

HOUSE BILL REPORT

ESSB 6419

As Passed House:
March 6, 2020

Title: An act relating to implementation of the recommendations of the December 2019 report from the William D. Ruckelshaus center regarding residential habilitation center clients.

Brief Description: Concerning implementation of the recommendations of the December 2019 report from the William D. Ruckelshaus center regarding residential habilitation center clients.

Sponsors: Senate Committee on Human Services, Reentry & Rehabilitation (originally sponsored by Senators Keiser, Braun, Rolfes, Randall, Rivers, Dhingra, Darneille, Wilson, C., Saldaña and Salomon; by request of Office of the Governor).

Brief History:

Committee Activity:

Human Services & Early Learning: 2/25/20, 2/26/20 [DP];
Appropriations: 2/29/20 [DP].

Floor Activity:

Passed House: 3/6/20, 95-2.

Brief Summary of Engrossed Substitute Bill

- Requires the Developmental Disability Administration (DDA) to develop a plan to implement the 2019 report from the William D. Ruckelshaus Center regarding residential habilitation center clients and submit a preliminary plan and report to the Governor and the Legislature by November 1, 2020, and a final implementation plan and report by September 1, 2021.
- Establishes a joint executive and legislative task force to oversee the development of and to approve the DDA reports prior to submission.

HOUSE COMMITTEE ON HUMAN SERVICES & EARLY LEARNING

Majority Report: Do pass. Signed by 13 members: Representatives Senn, Chair; Callan, Vice Chair; Frame, Vice Chair; Dent, Ranking Minority Member; Eslick, Assistant Ranking Minority Member; McCaslin, Assistant Ranking Minority Member; Corry, Goodman, Griffey, Kilduff, Klippert, Lovick and Ortiz-Self.

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.

Staff: Luke Wickham (786-7146).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass. Signed by 31 members: Representatives Ormsby, Chair; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; Stokesbary, Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier, Chandler, Chopp, Cody, Corry, Dolan, Dye, Fitzgibbon, Hansen, Hoff, Hudgins, Kilduff, Kraft, Macri, Mosbrucker, Pettigrew, Ryu, Schmick, Senn, Springer, Steele, Sullivan, Sutherland, Tarleton, Tharinger and Ybarra.

Staff: Mary Mulholland (786-7391).

Background:

Developmental Disabilities Administration.

The Department of Social and Health Services (DSHS) Developmental Disability Administration (DDA) assists individuals with developmental disabilities and their families to obtain services and support based on individual preferences, capabilities, and needs. The DDA clients live in residential habilitation centers (RHCs), an institutional setting, as well as in the community.

Eligibility for DDA services depends on whether the client has a qualified developmental disability, has a functional need, and meets certain income and asset standards.

The services provided to clients are designed to promote everyday activities, routines, and relationships common to most citizens, and they include employment services and community access services, which are contracted with counties.

Residential Habilitation Centers.

The DSHS operates four RHCs for individuals with developmental disabilities:

- The Fircrest RHC in Shoreline supports approximately 190 long-term residents and includes both a nursing facility and an Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID).
- The Lakeland Village RHC in Medical Lake supports approximately 170 long-term residents and includes both a nursing facility and an ICF/IID.
- The Rainier School RHC in Buckley supports approximately 150 long-term residents and includes an ICF/IID.
- The Yakima Valley School RHC supports approximately 50 long-term residents in a nursing facility and provides planned respite services and crisis stabilization stays.

The ICF/ID facilities are offered as an option to Medicaid recipients that meet the ICF/IID level of care criteria. In addition to meeting the level of care criteria, to be eligible for an ICF/IID, an individual's need for active treatment in an ICF/IID must arise from an intellectual disability. Federal law requires that ICF/IID services be provided to individuals needing and receiving active treatment services. Active treatment is a continuous, aggressive, and consistently implemented program of specialized and generic treatment, and health or related services directed toward helping the client function with as much self-determination and independence as possible. Active treatment does not include services to

maintain generally independent clients who are able to function with little supervision or in the absence of a continuous active treatment program.

Nursing facilities provide 24-hour nursing care to aging individuals and individuals with developmental disabilities.

Supported Living Services.

Some clients of the DDA receive supported living services. These supported living services are provided to clients in the client's own home. Clients in group homes receive the same services as supported living but live in a facility that is licensed as an assisted living facility or adult family home. The DDA contracts with supported living providers for this service and may include support with engagement in community activities, self-advocacy, building relationships, finances, shopping, menu planning and cooking, medication management, medical appointments, personal hygiene, and daily living activities.

2019 William D. Ruckelshaus Center Report.

The 2019-21 State Omnibus Operating Appropriations Act required that the DSHS contract with the William D. Ruckelshaus Center (Ruckelshaus Center) or other neutral third party to continue the facilitation of meetings and discussions about how to support appropriate levels of care for RHC clients based on the clients' needs and ages.

The Ruckelshaus Center is a joint effort of Washington State University (WSU) and the University of Washington (UW) created to foster collaborative public policy in Washington and the Pacific Northwest. It is hosted and administered at a WSU Extension and hosted at the UW by the Daniel J. Evans School of Public Policy and Governance in Seattle. The Ruckelshaus Center was contracted to facilitate meetings and discussions, and the 2019 Ruckelshaus Center report based on these meetings was completed in December 2019.

The 2019 Ruckelshaus Center report included the following recommendations regarding community residential services:

- improve case management ratios;
- assess options to expand forecast-based maintenance-level funding adjustments for DDA waiver services;
- expand state-operated community residential options;
- expand quality assurance efforts;
- conduct a rate study for contracted community residential service providers;
- assess options for an alternative, opt-in rate structure for contracted supported living; and
- increase funding for community-based overnight planned respite.

The 2019 Ruckelshaus Center report included the following recommendations regarding cross-system coordination:

- ask the Developmental Disabilities Council (DDC) to coordinate collaboration efforts;
- expand apprenticeship opportunities;
- continue reforming guardianship;
- prioritize funding housing for people with intellectual and developmental disabilities; and

- expand access to facility professionals.

The 2019 Ruckelshaus Center report included the following recommendations regarding state-operated nursing facilities:

- continue to invest in state-operated nursing facilities; and
- rebuild the nursing facility at Fircrest.

The 2019 Ruckelshaus Center report included the following recommendations regarding redesigning state-operated Intermediate Care Facilities (ICFs) to function as short-term crisis stabilization and intervention facilities:

- complete DDA assessments for ICF clients at least annually;
- clearly explain to ICF clients and their families the temporary nature of ICFs;
- expand the Family Mentor Project;
- begin transition planning immediately;
- establish transition teams; and
- leverage the resulting ICF capacity to meet crisis stabilization needs.

Summary of Bill:

Developmental Disability Administration Report.

The DDA must develop a plan to implement the 2019 report from the Ruckelshaus Center regarding RHC clients. The DDA must collaborate with the Office of Financial Management to create a financing plan to include as part of the recommendations.

A preliminary implementation plan must be included within a report to the Governor and the Legislature no later than November 1, 2020. A final implementation plan and report must be provided to the Governor and the Legislature no later than September 1, 2021. The final plan and report must describe the implementation plan, timeline, any recommended statutory changes, and a financing plan and expected fiscal impacts of operationalizing the recommendations.

Joint Executive and Legislative Task Force.

A joint executive and legislative task force (Task Force) is created to oversee the development of, and to approve, the preliminary and final reports prior to submission. The members of the Task Force must include:

- the Governor or his or her designee;
- one member from each of the two largest caucuses in the Senate;
- one member from each of the two largest caucuses in the House of Representatives; and
- the Secretary of the DSHS or his or her designee.

The Governor must convene and chair the Task Force. The DSHS must staff the Task Force. The Task Force must periodically meet with, provide updates to, and solicit feedback from stakeholders. The Task Force must make funds available to reimburse travel expenses for stakeholders who are participating who are not participating on behalf of an employer, governmental agency, or other organization, and allow for remote participation. The stakeholders must include, but are not limited to:

- the DDC;

- The Arc of Washington;
- Disability Rights Washington;
- family members or guardians of current RHC residents;
- individuals with developmental disabilities;
- the Washington Federation of State Employees;
- developmental disability self-advocacy organizations; and
- the Service Employees International Union.

The preliminary and final reports must advance the recommendations of the 2019 Ruckelshaus Center report to design and implement a modern, community-focused, person-centered, and individualized service delivery system for individuals who reside in RHCs, with an emphasis on investments in community residential service options, including services and options for those with complex behavioral needs.

In developing the implementation plan, the Task Force must review and consider the recommendations from the 2019 Ruckelshaus Center report.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony (Human Services & Early Learning):

(In support) The meetings organized by the Ruckelshaus Center provided 18 months to meet and discuss issues that generally provoke conflict and provided a collaborative process for improving services for individuals living in RHCs. The amendment added in the Senate is fine. There was not funding in the House budget because only the Senate bill passed the floor. This bill creates a Task Force to provide recommendations based on the Ruckelshaus Center report. This would provide a framework for creating a modern, person-centered system for individuals with developmental disabilities. This bill will bring together people from various perspectives. People with disabilities deserve to have the most fulfilling life possible. Institutions, state-operated living alternatives, and other community settings provide a safety net. It is true that there has not been enough support for individuals with developmental disabilities living in the community for the past few decades. Significant investment is required to implement the vision contemplated by this bill. Self-advocates should be involved in the Task Force and future discussions on these topics.

(Opposed) This bill contemplates funding and building a new nursing home on the grounds of Fircrest. Individuals can be supported in the community and do not need a new institutional facility. There are individuals who are well supported in the community with greater needs than those who are in institutions. The final two guideposts referred to in the bill related to building a new institution, and using institutions as respite should be removed from the bill. If those elements are removed from the bill, the bill would be a great step forward. Fircrest is an institution that restricts people's lives. Individuals can be much better supported in the community, even if they are in crisis. Crisis centers should be created in the

community, not in institutions. Individuals have been harmed while residing in institutions. Institutions should be closed and community resources should be funded. Individuals with acute needs should not be imprisoned. The community system has not been properly funded. Self-advocacy groups were not included in the meetings organized by the Ruckelshaus Center. There are currently individuals with developmental disabilities in hospitals and at least one in a jail because there are no other available options. Community options need to be expanded to serve these individuals. Building another institution will segregate individuals with developmental disabilities. Someday all institutions will be shut down. People deserve to connect with other people in the community and deserve to be happy.

Staff Summary of Public Testimony (Appropriations):

(In support) None.

(Opposed) The Task Force is a great idea, but some of the guideposts in the bill are concerning. It is taken as a given that the deteriorating Fircrest RHC Y-buildings will be replaced by a large nursing facility, rather than allowing the option of creating community nursing facility placements with appropriate supports. It is also taken as a given that crisis stabilization services would be available through the RHCs without any thought of community crisis stabilization services. Moderate amendments would open up more ideas. It is important that the Task Force listen to self-advocates and consider options outside of the RHCs.

Persons Testifying (Human Services & Early Learning): (In support) Senator Keiser, prime sponsor; Jeremy Norden-Paul, Washington State Developmental Disabilities Council; and Matt Zuvich, Washington Federation of State Employees.

(Opposed) David Lord, Disability Rights Washington; Ivanova Smith, Self Advocates in Leadership; Kelley Nesbitt; and Ros Damm.

Persons Testifying (Appropriations): David Lord, Disability Rights Washington.

Persons Signed In To Testify But Not Testifying (Human Services & Early Learning): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.