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**SECOND SUBSTITUTE SENATE BILL 5594**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Keiser, Rivers, Cleveland, Fain, Darneille, Miloscia, Wellman, Frockt, Conway, and Rossi)

AN ACT Relating to transition services for people with developmental disabilities; amending RCW 71A.12.320, 71A.20.020, and 71A.20.170; adding new sections to chapter 71A.20 RCW; and creating new sections.

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

NEW SECTION. **Sec.**  The legislature finds that:

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

(2) The system of services for people with developmental disabilities should provide a balanced range of health, social, and supportive services. The receipt of services should be coordinated so as to minimize administrative cost and service duplication and eliminate unnecessarily complex system organization;

(3) Persons with developmental disabilities are best served by a broad array of services that provide them with needed supports, and promote individual autonomy, dignity, and choice. Further, supported living, state-operated living alternatives, and other community-based residential services should be available in the most integrated setting appropriate to individual needs; and

(4) An extensive transition planning and placement process must be used to provide that people moving from a residential habilitation center to a community setting have the services and supports in place needed to meet their assessed needs.

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

(1) In keeping with department and legislative policy, the department:

(a) Must ensure that each resident's individual habilitation plan includes a plan for discharge to the community that uses the person-centered plan developed by the department that assesses the resident's needs and identifies services the resident requires to successfully transition to the community, including:

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

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

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

(iv) Providing residents and their families or guardians opportunities to visit state-operated living alternatives, companion homes, and supported living options in the community;

(v) Offering residents leaving a residential habilitation center a right to return to a residential habilitation center;

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

(A) Medical services;

(B) Nursing services;

(C) Dental care;

(D) Behavioral and mental health supports;

(E) Habilitative services;

(F) Provider training;

(G) Employment or other day support; and

(H) Transportation or other supports needed to assist family and friends in maintaining regular contact with the resident;

(b) Shall assure that, prior to discharge from a residential habilitation center, clients continue to be eligible for services for which they have an assessed need;

(c) Shall maximize federal funding for transitioning clients through the roads to community living grant;

(d) Shall limit the ability of a state-operated living alternative to reject clients that are referred pursuant to this section. In circumstances where acceptance of a client in a particular household would be inconsistent with the needs of the clients in that household, so as to cause harm to the client or other clients, or cause serious, protracted disruption, the client shall be provided with another community housing option that is supported by the state-operated living alternative program and meets the client's choices and needs. The state-operated living alternative shall not eject or discontinue service to any client that has been accepted into the state-operated living alternative program, except where agreed to by the client; and

(e) Shall employ the quality assurance process currently in use by the department, including unannounced visits as permitted in RCW 71A.12.320, to monitor the adjustment of each resident who leaves a residential habilitation center.

**Sec.**  RCW 71A.12.320 and 2016 c 172 s 3 are each amended to read as follows:

(1) Within funds appropriated for this purpose, the developmental disabilities administration shall increase home visits for clients identified as having the highest risk of abuse and neglect.

(2)(a) The developmental disabilities administration must develop a process to determine which of its clients who receive an annual developmental disabilities assessment are at highest risk of abuse or neglect. The administration may consider factors such as:

(i) Whether the client lives with the client's caregiver and receives no other developmental disabilities administration services, or whether the client is largely or entirely dependent on a sole caregiver for assistance, and the caregiver is largely or entirely dependent on the client for his or her income;

(ii) Whether the client has limited ability to supervise the caregiver, to express himself or herself verbally, has few community contacts, or no independent person outside the home is identified to assist the client;

(iii) Whether the client has experienced a destabilizing event such as hospitalization, arrest, or victimization;

(iv) Whether the client has moved from a residential habilitation center to the community;

(v) Whether the client has been the subject of an adult protective services or child protective services referral in the past year; or

((~~(v)~~)) (vi) Whether the client lives in an environment that jeopardizes personal safety.

(b) The developmental disabilities administration must visit those clients identified as having the highest risk of abuse or neglect at least once every four months, including unannounced visits as needed. This unannounced visit may replace a scheduled visit; however if the case manager is unable to meet with the client, a follow-up visit must be scheduled. A client may refuse to allow an unannounced visit to take place, but this fact must be noted.

(3) The developmental disabilities administration may develop rules to implement this section.

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

To assure the successful implementation of section 6 of this act, the department, within available funds:

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

(2) May use supported living program placements in the community for former residential habilitation center residents who prefer and choose a supported living program;

(3) May use skilled nursing facility program placements in the community for former residential habilitation center residents who prefer and choose to live in a skilled nursing facility;

(4) Shall establish additional state-staffed crisis stabilization beds based upon the geographic areas with the greatest needs for those services; and

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

**Sec.**  RCW 71A.20.020 and 2011 1st sp.s. c 30 s 5 are each amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, the following residential habilitation centers are permanently established to provide services to persons with developmental disabilities: Lakeland Village, located at Medical Lake, Spokane county; Rainier School, located at Buckley, Pierce county; Yakima Valley School, located at Selah, Yakima county; and Fircrest School, located at Seattle, King county.

(2) The Yakima Valley School, located at Selah, Yakima county, shall cease to operate as a residential habilitation center when the conditions in RCW 71A.20.180(2)(b) are met.

(3) The Fircrest School, located in Shoreline, Washington, shall cease to operate as a residential habilitation center when the conditions in section 6 of this act are met.

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

(1) Beginning on the effective date of this section, the department shall not permit any new admission to Fircrest School to either the intermediate care facility or the nursing facility unless the admission is limited to the provision of short-term respite or crisis stabilization services.

(2) By December 31, 2022, the intermediate care facility at Fircrest School must cease operation. Between the effective date of this section and December 31, 2022, residents of the intermediate care facility must be relocated to a state-operated living alternative, supported living program, skilled nursing facility, or a residential habilitation center, depending on the needs and wishes of the resident. Except as provided in subsection (3) of this section, no current nursing facility permanent resident of Fircrest School is required or compelled to relocate to a different care setting.

(3) The nursing facility portion of the Fircrest School shall continue to operate until such time that the census of permanent residents has reached sixteen persons. As part of this plan, the department may remodel an existing building to accommodate the nursing facility population.

NEW SECTION. **Sec.**  (1) The department of social and health services must study and make recommendations on developing and building a federally qualified health center that provides dental care, medical care, physical therapy, occupational therapy, crisis stabilization services, and/or specialty nursing care to former residential habilitation center residents and other individuals with developmental disabilities who live in the community. The study must address:

(a) Location of the federally qualified health center that can serve the greatest number of the developmental disability population and takes into consideration ease of access for this population;

(b) Use, by the federally qualified health center, of dental equipment and assistive technologies currently in use at Fircrest School;

(c) Potential health care entities that may operate the federally qualified health care center; and

(d) Financing options, including necessary waiver language to allow residential habilitation center residents to seek care at the federally qualified health center.

(2) In conducting its study and developing its recommendations, the department of social and health services must consult with federally qualified health centers and members and representatives of the developmental disabled community.

(3) Recommendations must be delivered to the appropriate committees of the legislature by December 31, 2018.

**Sec.**  RCW 71A.20.170 and 2011 1st sp.s. c 30 s 12 are each amended to read as follows:

(1) The developmental disabilities community trust account is created in the state treasury. All net proceeds from the use of excess property identified in the 2002 joint legislative audit and review committee capital study or other studies of the division of developmental disabilities residential habilitation centers that would not impact current residential habilitation center operations must be deposited into the account.

(2) Proceeds may come from the lease of the land, conservation easements, sale of timber, or other activities short of sale of the property((~~, except as permitted under section 7 of this act~~)); however, revenue generated from Fircrest School properties when Fircrest School ceases to operate as provided in section 6 of this act and revenue generated with the next phase of the Fircrest School master plan process identified in the 2017-2019 omnibus capital appropriations act, must be deposited into the account.

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

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

(5) Moneys in the account may be spent only after appropriation. Expenditures from the account shall be used ((~~exclusively~~)) to provide: Family support and/or employment/day services to eligible persons with developmental disabilities who can be served by community-based developmental disability services; and supported living, state-operated living alternatives, and other community-based residential services supporting people with developmental disabilities. It is the intent of the legislature that the account should not be used to replace, supplant, or reduce existing appropriations.

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

NEW SECTION. **Sec.**  (1) By June 30, 2018, the department of social and health services must complete an appraisal of the charitable, educational, penal, and reform institutions land on the Fircrest school campus.

(2) By October 1, 2018, the department of social and health services must submit a report to the governor and the relevant fiscal and policy committees of the legislature outlining options for transferring the ownership of charitable, educational, penal, and reform institutions land on the Fircrest school campus. The options must include, but are not limited to:

(a) Purchase of the charitable, educational, penal, and reform institutions land on the Fircrest school campus;

(b) A land swap of equal value between the charitable, educational, penal, and reform institutions land on the Fircrest school campus and other state-owned property; and

(c) A combination of the options outlined within (a) and (b) of this subsection.

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

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

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