

# SENATE BILL REPORT

## 2SSB 5459

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As Amended by House, May 25, 2011

**Title:** An act relating to services for people with developmental disabilities.

**Brief Description:** Regarding services for people with developmental disabilities.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Kline, Keiser, Regala and McAuliffe).

**Brief History:**

**Committee Activity:** Health & Long-Term Care: 1/31/11, 2/17/11 [DPS-WM, DNP].

Ways & Means: 5/18/11 [DP2S, DNP, w/oRec].

**First Special Session:** Passed Senate: 5/19/11, 35-11.

Passed House: 5/25/11, 63-33.

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### SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

**Majority Report:** That Substitute Senate Bill No. 5459 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Keiser, Chair; Conway, Vice Chair; Becker, Ranking Minority Member; Kline, Murray, Parlette, Pflug and Pridemore.

**Minority Report:** Do not pass.

Signed by Senator Carrell.

**Staff:** Rhoda Donkin (786-7465)

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Second Substitute Senate Bill No. 5459 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Murray, Chair; Zarelli, Ranking Minority Member; Brown, Fraser, Hatfield, Kastama, Keiser, Kohl-Welles, Pflug, Pridemore, Regala and Tom.

**Minority Report:** Do not pass.

Signed by Senators Kilmer, Vice Chair, Capital Budget Chair; Honeyford and Rockefeller.

**Minority Report:** That it be referred without recommendation.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Signed by Senators Parlette, Ranking Minority Member Capital; Baxter, Conway and Schoesler.

**Staff:** Megan Atkinson (786-7446)

**Background:** The state operates five residential habilitation centers (RHC) established in statute to provide services and housing for persons with developmental disabilities: Rainier School in Buckley, Lakeland Village in Medical Lake, Fircrest School in Shoreline, Frances Haddon Morgan Children's Center in Bremerton, and Yakima Valley School in Selah. Today approximately 900 individuals reside in RHCs, as permanent residents, for short term or respite stays. There are 36 individuals under age 21.

Over the years there have been repeated efforts to reduce the number of people in RHCs as trends for providing services to persons with developmental disabilities have increasingly focused on doing so in community settings. Today, the Department of Social and Health Services (department) provides community-based services through a number of programs to approximately 20,000 clients. These are designed as alternatives to institutions for eligible individuals with developmental disabilities who either live with family members, in rented housing, or in contracted or licensed residential housing in the community. Besides the individuals who receive some services either through RHC or in the community, an estimated 14,000 eligible clients do not receive any paid services due to lack of available funding.

Currently the department is implementing plans to close two of the five RHCs: Frances Haddon Morgan, by June 30, 2011, and Yakima Valley School by December 31, 2012. The closure of these facilities is included in the Governor's proposed budget for the 2011-2013 biennium. All of the 50 residents of Frances Haddon Morgan will be relocated to either a community residential placement, such as a state operated living arrangement (SOLA) or to one of three remaining RHCs.

The department plans to set up three new SOLAs, and is currently working with Fircrest, Lakeland, and Rainier to accommodate residents leaving Frances Haddon Morgan who do not want a community placement.

It is planned that the first ten residents leaving Yakima Valley School will do so by the end of 2011. The department is planning to establish crisis stabilization programs for children and adults using, where possible, institutional staff who will no longer be employed at the closed facilities.

**Summary of Second Substitute Bill: Section 4.** It is clarified that RHCs should serve adults and requires that RHCs no longer accept children under age 21 as of July 1, 2012. Individuals between age 16-21 are allowed to receive short-term respite services in the RHCs.

Section 5. The permanent establishment of RHCs is removed; DSHS may provide services at Fircrest, Medical Lake, Yakima, and Rainier. References to Frances Haddon Morgan Center are removed.

Section 6.

- DSHS is directed to close Frances Haddon Morgan Center by December 31, 2011.

- New admissions are prohibited to Yakima Valley. Current residents are allowed to remain in the facility and short-term respite or crisis stabilization services are permitted. Eight crisis stabilization and eight respite beds at Yakima are established.
- Within available funds, DSHS is required to allow nonprofit entities to purchase one or more cottages at Frances Haddon Morgan Center and convert them to use as SOLA's, within certain conditions.
- It is clarified that DSHS must not execute additional downsizing.

Section 7.

- Within 60 days of admission to an RHC, DSHS may modify the individual habilitation plan (IHP) to add a discharge plan. The discharge plan should be person-centered and specify the services needed if they move to the community.
- DSHS must limit the ability of SOLAs to reject clients.

Section 8. A Legislative Task Force is created to consider the future uses of the remaining RHCs (Fircrest, Lakeland, Yakima, and Rainier) and report to the Legislature by December 12, 2012. The task force is to include legislators and representatives from stakeholder groups.

Section 11. Beginning November 1, 2012, and annually thereafter, DSHS must report on its progress toward meeting the requirements of this act, including client and guardian satisfaction; stability of placement and provider turnover; and safety and health outcomes.

**Appropriation:** None.

**Fiscal Note:** Requested on May 18, 2011.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** The bill contains several effective dates. Please refer to the bill.

**Staff Summary of Public Testimony on Original Bill (Health & Long-Term Care):** PRO: Children should not be in institutions where the average age is 45. This bill does not propose ground breaking ideas. Most of what is in it happens today, but the trend continues to be moving people into the community and we need to state explicitly in law the process for doing that. It is important that plans for moving people out of institutions are carefully designed and administered, and that families and guardians are involved.

Segregating children is bad for them. They should not grow up in an institution. There are many, many people in the community who have higher acuity levels than people in institutions. We can build a community system but we can't do it if we keep supporting huge institutions that are not full.

CON: This would eliminate choice and that is against the law. If children are forced to leave institutions, they will be shipped out of state. My daughter has done so much better in an RHC. Her terrible behaviors have been dramatically reduced. There were no services for her in the community. Keep these institutions open as regional centers for the developmentally disabled. There is expertise in RHCs that can't be found anywhere else. If my

developmentally disabled son loses his job at Yakima Valley School I don't know what we'll do. We need a better safety net for the most vulnerable people in our communities. This is not the way to achieve that.

**Persons Testifying (Health & Long-Term Care):** PRO: Senator Kline, prime sponsor; Scott Livengood, Chad Hogman, Community Residential Services Association; Lance Morehouse, ARC of King County; Sue Elliott, ARC of Washington; Diane Stadden, parent; Ed Holen, Developmental Disabilities Council.

CON: Julianne Moore, Sue Henricksen, Washington Federation of State Employees; Teresa Davis, Lynn French, Toni Penuel, SEIU; Maria Walsh, Terri Anderson, Friends of Firecrest; Cheryl Felar, Because We Care; Saskia Davis, Action DD.

**Staff Summary of Public Testimony on Recommended First Substitute (Ways & Means):** PRO: This bill is needed; there are too many RHCs and too much capacity. The community care is safe.

CON: This bill hasn't been fully developed with stakeholder input. The bill came up today with very little notice. Moving too quickly on this issue could significantly impact the state's most vulnerable individuals. The level of care in the community isn't sufficient. DSHS doesn't really allow families to access care in the RHCs, many more families would like to have their loved ones cared for in an RHC.

**Persons Testifying (Ways & Means):** PRO: Sue Elliott, ARC of Washington.

CON: Julianne Moore, Matt Zunich, Washington Federation of State Employees; Senator Chase.

#### **House Amendment(s):**

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 16 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 eight respite beds and eight crisis beds.
7. Requires the DSHS to establish and operate state-staffed up to eight crisis stabilization beds and up to eight 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.