

HOUSE BILL REPORT

SHB 1880

As Amended by the Senate

Title: An act relating to providing for self-directed care of persons with disabilities.

Brief Description: Providing for self-directed care of persons with disabilities.

Sponsors: By House Committee on Health Care (Originally sponsored by Representatives Cody, Schual-Berke, Kenney and Edmonds).

Brief History:

Committee Activity:

Health Care: 2/19/99, 3/2/99 [DPS];
Appropriations: 3/5/99, 3/6/99 [DPS(HC)].

Floor Activity:

Passed House: 3/11/99, 95-0.
Senate Amended.
Passed Senate: 4/13/99, 46-0.

Brief Summary of Substitute Bill

- Clarifies the ability of a person with a functional disability to employ a personal aide to assist in routine health-related tasks that persons without a disability customarily performs in their own home.
- Directs the Department of Social and Health Services to establish a registry of personal aides, and requires personal aides to register.
- Personal aides are subject to background checks, and reports of abuse, neglect, abandonment, and exploitation of the clients they serve.

HOUSE COMMITTEE ON HEALTH CARE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Cody, Democratic Co-Chair; Parlette, Republican Co-Chair; Pflug, Republican Vice Chair; Alexander; Boldt; Campbell; Conway; Edmonds; Edwards; Mulliken and Ruderman.

Staff: John Welsh (786-7133).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on Health Care be substituted therefor and the substitute bill do pass. Signed by 31 members: Representatives Huff, Republican Co-Chair; H. Sommers, Democratic Co-Chair; Alexander, Republican Vice Chair; Doumit, Democratic Vice Chair; D. Schmidt, Republican Vice Chair; Barlean; Benson; Boldt; Carlson; Clements; Cody; Crouse; Gombosky; Grant; Kagi; Keiser; Kenney; Lambert; Linville; Lisk; Mastin; McIntire; McMorris; Mulliken; Parlette; Regala; Rockefeller; Ruderman; Sullivan; Tokuda and Wensman.

Staff: Dave Johnson (786-7154).

Background:

Persons with functional disabilities encounter legal barriers to providing for their health care needs in their own home by securing the assistance of non-professional care providers. The health professional licensure acts have an unintended consequence of prohibiting non-professional providers, such as personal aides, from assisting persons with functional disabilities in routine health-related tasks that persons without disabilities personally and customarily perform for themselves.

Summary of Bill:

There is a declaration of legislative intent to clarify the right of adults with functional disabilities to choose to self-direct their own health-related tasks in their own home through personal aides. It is in the public interest to preserve the autonomy and dignity of persons with functional disabilities by allowing them to care for themselves through personal aides in their own homes as a health care option.

An adult person with a function disability living at home may direct and supervise a paid personal aide in the performance of a health care task under specified guidelines. These guidelines include the following:

1. The health care tasks are those medical, nursing, or home health services, enabling the person to maintain independence, personal hygiene and safety at home, that a person without the disability would personally perform;
2. The health care provider incurs no additional liability when ordering a health care task which is to be done through self-directed care through a personal aide than what the patient would otherwise do personally;
3. The role of the personal aide is limited to performing physical health care tasks under the direction of the patient, but may also provide other home care services such as personal care or homemaker services;
4. The responsibility to initiate health care tasks and exercise judgment rests with the person self-directing those tasks, including the decision to employ or dismiss the personal aide.

A person who is paid to act as a personal aide, working privately or as an individual provider under contracts with the Department of Social & Health Services, is required to register with the department, and no person who is not registered may perform self-directed care tasks.

The department shall establish by rule a registry of personal aides to record findings of abuse, neglect, or the exploitation or abandonment of the persons self-directing their care. The department shall provide for disclosure, disposition of findings, findings of fact, appeal rights, and fair hearing requirements.

The department is authorized to develop training requirements and background checks for individual providers and home health care agency providers who serve Medicaid clients. The department must deny payment to individual providers and home care providers who do not complete training requirements.

Clients with functional disabilities who self-direct their own care through personal aides are considered vulnerable adults protected from acts of abuse, neglect, exploitation or abandonment committed by personal aides.

A personal aide in the performance of health care tasks pursuant to this act is exempt from any legal requirement to qualify and be credentialed by the Department of Health as a health care provider under Title 18 RCW.

EFFECT OF SENATE AMENDMENT(S): The Senate amendments require personal care aides which contract with the Department of Social and Health Services, and the department is directed to register any personal care aide with a substantive

finding of abuse, neglect, abandonment, or exploitation. Individuals choosing to self-direct their care are responsible for initiating the self-direction by informing their health care professional. Persons who self-direct their care through personal care aides are considered "vulnerable adults" for remedies provided under the adult protective services act. The U.W. School of Nursing is directed to study the implementation of the act and submit a report to the Legislature by November 1, 2001, with findings and recommendations for improving the act.

Appropriation: None.

Fiscal Note: Requested on February 10, 1999.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: (Health Care) (original bill) Persons with disabilities have a right to self-direct their own care the same as a person without a disability. The law should be clarified to prevent persons with disabilities to employ personal aides to assist them in self-directing their own care. This preserves the autonomy and dignity of persons with disabilities to care for themselves in their own home.

(Appropriations) (Substitute bill) The bill corrects an unintended consequence of various professional licensing bills. This bill makes a needed policy change which is also good fiscal policy as well. The registry provision should be revised so that it includes only those persons who have committed acts of abuse.

Testimony Against: (Health Care) None.

(Appropriations) None.

Testified: (Health Care) (support) Skip Dreps, Andy Warberg, and Chauncy White, Northwest Chapter of Paralyzed Veterans of America; Irene Robbins, Senior Lobby; Dennis Mahar, Washington Association of AAA; Theresa Baird, Multiple Sclerosis Society; Julie Wright, Consumer, Muscular Dystrophy; Toby Olson, Governor's Committee on Disabilities and Employment; and Joe Whaley, self.

(Health Care) (support with amendment) Terry Kohl, Washington Protection and Advocacy System; and Kathy Leitch, Department of Social and Health Services.

(Appropriations) Kathy Leitch, Aging and Adult Services, Department of Social and Health Services; and Toby Olson, Governor's Committee on Disability Issues and Employment.