

HOUSE BILL REPORT

HB 2634

As Reported by House Committee On:

Early Learning & Human Services
Appropriations Subcommittee on Health & Human Services

Title: An act relating to enforcement standards for residential services and support providers.

Brief Description: Concerning enforcement standards for residential services and support providers.

Sponsors: Representatives Kagi, Tharinger and Freeman; by request of Department of Social and Health Services.

Brief History:

Committee Activity:

Early Learning & Human Services: 2/3/14, 2/5/14 [DPS];
Appropriations Subcommittee on Health & Human Services: 2/6/14 [DPS(ELHS)].

Brief Summary of Substitute Bill

- Specifies that legal enforcement standards apply to all residential services and support providers.
- Decreases the maximum civil penalty for residential services and support providers from \$150 to \$100 per day and establishes a maximum fine of \$3,000 per violation.
- Provides for a limited stop placement procedure and the duties of the Department of Social and Health Services and a residential service and support provider in the event of such stop placement.
- Creates a residential services and support account with the Office of the State Treasurer for deposits from penalties imposed on residential service providers.

HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass.
Signed by 13 members: Representatives Kagi, Chair; Freeman, Vice Chair; Walsh, Ranking

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.

Minority Member; Scott, Assistant Ranking Minority Member; Fagan, Goodman, MacEwen, Ortiz-Self, Roberts, Sawyer, Senn, Young and Zeiger.

Staff: Luke Wickham (786-7146).

Background:

The Developmental Disabilities Administration (DDA) assists individuals with developmental disabilities and their families to obtain services and support based on individual preference, capabilities and needs, and which promote everyday activities, routines and relationships common to most citizens. Participation in all DDA services is voluntary.

Residential Services for Individuals with Developmental Disabilities.

There are several different residential programs and services that may be available to clients of the DDA, which include the following:

- Adult family homes are regular neighborhood homes where staff assumes responsibility for the safety and well-being of an adult.
- Alternative living services are instructional services provided by an individual contractor.
- The Community Protection Program (CPP) provides intensive 24-hour supervision for clients who have been identified as posing a risk to their community due to criminal charges, conviction, or a history of sexual or violent crime.
- Companion homes provide residential services and supports in an adult foster care model to no more than one adult DDA client.
- Group homes are community-based residences serving two or more adult clients and are licensed as either an assisted living facility or an adult family home.
- Intermediate care facilities for individuals with intellectual disabilities are residential settings that provided habitation training, 24-hour supervision, and medical services for Medicaid-eligible clients.
- Residential habitation centers are state-operated residential settings that provide habitation training, 24-hour supervision, and medical services for clients who meet Medicaid eligibility and need active treatment.
- Supported living services offer instruction and support to persons who live in their own homes in the community.
- State-operated living alternatives programs are operated by the DDA with state employees providing instruction and support to clients.
- Voluntary placement services offer a variety of supports to eligible children living in a licensed setting outside the family home.

Community Protection Program Enforcement Standards.

The Department of Social and Health Services (DSHS) is authorized to take action against CPP residential service providers who fail or refuse to comply with the certification requirements, rules adopted to implement the program, requirements for services to vulnerable adults, or make false statements to the DSHS. The sanctions the DSHS may impose include decertifying or refusing to renew certification of a provider, imposing conditions on the certification, suspending DSHS referrals to the provider, imposing civil monetary penalties, or requiring the provider to implement a corrective action plan.

Allotment.

Allotment of appropriation is the plan prepared by an agency stating proposed expenditures, the Director of the Office of Financial Management's review of that statement, and placement of the approved statement into the state budgeting, accounting, and reporting system.

Summary of Substitute Bill:

The enforcement standards provided in law are specified to apply to all residential services and support providers, not only those for the CPP. Refusal to comply with the requirements relating to the abuse of vulnerable adults could lead to enforcement actions. The DSHS may refuse to certify a residential services and support provider. The requirement is removed that the DSHS may only impose civil penalties after requiring a provider to implement a plan of correction and the provider failed to implement that plan or fails to cooperate with subsequent monitoring. The maximum civil penalty is decreased from \$150 per day to \$100 per day starting with the date of citation. A total maximum fine of \$3,000 per violation is established. The provision that each day during which the same of similar action occurs constitutes a separate violation is removed.

The DSHS may suspend a provider from accepting clients by imposing a limited stop placement. A limited stop placement may apply to clients with specific needs or specific locations. The DSHS must end a stop placement when the violations have been corrected and the provider exhibits the capacity to maintain the corrections. The DSHS must make an on-site revisit of the provider within 15 working days from the correction. The DSHS must make an on-site visit as soon as appropriate to ensure correction if there is a serious, recurring, or uncorrected violation. Verification of correction may be made by a DSHS on-site revisit or by credible written or photographic documentation.

Certified providers are provided an informal dispute resolution process to dispute violations or enforcement remedies, which may lead to modification, deletion, or removal of the violation or remedy.

A residential services and support account is created in the custody of the Office of the State Treasurer. All receipts from penalties imposed on residential service and support providers are deposited into this account. Only the Director or the Director's designee may authorize expenditures, which are subject to allotment procedures. The DSHS shall use the account only for promoting the quality of life and care of clients receiving care and services from the certified providers.

Substitute Bill Compared to Original Bill:

The substitute bill makes the following changes to the original bill:

- adds that refusal to comply with the requirements relating to the abuse of vulnerable adults could lead to enforcement actions;
- specifies that the DSHS may suspend a provider from accepting clients by imposing a limited stop placement;

- specifies that the daily penalties start from the date of citation;
 - specifies that a limited stop placement may apply to clients with specific needs or specific locations;
 - requires the DSHS to end a stop placement when the violations have been corrected and the provider exhibits the capacity to maintain the corrections;
 - requires the DSHS to make an on-site revisit of the provider within 15 working days from the correction;
 - requires the DSHS to make an on-site visit as soon as appropriate to ensure correction if there is a serious, recurring, or uncorrected violation;
 - specifies that verification of correction may be made by a DSHS on-site revisit or by credible written or photographic documentation; and
 - provides a certified provider with an informal dispute resolution process to dispute violations or enforcement remedies, which may lead to modification, deletion, or removal of the violation or remedy.
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Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The DSHS does not have the same array of enforcement tools as it does when dealing with the CPP. The only tool that the DSHS has for the other programs is decertification, which requires a high threshold. A report titled Too Little Too Late documented concerns that are reflected in this bill. One of the suggestions included in the report was the use of intermediate sanctions, something short of decertifying. An intermediate step is necessary because many times when decertification occurs, individuals lose the options they have for placement that they need.

(With concerns) This bill cannot be supported without further amendment. It is difficult to see bills increasing fines and regulation when there is still a lack of funding for these services. There should be intermediate steps before fines. There should be specificity regarding the date of citation being the date that the penalties can begin.

(Opposed) None.

Persons Testifying: (In support) Bill Moss, Department of Social and Health Services; and David Lord, Disability Rights Washington.

(With concerns) Scott Livengood, Community Residential Services Association.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS SUBCOMMITTEE ON HEALTH & HUMAN SERVICES

Majority Report: The substitute bill by Committee on Early Learning & Human Services be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Morrell, Chair; Harris, Ranking Minority Member; Cody, Green, G. Hunt, Kagi, Ormsby, Ross, Schmick and Tharinger.

Staff: James Kettel (786-7123).

Summary of Recommendation of Committee On Appropriations Subcommittee on Health & Human Services Compared to Recommendation of Committee On Early Learning & Human Services:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 9, 2014.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The Department of Social and Health Services needs to move quickly if problems exist. It is important to offer a corrective action plan, and not to immediately move for decertification, or to stop placements. Citation information is available to the public through a public disclosure request. These clients are living in their own homes, and client's rights need to be respected and protected. Disability Rights Washington (DRW) issued a report in 2012 that documented problems in supported living and in other community residential settings. This bill addresses many of the concerns in the DRW report.

(Opposed) None.

Persons Testifying: Bill Moss, Department of Social and Health Services; Melissa Johnson, Community Residential Services Association; and David Lord, Disability Rights Washington.

Persons Signed In To Testify But Not Testifying: None.