and Rainier school~~)) that would not impact current residential
29 habilitation center operations must be deposited into the account.

30 (2) Proceeds may come from the lease of the land, conservation
31 easements, sale of timber, or other activities short of sale of the
32 property, except as permitted under section 7 of this act.

33 (3) "Excess property" includes that portion of the property at
34 Rainier school previously under the cognizance and control of
35 Washington State University for use as a dairy/forage research
36 facility.

1 (4) Only investment income from the principal of the proceeds
2 deposited into the trust account may be spent from the account. For
3 purposes of this section, "investment income" includes lease payments,
4 rent payments, or other periodic payments deposited into the trust
5 account. For purposes of this section, "principal" is the actual
6 excess land from which proceeds are assigned to the trust account.

7 (5) Moneys in the account may be spent only after appropriation.
8 Expenditures from the account shall be used exclusively to provide
9 family support and/or employment/day services to eligible persons with
10 developmental disabilities who can be served by community-based
11 developmental disability services. It is the intent of the legislature
12 that the account should not be used to replace, supplant, or reduce
13 existing appropriations.

14 (6) The account shall be known as the Dan Thompson memorial
15 developmental disabilities community trust account.

16 NEW SECTION. **Sec. 13.** If any provision of this act or its
17 application to any person or circumstance is held invalid, the
18 remainder of the act or the application of the provision to other
19 persons or circumstances is not affected.

20 NEW SECTION. **Sec. 14.** If any part of this act is found to be in
21 conflict with federal requirements that are a prescribed condition to
22 the allocation of federal funds to the state, the conflicting part of
23 this act is inoperative solely to the extent of the conflict and with
24 respect to the agencies directly affected, and this finding does not
25 affect the operation of the remainder of this act in its application to
26 the agencies concerned. Rules adopted under this act must meet federal
27 requirements that are a necessary condition to the receipt of federal
28 funds by the state.

29 NEW SECTION. **Sec. 15.** Section 7 of this act is necessary for the
30 immediate preservation of the public peace, health, or safety, or
31 support of the state government and its existing public institutions,
32 and takes effect June 30, 2011."

33 Correct the title.

EFFECT: (1) The intent statement is modified to emphasize that services for persons with developmental disabilities should be provided in a balanced manner that minimizes administrative cost.

(2) The definition of respite services is modified to specify that the period of service typically does not exceed 90 days. The underlying bill does not include that specificity.

(3) Restores current language in current law which states that the named Residential Habilitation Centers are permanently established and provides new language that makes an exception for Frances Haddon Morgan and Yakima Valley School. The underlying bill removed the "permanently established" language from current law.

(4) Requires the Department of Social and Health Services (DSHS) to operate at least two State-Operated Living Alternatives on the Frances Haddon Morgan Campus if residents choose to receive care in such a setting, unless the State is unable to obtain Medicaid matching funds.

(5) When the census at Yakima Valley has reached sixteen residents, two of its cottages will be converted to state-operated living alternatives, subject to federal approval. Language in the underlying bill is removed that required the DSHS to offer nonprofit entities the opportunity to purchase houses on the RHC campus and convert them into SOLAs.

(6) Requires the DSHS to continue to staff and operate crisis stabilization beds and respite beds at the Yakima Valley School, using their existing bed capacity, rather than adding additional beds. The underlying bill quantified 8 respite beds and 8 crisis beds.

(7) Requires the DSHS to establish and operate state-staffed up to 8 crisis stabilization beds and up to 8 respite beds distributed throughout the state, based upon the need for these services by individuals with developmental disabilities.

(8) Topics for the task force are modified to address mechanisms through which savings can be used to create additional community capacity and strategies for the use of surplus property rather than its disposal.

(9) The reference to the community residential investment account is removed.

--- END ---