

# HOUSE BILL REPORT

## 2SSB 5459

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**As Passed House - Amended:**  
May 25, 2011

**Title:** An act relating to services for people with developmental disabilities.

**Brief Description:** Regarding services for people with developmental disabilities.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Kline, Keiser, Regala and McAuliffe).

**Brief History:**

**Committee Activity:**

Ways & Means: 5/23/11 [DPA].

**First Special Session**

**Floor Activity:**

Passed House - Amended: 5/25/11, 63-33.

**Brief Summary of Second Substitute Bill  
(As Amended by House)**

- Prohibits persons under the age of 16 from admission to a Residential Habilitation Center (RHC) and allows short-term crisis or respite admissions only for persons between the ages of 16 and 21.
- Closes Frances Haddon Morgan Center by December 31, 2011, and requires a person-centered approach to transition existing residents out of the institution.
- Freezes admissions to Yakima Valley School except for limited, short-term admissions for crisis and respite, and requires that when the resident population has reached 16 individuals, the institution will cease to operate as a RHC.
- Maintains the current operation of 12 crisis stabilization beds and respite beds at Yakima Valley School and requires these beds to stay operational after the institution no longer operates as a RHC.
- Requires the Department of Social and Health Services (DSHS) to establish State Operated Living Alternatives (SOLAs) for clients who are transitioning out of RHCs and upon federal approval, to convert two cottages at both Frances Haddon Morgan and Yakima Valley School into SOLAs that will operate after these institutions close.

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*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.*

- Requires the DSHS to offer RHC employees opportunities to work in the SOLAs as they are established.
- Requires any savings achieved by the closure of Frances Haddon Morgan to be used for additional community resources including state-staffed crisis and respite services.
- Establishes up to eight state-staffed crisis stabilization beds and up to eight respite beds throughout the state.
- Requires the DSHS to report, beginning November 1, 2012, and every year thereafter, on client and guardian satisfaction, stability of placement and provider turnover, and safety and health outcomes.
- Establishes a legislative task force to make recommendations on the long-term need for RHC capacity; develop a plan for efficient consolidation of institutional capacity; recommend strategies for the use of surplus property that results from the closure of RHCs; and provide strategies for reframing the mission of Yakima Valley School.

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## HOUSE COMMITTEE ON WAYS & MEANS

**Majority Report:** Do pass as amended. Signed by 15 members: Representatives Hunter, Chair; Darneille, Vice Chair; Hasegawa, Vice Chair; Orcutt, Assistant Ranking Minority Member; Carlyle, Cody, Dickerson, Hinkle, Hudgins, Kagi, Kenney, Ross, Seaquist, Springer and Sullivan.

**Minority Report:** Do not pass. Signed by 11 members: Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Chandler, Haigh, Haler, Hunt, Ormsby, Parker, Schmick and Wilcox.

**Staff:** Carma Matti-Jackson (786-7140).

### **Background:**

The Division of Developmental Disabilities within the Department of Social and Health Services (DSHS) provides support and services to persons with developmental disabilities who qualify for Medicaid. Services include case management, needs assessments, support in activities of daily living, employment, and rehabilitative therapies. The DSHS also provides medical, dental, and pharmaceutical services to Medicaid eligible persons with developmental disabilities. Services may be provided in three different service settings: in the client's own home; in a community residential home; or in a residential habilitation center.

The state operates five institutions referred to as residential habilitation centers (RHCs) which are established in statute to provide services and housing for persons with developmental disabilities: Rainier School in Buckley; Lakeland Village in Medical Lake; Fircrest School in Shoreline; Frances Haddon Morgan Children's Center in Bremerton; and

Yakima Valley School in Selah. Approximately 900 individuals currently reside in RHCs. Most of these are permanent residents, but some clients are in the RHCs for short-term or respite stays. Yakima Valley School currently has 12 short-term beds. Of the residents living in RHCs, there are 36 individuals under the age of 21.

Under the federal Medicaid statute, Title XIX, a person with a developmental disability has an entitlement to be placed in a RHC. A person with a developmental disability, or their representative, may waive the right to be placed in a RHC and choose to receive services in the community instead, through a home and community-based waiver. Community-based services are provided through a number of programs to approximately 20,000 clients. These services are designed as alternatives to institutions for eligible individuals with developmental disabilities who either live with family members, in rented housing, or in contracted or licensed residential housing in the community. Besides the individuals who receive some services either through RHCs or in the community, an estimated 14,000 eligible clients do not receive any paid services due to lack of available resources.

The system of care in Washington for persons with developmental disabilities has shifted away from institutional care and towards home and community-based care. The peak capacity for clients served in RHCs was over 4,000 residents, however, this was reached when the infrastructure was ward-type housing. Currently, RHCs are designed in cottages that house about eight residents in each cottage. In 1983 the first home and community-based waiver was implemented for developmental disabilities. As of 1990, 44 percent of all out-of-home placements were in RHCs. Currently, 14 percent of all out-of-home placements are in RHCs.

The DSHS has developed plans to close two of the five RHCs: Frances Haddon Morgan, by June 30, 2011, and Yakima Valley School by December 31, 2012. The closure of these facilities is included in the Governor's proposed budget for the 2011-2013 biennium. The plan would reduce the total number of residents served in RHCs to about 800. All 53 residents of Frances Haddon Morgan would be relocated to either a community residential placement, such as a State-Operated Living Arrangement (SOLA) or to one of three remaining RHCs.

The plan includes the implementation of three new SOLAs, and the DSHS is currently working with Fircrest, Lakeland, and Rainier to accommodate residents leaving Frances Haddon Morgan who do not want a community placement.

It is planned that the first 10 residents leaving Yakima Valley School will do so by the end of 2011. The proposal includes the establishment of crisis stabilization programs for children and adults using, where possible, institutional staff who will no longer be employed at the closed institutions.

#### **Summary of Amended Bill:**

Persons under the age of 16 will no longer be admitted to Residential Habilitation Centers (RHC). Persons between the age of 16 and 21 may be admitted for short-term respite or crisis stabilization services.

Crisis stabilization services are defined as temporary intensive services that typically do not exceed 60 days. Respite services are defined to mean relief for families and caregivers to include 24-hour, consecutive days of care that typically do not exceed 90 days.

The Department of Social and Health Services (DSHS) is required to close Frances Haddon Morgan by December 31, 2011, and, in doing so, it must use a person-centered approach for developing a discharge plan and assessing each resident's needs. Employees of the RHC are to be included in the transition planning. The DSHS is instructed to engage in a family-to-family mentoring program for persons moving out of the RHC. Residents who leave a RHC must be offered a "right to return" to a RHC during the first year following their move. A work group is convened to review the quality assurance oversight for the persons who have moved out of a RHC and to provide feedback on the transition process. Subject to federal approval, the DSHS is required to establish two state-operated living alternatives on the campus of Frances Haddon Morgan Center.

Admissions to Yakima Valley School are frozen with the exception of limited, short-term admissions for crisis or respite. The DSHS is required to maintain 12 crisis and respite beds that currently exist at Yakima Valley School and to keep these beds operational after the institution ceases to operate as a RHC. When the resident population of the institution reaches 16 individuals, two cottages are converted to State-Operated Living Alternatives (SOLAs) and the institution ceases to operate as a RHC.

Mobile specialty teams are established throughout the state to provide treatment to clients with developmental disabilities including therapies and specialized nursing.

The DSHS shall establish SOLAs for residents who are transitioning out of RHCs into the community and shall offer RHC employees opportunities to work in them. A legislative task force is established to consider future uses of the RHCs. The task force will make recommendations on the long-term need for RHC capacity, whether other RHCs should close and, if so, provide a recommended timeline, and strategies for reframing the mission of Yakima Valley School that include a plan to end its designation as a RHC and to convert no less than two houses to SOLAs. A report is due to the Legislature by July 1, 2013.

The DSHS is required to establish up to eight crisis beds and up to eight respite beds throughout the state based on funding provided in the State Omnibus Operating Appropriations Act.

Beginning November 1, 2012, and annually thereafter, the DSHS must report on its progress toward meeting the requirements of this act, including: client and guardian satisfaction; stability of placement and provider turnover; and safety and health outcomes.

Any savings achieved by the bill are used to provide services to persons with developmental disabilities who are currently receiving limited services and to extend services including crisis stabilization and respite care.

**Appropriation:** None.

**Fiscal Note:** Preliminary fiscal note available.

**Effective Date of Amended Bill:** This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 7, relating to residential habilitation center transition planning for residents, which takes effect on June 30, 2011.

**Staff Summary of Public Testimony:**

(In support) This bill is about the need for streamlining services for persons with developmental disabilities, not the closure of institutions. There are many individuals who qualify for services, but get nothing. The idea is to free up funds over time and to allow the 13,600 people who receive no services to begin to receive something. Residential Habilitation Centers (RHCs) house 890 people at this time, but they are designed to hold 4,400. Low utilization leads to high maintenance costs in the RHCs. The definition of "community residential" is broad and includes many choices such as State-Operated Living Arrangements (SOLAs), and people owning or renting their own homes. The money needs to follow individuals. Frances Haddon Morgan Center would close under this legislation and Yakima Valley School would close to new admissions. When savings accrue from these two actions, the savings would be used to provide services to the 13,600 on a waiting list. The Governor has pursued legislation to consolidate RHCs and this proposal is different than the Governor's proposal, but she is supportive of it. The bill would improve if it included some language that allows the Department of Social and Health Services (DSHS) to retain flexibility and if there was clarifying language on the term "downsize." This is a good compromise because it does not say whether Washington should have RHCs or not, but just makes fewer of them. This honors family choice. It is possible to have specialization of services in the community that are not found in RHCs. People who have lived in RHCs want to see them closed. The person-centered planning is appreciated. Rainier School should also be closed. The institutional model is outdated. Institutions were created in Washington in the late 1800s and this was the service policy until the 1970s. Children should not be placed in institutions. Choosing to keep your loved one in their own home or their own community has proven to be the best option. Parents should be entitled to keep their children at home and deserve the supports to help them do so. Institutional placements do not allow for a normal family life. People with developmental disabilities are valuable members of the community and deserve a good life that interacts with the rest of the world. Many people with developmental disabilities have successfully moved out of the institutions. It is important that resources are made available for community placements as people choose to move into the community. Fourteen states have closed RHCs and do not serve anyone in institutions. Washington has a higher utilization rate of RHCs than other states. In the community it is possible for persons with developmental disabilities to work and have a good life where they can be around parents, coworkers, friends, and others who are supportive.

(With concerns) It would be preferable that all the RHCs remain open, but this approach is better than other approaches in the past. Before closing RHCs the development of SOLAs in the community should happen. It would be preferable that Frances Haddon Morgan remains open, but moving the deadline for closure to December 31, 2011, helps allow time for families to transition. Changes should not be made to Yakima Valley School unless they are based off of task force recommendations.

(Opposed) The RHCs do an excellent job for the profoundly disabled persons at a competitive cost to the state. This bill violates requirements for federal funding. Institutional

care must be available. The bill denies admission for people below a certain age. The state has violated these rules before, and federal government has forced the age restriction/prohibition to be removed. There is concern for the health and safety of residents in the community. The SOLAs only have personal care. The reason the census at the RHC has decreased over the years is because the DSHS denies admission to them. Case workers are told they are not allowed to refer persons to the RHCs. The DSHS has mismanaged money and there are quality control issues in community care. Families are looking for community placement; however, when they receive it some clients have to be removed from their placement due to lack of supervision and other issues. Consolidation means closure. Many people in RHCs are living better lives because they receive appropriate treatment. No money will be saved under this bill. The biggest mistake is when people are put in a community setting and they do not belong there. Some people thrive, but others need more intensive care. Most RHC clients forced to move in the last 20 years have generally moved to other RHCs. This reduces safety and services, but does not increase savings. The DSHS does a poor job of quality assurance and is operating under its third temporary extension for its quality assurance review. Many people want to move to supported living or community living but are looking for proper quality assurance before moving out of a RHC. If many individuals move into Fircrest, then costs will increase because it is the most expensive RHC in the state. Closing Frances Haddon Morgan is premature without building an infrastructure of SOLAs throughout the state. The restriction on the placement of children in RHCs is problematic, since the most difficult cases are refused service in the community. There are 13,600 unserved individuals, but their level of acuity is not known because they have not been evaluated. People in the RHCs choose to live their lives there.

**Persons Testifying:** (In support) Senator Kline, prime sponsor; Andi Smith, Office of the Governor; Susan Dreyfus, Department of Social and Health Services; Chad Higman, Puget Sound Residential Services; Emily Rogers, Self Advocates in Leadership; Cherie Tessier, Passport for Change; Sue Elliott and Diana Stadden, The Arc of Washington State; Donna Patrick, Developmentally Disabled Council; Eric Matheson; Kyle Matheson; Lance Morehouse and Margaret Lee Thompson, The Arc of King County; Marcie Taylor, Community Employment Alliance; and Krista Milhofer, Morningside.

(With concerns) David Lord, Disability Rights Washington; Marcy Johnsen, Service Employees International Union Healthcare 1199NW; and Greg Devereux, Washington Federation of State Employees.

(Opposed) Cheryl Felak, Because We Care; Jeanie Barrett; Paul Strand, Action DD; Judith Gibbs, Lakeland Village Association; Linda Knighton, Progressive Party; Bill Anderson; Terri Anderson, Friends of Fircrest, Voice of the Retarded; and Julianne Moore, Washington Federation of State Employees.

**Persons Signed In To Testify But Not Testifying:** None.