

HOUSE BILL REPORT

HB 2790

As Reported by House Committee On: Early Learning & Human Services

Title: An act relating to employment and community access services for individuals with developmental disabilities.

Brief Description: Concerning employment and community access services for individuals with developmental disabilities.

Sponsors: Representatives Walsh, Kilduff, Nealey, Kagi, Senn, Zeiger, Sawyer, Schmick, Dye, McBride, Pollet, Haler, Walkinshaw and Tarleton.

Brief History:

Committee Activity:

Early Learning & Human Services: 1/29/16, 2/2/16 [DPS].

Brief Summary of Substitute Bill

- Requires the Developmental Disability Administration (DDA) to take into consideration an individual's medical condition, an individual's history of care needs, the availability of employment, and allow for other good cause reasons for an exception to the rule that clients engage in nine months of employment services before receiving community access services.
- Requires that the DDA annually report to the Legislature the specific rules that allow individuals to receive an exception to the nine-month employment requirement and the number of individuals that were provided an exception.

HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Kagi, Chair; Senn, Vice Chair; Walsh, Ranking Minority Member; Dent, Assistant Ranking Minority Member; Hawkins, Kilduff, McCaslin, Ortiz-Self, Sawyer, Scott and Walkinshaw.

Staff: Luke Wickham (786-7146).

Background:

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.

Community Access Services.

Community access services provide Developmental Disability Administration (DDA) clients with opportunities to engage in community-based activities that support socialization, education, recreation, and personal development. The number of community access services that a DDA client receives each month is based on that individual's community access service level. The DDA determines an individual's community access service level based on an individual's Supports Intensity Scale (SIS) support needs index percentile ranking. This ranking is established by adding up level of support needs in several categories including:

- home living activities;
- community living activities;
- lifelong learning activities;
- employment activities;
- health and safety activities; and
- social activities.

By adding these scores together, an individual's SIS percentile ranking is established. The table below shows the number of hours a client would receive based on their percentile ranking:

| | |
|-------------------------|----------------|
| 0 - 9th percentile | Up to 3 hours |
| 10th - 19th percentile | Up to 6 hours |
| 20th - 29th percentile | Up to 9 hours |
| 30th - 44th percentile | Up to 12 hours |
| 45th - 59th percentile | Up to 15 hours |
| 60th - 74th percentile | Up to 18 hours |
| 75th - 100th percentile | Up to 20 hours |

Employment Services.

Employment services provided by the DDA include individual supported employment and group supported employment services. Individual supported employment services include activities needed to sustain employment that provides at least a minimum wage, and includes intake, discovery, job preparation, marketing, job coaching, and job retention supports. Group supported employment services include paid training in an integrated business setting, supervision by a qualified employment provider, groupings of no more than eight workers with disabilities, and individualized supports to obtain gainful employment.

The DDA determines an individual's employment service hours per month based on a scoring system that combines individual scores for:

- activities of daily living;
- behavioral support;
- interpersonal support;
- environmental support;
- level of monitoring;
- employment support;
- completing tasks with acceptable speed;
- completing tasks with acceptable quality;

- medical support; and
- seizure support.

These scores are added together to establish an overall employment support level in numerical form. Those scores are then used to determine an individual's employment service hours per month depending on whether the individual is working or in training as follows:

- For individuals with low-employment support levels:
 - if working, 4 hours;
 - if training, 7 hours.
- For individuals with medium-employment support levels:
 - if working, 7 hours;
 - if training, 9 hours.
- For individuals with high-employment support levels:
 - if working, 11 hours;
 - if training, 12 hours.

Nine Months of Employment Services.

In 2012 the Legislature enacted legislation allowing working age adults to transition to a community access service program only after nine months of an employment service and only allowing clients to receive one service at a time. Individuals ages 21 through 61 must participate in a DDA employment program for nine months before receiving community access services. Individuals may receive an exception to this rule if he or she:

- has a medical condition that requires hospitalization or ongoing care by a medical professional that affects his or her ability to participate in daily activities to the degree that employment would result in significant decline in his or her ability to function, or seriously endanger his or her health; or
- has been available for employment planning activities and an employment provider has not provided services within 90 days of his or her request for those services.

Summary of Substitute Bill:

The exception to the rule requiring that the DDA clients participate in nine months of employment services before receiving community access services must take into consideration an individual's medical condition, an individual's history of care needs, the availability of employment, and allow for other good cause reasons for an exception.

The DDA must ensure that clients, parents of clients, and guardians of clients are aware of the exception to the nine-month employment rule.

Beginning December 1, 2016, the DDA must annually report to the Legislature the specific rules that allow individuals to receive an exception to the nine-month employment requirement and the number of individuals provided an exception in each county.

Substitute Bill Compared to Original Bill:

The substitute bill removes the requirement that the DDA use the same algorithm to determine the number of hours clients receive for employment and community access services.

The substitute bill also replaces the requirement that the nine-month employment exception take into consideration the availability of employment providers with the requirement that the exception take into consideration the availability of employment.

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) This is one incremental step toward allowing individuals with developmental disabilities to receive more services and more service options. This bill would allow services and supports to be available to individuals. This bill acknowledges that individuals have many support needs, not just medical. Many individuals do not have strong advocates to fight for them; offering individuals more options will be impactful to families. Many individuals find the nine-month employment process difficult and sometimes this sets individuals back. The community also benefits from community access services. Every casual interaction that a community member has with an individual with developmental disabilities breaks down barriers, which is especially important in rural communities.

Many youth with developmental disabilities graduate with a rich community, but some individuals graduate to a couch. Some of the exceptions to the nine-month rule that individuals request are not granted, and then those individuals don't access any services. There was a task force in 2011 that focused on community access services. Many individuals who are unlikely to be employed are denied the exception to the nine-month employment rule.

By limiting the number of individuals who may receive community access services, the number of community access service providers is also limited. Many clients who receive social security benefits are clients of the DDA. To receive social security benefits, the federal government must have made a determination that the individual cannot be gainfully employed. If an exception is denied, there is no recourse.

If there was a formula to create the greatest amount of isolation for individuals with developmental disabilities, it would be the current statute. It is not appropriate to impose a work requirement on an individual who is severely disabled and who is not really able to consent. The State of Washington is really out of balance; Washington invests the bulk of its money in employment activities. Most other states invest more money on services other than employment.

Individuals with developmental disabilities should be able to have a choice in the services that they receive. Whether employment is suitable or not, it is not right for an individual to be forced into employment services. Many individuals with developmental disabilities would like to work, but are not able to. Being fired from employment makes individuals feel like failures.

Helping others through volunteer work provides great rewards for individuals. Individuals with developmental disabilities should live as normal a life as possible, but this might not mean that an individual has to have a job. Each person's normal life is different. This bill will make exceptions more available to individuals who are not able to be employed.

(Opposed) Washington was the first in the nation to incorporate the Employment First Law, and many other states have followed that model. One of the elements of employment services is called Discovery, which helps individuals determine what their interests are and what employment might work for them. In 2015 66 percent of individuals with developmental disabilities graduating from high school have employment.

Parents have seen their children's behaviors improve after finding their niche in employment. This takes a lot of effort, but it works. Most parents whose children are provided employment services are very thankful for that opportunity. Some counties are further along in the employment service process, but every year these services improve. This is a difficult process, and everyone should have a satisfying life.

Employment is important, and everyone deserves a chance to be employed at minimum wage and be valued. There are two behavior analysts serving clients throughout the state, and there is a six-month wait for those services. Individuals who may have appeared unemployable are capable of employment.

Behavior should not be an exception to the rule requiring nine months of employment. If we allow someone's past behavior to dictate someone's care needs, we are denying individuals the possibility to thrive.

(Other) Counties are currently engaged in statewide training on community access services. The counties would like to get information about the number of individuals who have requested exceptions and those who have been denied. The counties are working with the DDA to get more data on these issues. The longer that an individual is in a program, the greater the likelihood that an exception would be granted.

The Arc of Washington State holds the value that every individual may be employed with the proper supports. Employment providers could provide additional training and supports for individuals. One of the biggest issues in statute that affects this problem is the limitation that individuals only receive one service at a time.

The good cause exception provided for in this bill would expand the exception too much.

Persons Testifying: (In support) Representative Walsh, prime sponsor; Luke Tolley and Donna Tracy, The Arc of Spokane; Jo Simms, Pierce County Coalition for Developmental Disabilities; Martha Schulte; Linda Hyatt; and Sherry Emery.

(Opposed) Margaret-Lee Thompson, Wise; The Arc of the United States; and Shaun Wood, WISE.

(Other) Brian Enslow, Washington State Association of Counties; Sue Elliott, The Arc of Washington State; and Donna Patrick.

Persons Signed In To Testify But Not Testifying: None.