

CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE SENATE BILL 6656

Chapter 37, Laws of 2016

(partial veto)

64th Legislature
2016 1st Special Session

MENTAL HEALTH--STATE HOSPITAL SYSTEM--REFORM

EFFECTIVE DATE: 6/28/2016 - Except for sections 3 through 6, 8 and 10, which become effective 4/19/2016; and section 15, which becomes effective 7/1/2018.

Passed by the Senate March 29, 2016
Yeas 32 Nays 11

PAM ROACH

President of the Senate

Passed by the House March 29, 2016
Yeas 78 Nays 16

FRANK CHOPP

Speaker of the House of Representatives

Approved April 19, 2016 1:44 PM with
the exception of sections 2, 7, 9 and
12 which are vetoed.

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 6656** as passed by Senate and the House of Representatives on the dates hereon set forth.

HUNTER G. GOODMAN

Secretary

FILED

April 19, 2016

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 6656

Passed Legislature - 2016 1st Special Session

State of Washington 64th Legislature 2016 Regular Session

By Senate Ways & Means (originally sponsored by Senators Hill, Hargrove, Ranker, Darneille, Parlette, Becker, Braun, Fain, and Bailey)

READ FIRST TIME 03/04/16.

1 AN ACT Relating to the reform of practices at state hospitals;
2 amending RCW 71.05.365; adding new sections to chapter 71.24 RCW;
3 adding a new chapter to Title 72 RCW; providing effective dates;
4 providing an expiration date; and declaring an emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 71.24
7 RCW to read as follows:

8 The legislature finds that the growing demand for state hospital
9 beds has strained the state's capacity to meet the demand while
10 providing for a sufficient workforce to operate the state hospitals
11 safely. It is the intent of the legislature that the executive and
12 legislative branches work collaboratively to maximize access to,
13 safety of, and the therapeutic role of the state hospitals to best
14 serve patients while ensuring the safety of patients and employees.

15 *NEW SECTION. **Sec. 2.** A new section is added to chapter 71.24
16 RCW to read as follows:

17 (1) *The legislature intends to explore the option of changing the*
18 *current financing structure and financial incentives for state*
19 *hospital civil bed utilization by providing behavioral health*
20 *organizations and full integration entities under RCW 71.24.380 with*

1 the state funds necessary to purchase a number of days of care at a
2 state hospital equivalent to the current allocation model, instead of
3 providing state hospital bed allocations under RCW 71.24.310. Such
4 funds would be available to purchase state hospital beds or for
5 alternative uses such as to purchase beds in other locations, to
6 invest in community services, and to invest in diversion from
7 inpatient care. Behavioral health organizations and equivalent
8 entities in full integration regions would be placed at risk for
9 state hospital civil utilization for patients within their catchment
10 areas, while receiving the means and opportunity to apply any savings
11 resulting from reduced state hospital utilization directly to the
12 service of clients in the community. This policy option is intended
13 to incentivize behavioral health organizations and entities in full
14 integration regions to increase their utilization management efforts,
15 develop additional capacity for hospital diversion, and increase
16 their capacity to safely serve complex clients in the community.

17 (2) To further these ends, the department must develop a detailed
18 transition plan in collaboration with its actuarial consultant and
19 the external consultant to examine the current configuration and
20 financing of state hospitals under section 5 of this act and with the
21 regular input of behavioral health organizations, full integration
22 regions, and other stakeholders. The transition plan shall include
23 but not be limited to consideration of the following:

24 (a) A methodology for division of the current state hospital beds
25 between each of the behavioral health organizations and full
26 integration regions. The methodology must consider two options: (i) A
27 method which allocates the resources supporting state hospital bed
28 utilization solely among behavioral health organizations and full
29 integration regions; and (ii) a method which allocates a portion of
30 the resources supporting state hospital bed utilization among
31 behavioral health organizations and full integration regions, and the
32 remainder to the state long-term care and developmental disabilities
33 systems. The portion allocated to the state long-term care and
34 developmental disability systems must correspond to state hospital
35 bed utilization by patients whose primary community care needs after
36 discharge will be funded by the state long-term care or developmental
37 disability system, based on client history or a functional needs
38 assessment, and include payment responsibility for the state hospital
39 utilization by these patients;

1 (b) Development of payment rates for state hospital utilization
2 that reflect financing, safety, and accreditation needs under the new
3 system and ensure that necessary access to state hospital beds is
4 maintained for behavioral health organizations and full integration
5 regions;

6 (c) Maximizing federal participation for treatment and preserving
7 access to funds through the disproportionate share hospital program
8 under either methodology described under (a) of this subsection;

9 (d) Billing and reimbursement mechanisms;

10 (e) Discharge planning procedures that must be adapted to account
11 for functional needs assessments upon admission;

12 (f) Identification of regional differences and challenges for
13 implementation in different regional service areas;

14 (g) A means of tracking expenditures related to successful
15 reductions of state hospital utilization by regional service areas
16 and means to assure that the funds necessary to safely maintain gains
17 in utilization reduction are protected;

18 (h) Recommendations for the timing of implementation including
19 exploration of options for transition to full implementation through
20 the use of smaller-scale pilots allowing for the creation of
21 alternative placements outside the state hospitals such as step-down
22 or transitional placements;

23 (i) The potential for adverse impacts on safety and a description
24 of available methods to mitigate any risks for patients, behavioral
25 health organizations, full integration regions, and the community;
26 and

27 (j) An explanation of the benefits and disadvantages associated
28 with the alternative methodologies described in (a) of this
29 subsection.

30 (3) A preliminary draft of the transition plan must be submitted
31 to the relevant committees of the legislature by November 15, 2016,
32 for review by the select committee on quality improvement in state
33 hospitals. The department shall consider the input of the committee
34 and external stakeholders before submitting a final transition plan
35 by December 30, 2016.

*Sec. 2 was vetoed. See message at end of chapter.

36 NEW SECTION. Sec. 3. (1) A select committee on quality
37 improvement in state hospitals is established, composed of the
38 following members:

1 (a) Four members of the senate, appointed by the president of the
2 senate, consisting of the chairs and ranking members of the committee
3 on health care and the committee on human services, mental health and
4 housing, or their successor committees;

5 (b) Four members of the house of representatives, appointed by
6 the speaker of the house of representatives, consisting of the chair
7 and ranking members of the committee on health care and wellness and
8 the committee on judiciary, or their successor committees;

9 (c) One member, appointed by the governor, representing the
10 office of financial management; and

11 (d) Two nonvoting members, appointed by the governor, consisting
12 of the secretary of the department of social and health services or a
13 designee and the director of the department of labor and industries
14 or a designee.

15 (2) The committee shall have two cochairs elected by the
16 membership of the committee.

17 (3) The governor or a designee shall convene the initial meeting
18 of the committee.

19 (4) Meetings of the committee shall be open to the public and
20 shall provide an opportunity for public comment.

21 (5) Primary staff support for the committee must be provided by
22 the office of financial management. Additional staff support may be
23 provided by the office of program research and senate committee
24 services.

25 (6) The committee shall meet, at a minimum, on a quarterly basis
26 beginning April 2016, or as determined necessary by the committee
27 cochairs.

28 (7) State agency representatives shall respond in a timely manner
29 to data requests from the cochairs relating to the work of the
30 committee.

31 (8) Legislative members of the committee must be reimbursed for
32 travel expenses in accordance with RCW 44.04.120. Nonlegislative
33 members are not entitled to be reimbursed for travel expenses if they
34 are elected officials or are participating on behalf of an employer,
35 governmental entity, or other organization. Any reimbursement for
36 other nonlegislative members is subject to chapter 43.03 RCW.

37 (9) The expenses of the committee must be paid jointly by the
38 senate and the house of representatives. Committee expenditures are
39 subject to approval by the senate facilities and operations committee

1 and the house of representatives executive rules committee, or their
2 successor committees.

3 NEW SECTION. **Sec. 4.** The committee shall receive updates,
4 monitor, and make recommendations to the governor, the office of
5 financial management, and the legislature in the following areas,
6 with respect to the state hospitals:

7 (1) Planning related to the appropriate role of the state
8 hospitals in the state's mental health system, as well as state
9 hospital structure, financing, staff composition, and workforce
10 development needs to improve the quality of care, patient outcomes,
11 safety, and operations of the state hospitals;

12 (2) Recommendations for the use of funds from the governor's
13 behavioral health innovation fund created in section 6 of this act,
14 taking into consideration the information and recommendations
15 provided by the consultants identified in section 5 of this act and
16 the quarterly implementation progress reports provided in section 8
17 of this act;

18 (3) Monitoring of process and outcome measures regarding the
19 implementation of policies and appropriations passed by the
20 legislature; and

21 (4) Reviewing findings by the department of health regarding the
22 results of its survey of the state hospitals and the department of
23 labor and industries concerning the safety of the state hospitals and
24 compliance with follow-up recommendations for corrective action.
25 These agencies shall report to the committee quarterly or as
26 requested by the committee.

27 NEW SECTION. **Sec. 5.** (1) Long-term planning for the state
28 hospitals and recommendations for the use of funds from the
29 governor's behavioral health innovation fund created in section 6 of
30 this act must be informed by the use of consultants who shall make
31 recommendations to the governor, the legislature, and the committee
32 by October 1, 2016. The committee shall review the selection of
33 consultants and provide input into the prioritization of tasks.

34 (2) The office of financial management must contract for the
35 services of an external consultant who will examine the current
36 configuration and financing of the state hospital system. This
37 consultant shall:

1 (a) Work with the department of social and health services to
2 produce the detailed transition plan described in section 2 of this
3 act;

4 (b) Work with the state hospitals, local governments, community
5 hospitals, mental health providers, substance use disorder treatment
6 providers, other providers, and behavioral health organizations to
7 identify options and make recommendations related to:

8 (i) Identification of which populations are appropriately served
9 at the state hospitals;

10 (ii) Identification of barriers to timely admission to the state
11 hospitals of individuals who have been court ordered to ninety or one
12 hundred eighty days of treatment under RCW 71.05.320;

13 (iii) Utilization of interventions to prevent or reduce
14 psychiatric hospitalization;

15 (iv) Benefits and costs of developing and implementing step-down
16 and transitional placements for state hospital patients;

17 (v) Whether discharges of patients take into consideration
18 whether it is appropriate for the patient to return to the patient's
19 original community considering the location of family and other
20 natural supports, the availability of appropriate services, and the
21 desires of the patients. The consultant must report whether the lack
22 of resources in a patient's home community is a significant factor
23 that causes barriers to discharge or frequently results in relocation
24 of patients outside their home communities for posthospital care;

25 (vi) Optimization of continuity of care with community providers,
26 including but not limited to coordination with any community
27 behavioral health provider or evaluation and treatment facility that
28 has treated the patient immediately prior to state hospital
29 admission, and any provider that will serve the patient upon
30 discharge from the state hospital;

31 (vii) Reduction of barriers to discharge, including options to:

32 (A) Ensure discharge planning begins at admission;

33 (B) Offer co-occurring substance use disorder treatment services
34 at the state hospitals;

35 (C) Clarify and hold accountable state hospitals and behavioral
36 health organizations for their respective roles in the discharge
37 planning process, including development of community diversion and
38 transition options;

39 (D) Include contract performance measures related to timely
40 discharge planning in behavioral health organization contracts;

1 (E) Improve state monitoring and oversight of behavioral health
2 organizations in their contracted responsibilities for developing an
3 adequate network to meet the needs of their communities;

4 (F) Incentivize the use of community resources when clinically
5 appropriate; and

6 (G) Expedite discharge for individuals who are the responsibility
7 of the long-term care or developmental disability systems, or who are
8 not covered by medicaid, and assure financial responsibility to
9 appropriate systems, including the potential necessity of other
10 state-run facilities;

11 (viii) Planning for the long-term integration of physical and
12 behavioral health services, including strategies for assessing risk
13 for the utilization of state hospital beds to health plans contracted
14 to provide the full range of physical and behavioral health services;
15 and

16 (ix) Identification of the potential costs, benefits, and impacts
17 associated with dividing one or both of the state hospitals into
18 discrete hospitals to serve civil and forensic patients in separate
19 facilities.

20 (3) The department of social and health services shall contract
21 for the services of an academic or independent state hospitals
22 psychiatric clinical care model consultant to examine the clinical
23 role of staffing at the state hospitals.

24 (a) The consultant's analysis must include an examination of:

25 (i) The clinical models of care;

26 (ii) Current staffing models and recommended updates to the
27 staffing model created under section 9(1) of this act;

28 (iii) Barriers to recruitment and retention of staff;

29 (iv) Creating a sustainable culture of wellness and recovery;

30 (v) Increasing responsiveness to patient needs;

31 (vi) Reducing wards to an appropriate size;

32 (vii) The use of interdisciplinary health care teams;

33 (viii) The appropriate staffing model and staffing mix to achieve
34 optimal treatment outcomes considering patient acuity; and

35 (ix) Recommended practices to increase safety for staff and
36 patients.

37 (b) To the extent that funding is appropriated for this purpose
38 and necessary modification to labor practices are completed, the
39 consultant shall assist the department of social and health services
40 with implementation of recommended changes.

1 (4) The consultant services in this section shall be acquired
2 with funds appropriated for this purpose and the contracts are exempt
3 from the competitive solicitation requirements in RCW 39.26.125.

4 NEW SECTION. **Sec. 6.** The governor's behavioral health
5 innovation fund is hereby created in the state treasury. Moneys in
6 the fund may be spent only after appropriation. Only the director of
7 financial management or the director's designee may authorize
8 expenditures from the fund. Moneys in the fund are provided solely to
9 improve quality of care, patient outcomes, patient and staff safety,
10 and the efficiency of operations at the state hospitals.

11 ****NEW SECTION. Sec. 7. (1) The department of social and health
12 services may apply to the office of financial management to receive
13 funds from the governor's behavioral health innovation fund.***

14 ***(2) The application must include proposals to increase the
15 overall function of the state hospital system in one or more of the
16 following categories:***

17 ***(a) Instituting fund-shift pilot initiatives through contracts
18 with behavioral health organizations or long-term care providers
19 providing enhanced behavioral supports to move certain state hospital
20 patients to alternative placements outside of the state hospital,
21 contingent on federal funding. Proposals must include quality outcome
22 measures and acuity-based staffing models of interdisciplinary teams
23 designed for optimal treatment outcomes;***

24 ***(b) Developing and utilizing step-down and transitional
25 placements for state hospital patients;***

26 ***(c) Improving staff retention and recruiting;***

27 ***(d) Increasing capacity and instituting other measures to reduce
28 backlogs and wait lists in both the civil and forensic systems;***

29 ***(e) Increasing stability and predictability in the state
30 hospitals' operating costs and budgets;***

31 ***(f) Making necessary practice and staffing changes, subject to
32 collective bargaining;***

33 ***(g) Improving safety for patients and staff;***

34 ***(h) Increasing staff training;***

35 ***(i) Improving the therapeutic environment; and***

36 ***(j) Improving the provision of forensic mental health services.***

1 (3) *Application proposals must be based on the use of evidence-*
2 *based practices, promising practices, or approaches that otherwise*
3 *demonstrate quantifiable, positive results.*

4 (4) *Moneys from the governor's behavioral health innovation fund*
5 *may not be used for compensation increases within the state*
6 *hospitals.*

7 (5) *The office of financial management must consider input from*
8 *the committee when awarding funding.*

**Sec. 7 was vetoed. See message at end of chapter.*

9 NEW SECTION. **Sec. 8.** The department of social and health
10 services must provide quarterly implementation progress reports to
11 the committee and the office of financial management that include at
12 a minimum:

13 (1) The status of completing key activities, critical milestones,
14 and deliverables over the prior period;

15 (2) Identification of specific barriers to completion of key
16 activities, critical milestones, and deliverables and strategies that
17 will be used for addressing these challenges;

18 (3) The most recent quarterly data on all performance measures
19 and outcomes for which data is currently being collected, as well as
20 any additional data requested by the committee; and

21 (4) The status of the adoption and implementation of the policies
22 identified in section 9 of this act.

23 *NEW SECTION. **Sec. 9.** The department of social and health
24 services must assure that the state hospitals adopt and implement the
25 following policies, subject to the availability of appropriated
26 funding, and shall include information regarding the status of the
27 adoption and implementation of these policies in its quarterly
28 reports required under section 8 of this act:

29 (1) A standardized acuity-based staffing model employed at both
30 facilities that recognizes the staffing level required based upon the
31 type of patients served, the differences and constraints of the
32 physical plant across hospitals and wards, and the full scope of
33 practice of all credentialed health care providers, and that
34 identifies the incorporation of these health care providers
35 practicing to the maximum extent of their credential in
36 interdisciplinary teams. The model shall recognize a role for
37 advanced registered nurse practitioners and physician assistants to

1 *utilize the full scope of their practice as provided under section 12*
2 *of this act;*

3 *(2) A strategy with measurable, articulated steps for reducing*
4 *the unnecessary utilization of state hospital beds and minimizing*
5 *readmissions to evaluation and treatment facilities for state*
6 *hospital patients;*

7 *(3) A program of appropriate safety training for state hospital*
8 *staff;*

9 *(4) A plan to fully use appropriated funding for enhanced service*
10 *facilities and other specialized community resources for placement of*
11 *state hospital patients with conditions such as dementia, traumatic*
12 *brain injury, or complex medical and physical needs requiring*
13 *placement in a facility which offers significant assistance with*
14 *activities of daily living; and*

15 *(5) A process for appeal to the secretary of the department of*
16 *social and health services or the secretary's designee within*
17 *fourteen days in cases where a behavioral health organization, other*
18 *entities under RCW 71.24.380, or the state agency division*
19 *responsible for the community care needs of the patient and the state*
20 *hospital treatment team are unable to reach a mutually agreed upon*
21 *discharge plan for patients who are considered by either party to be*
22 *ready for discharge. This process shall ensure consideration of risk*
23 *factors for readmission.*

**Sec. 9 was vetoed. See message at end of chapter.*

24 NEW SECTION. **Sec. 10.** For purposes of this chapter:

25 (1) "Behavioral health organization" has the same meaning as in
26 RCW 71.24.025 and includes any managed care organization that has
27 contracted with the state to provide fully integrated behavioral
28 health and physical health services for medicaid clients.

29 (2) "Committee" means the select committee on quality improvement
30 in state hospitals created in section 3 of this act.

31 (3) "State hospitals" include western state hospital and eastern
32 state hospital as designated in RCW 72.23.020.

33 NEW SECTION. **Sec. 11.** (1) The legislature finds that there are
34 currently patients with long-term care needs at western state
35 hospital who are ready for discharge and could safely be served in
36 community settings if alternative placements are made available.

1 (2) The department of social and health services must identify
2 discharge and diversion opportunities for patients needing long-term
3 care to reduce the demand for thirty beds currently being used for
4 this population. A twenty bed reduction must be realized by July 1,
5 2016, with a utilization reduction of ten additional beds by January
6 1, 2017. The resources being used to serve these beds must be
7 reinvested within the state hospital budget in order to achieve
8 patient and staff safety improvement goals.

9 (3) The department of social and health services must provide a
10 progress report to the governor and relevant committees of the
11 legislature by December 1, 2016, and a final report by August 1,
12 2017, describing outcomes for these patients through June 30, 2017.

13 ***NEW SECTION.** **Sec. 12. (1) The legislature finds that the**
14 **potential uses of psychiatric advanced registered nurse practitioners**
15 **and physician assistants in institutional settings at the top of**
16 **their scope of practice are currently being underutilized by the**
17 **state hospitals.**

18 (2) **The office of financial management must create a job class**
19 **series for psychiatric advanced registered nurse practitioners and a**
20 **job class series for physician assistants that allows these**
21 **professionals to practice at the top of their scope of practice at**
22 **state hospitals. In conjunction and conformance with the staffing**
23 **analysis described in section 9(1) of this act, the state hospitals**
24 **shall increase the employment of professionals operating under these**
25 **new classifications in a manner that allows the state hospitals to**
26 **reduce their reliance on psychiatrist positions, which the state**
27 **hospitals are currently unable to fill. The state hospitals must**
28 **consider the role of these professionals in supervising or directing**
29 **the work of other treatment team members.**

30 (3) **Nothing in this section should be construed to require the**
31 **state to violate any collective bargaining agreements in place prior**
32 **to the effective date of this section. Agreements negotiated or**
33 **renegotiated after the effective date of this section must be**
34 **consistent with the expanded use of advanced registered nurse**
35 **practitioners and physician assistants required by this section.**

***Sec. 12 was vetoed. See message at end of chapter.**

36 **NEW SECTION.** **Sec. 13. To the extent that any of the timelines**
37 **in this act are not achievable due to conflicts with other hospital**

1 improvement timelines set by federal or state regulatory bodies, the
2 department of social and health services may seek a reasonable
3 extension from the select committee.

4 NEW SECTION. **Sec. 14.** This chapter expires July 1, 2019.

5 **Sec. 15.** RCW 71.05.365 and 2014 c 225 s 85 are each amended to
6 read as follows:

7 When a person has been involuntarily committed for treatment to a
8 hospital for a period of ninety or one hundred eighty days, and the
9 superintendent or professional person in charge of the hospital
10 determines that the person no longer requires active psychiatric
11 treatment at an inpatient level of care, the behavioral health
12 organization, full integration entity under RCW 71.24.380, or agency
13 providing oversight of long-term care or developmental disability
14 services that is responsible for resource management services for the
15 person must work with the hospital to develop an individualized
16 discharge plan and arrange for a transition to the community in
17 accordance with the person's individualized discharge plan within
18 ((twenty-one)) fourteen days of the determination.

19 NEW SECTION. **Sec. 16.** Section 15 of this act takes effect July
20 1, 2018.

21 NEW SECTION. **Sec. 17.** Sections 3 through 14 of this act
22 constitute a new chapter in Title 72 RCW.

23 NEW SECTION. **Sec. 18.** (1) Sections 3 through 8 and 10 of this
24 act are necessary for the immediate preservation of the public peace,
25 health, or safety, or support of the state government and its
26 existing public institutions, and take effect immediately.

27 (2) Section 9 of this act takes effect July 1, 2016.

Passed by the Senate March 29, 2016.

Passed by the House March 29, 2016.

Approved by the Governor April 19, 2016, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State April 19, 2016.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Sections 2, 7, 9,
and 12, Engrossed Substitute Senate Bill No. 6656 entitled:

"AN ACT Relating to the reform of practices at state hospitals."

Section 2 refers to the creation of a transition plan for changing the current financing structure for civil bed utilization. While I agree a transition plan is needed, I would prefer to use the consultant's recommendations to inform the development of the plan. The consultant is funded in the Office of Financial Management's (OFM) budget. I will charge OFM to work with the Department of Social and Health Services (DSHS) and the consultant to address the requirements of this section and report back to me and the Select Committee on Quality Improvement in State Hospitals by November 2016.

Section 7 creates rules for how funds from the Governor's Behavioral Health Innovation Fund can be used. While I agree with many of the categories for funding, I am concerned that funding cannot be used for compensation increases for hospital personnel; a critical tool in increasing staffing at the state hospitals. As a result, I have vetoed Section 7.

Section 9 requires DSHS to assure that several policies are implemented, subject to the availability of funding. This section is effective in July of 2016. While I agree with many of the policies stipulated in the bill, this section requires implementation of policies that have not had the full benefit of the recommendations made by the consultants called for in section 5. In addition, provisions that require a plan to use all the funding appropriated for Enhanced Services Facilities is duplicative of the requirements of Section 11. For these reasons, I have vetoed Section 9.

Section 12 requires the Office of Financial Management to create a job class for Advanced Registered Nurse Practitioners (ARNP) and Physician Assistants (PA) to allow them to work at the top of their practice. While I agree that allowing ARNPs and other mid-level professionals to practice in our hospitals should be an important part of the state's strategy to address workforce shortages, the requirement to create the job class is not consistent with the process provided in law for creation of classified positions. I have therefore vetoed Section 12.

For these reasons I have vetoed Sections 2, 7, 9, and 12 of Engrossed Substitute Senate Bill No. 6656.

With the exception of Sections 2, 7, 9, and 12, Engrossed Substitute Senate Bill No. 6656 is approved."

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