

ESSB 5268 - H COMM AMD
By Committee on Appropriations

ADOPTED 03/04/2022

1 Strike everything after the enacting clause and insert the
2 following:

"Part 1: Increase the Capabilities of Community Residential Settings and Services

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that the
6 recommendations in the December 2019 report, "Rethinking Intellectual
7 and Developmental Disability Policy to Empower Clients, Develop
8 Providers, and Improve Services" and recommendations in the 2021
9 preliminary report of the joint executive and legislative task force
10 established in chapter 317, Laws of 2020 are the product of
11 deliberations among a diverse and dedicated group of stakeholders and
12 are critical to advancing the continuum of care for individuals with
13 developmental disabilities.

14 (2) The legislature intends to continue efforts to expand
15 community residential settings and supports with the goals of
16 reducing the risk of federal divestment from Washington's
17 intermediate care facilities and delivering appropriate care to
18 clients of the developmental disabilities administration. To that
19 end, the legislature finds that a reliable network of community
20 providers is critical to meeting these goals and that community
21 residential rates must be established at appropriate levels to ensure
22 that individuals with intellectual and developmental disabilities
23 have community residential options that appropriately address their
24 needs and ensure stable, permanent outcomes.

25 (3) The legislature also finds that it is imperative that
26 internal processes within the department of social and health
27 services, including those that guide eligibility determinations,
28 assess hours of service delivery, and measure quality of providers,
29 be examined to ensure that these systems function in the most
30 streamlined and efficient manner with the goal of achieving a system
31 that has greater consistency with regard to expectations and

1 requirements of providers and that is structured to be more person-
2 centered and user-friendly at interface.

3 **Sec. 2.** RCW 43.88C.010 and 2021 c 334 s 975 are each amended to
4 read as follows:

5 (1) The caseload forecast council is hereby created. The council
6 shall consist of two individuals appointed by the governor and four
7 individuals, one of whom is appointed by the chairperson of each of
8 the two largest political caucuses in the senate and house of
9 representatives. The chair of the council shall be selected from
10 among the four caucus appointees. The council may select such other
11 officers as the members deem necessary.

12 (2) The council shall employ a caseload forecast supervisor to
13 supervise the preparation of all caseload forecasts. As used in this
14 chapter, "supervisor" means the caseload forecast supervisor.

15 (3) Approval by an affirmative vote of at least five members of
16 the council is required for any decisions regarding employment of the
17 supervisor. Employment of the supervisor shall terminate after each
18 term of three years. At the end of the first year of each three-year
19 term the council shall consider extension of the supervisor's term by
20 one year. The council may fix the compensation of the supervisor. The
21 supervisor shall employ staff sufficient to accomplish the purposes
22 of this section.

23 (4) The caseload forecast council shall oversee the preparation
24 of and approve, by an affirmative vote of at least four members, the
25 official state caseload forecasts prepared under RCW 43.88C.020. If
26 the council is unable to approve a forecast before a date required in
27 RCW 43.88C.020, the supervisor shall submit the forecast without
28 approval and the forecast shall have the same effect as if approved
29 by the council.

30 (5) A councilmember who does not cast an affirmative vote for
31 approval of the official caseload forecast may request, and the
32 supervisor shall provide, an alternative forecast based on
33 assumptions specified by the member.

34 (6) Members of the caseload forecast council shall serve without
35 additional compensation but shall be reimbursed for travel expenses
36 in accordance with RCW 44.04.120 while attending sessions of the
37 council or on official business authorized by the council.
38 Nonlegislative members of the council shall be reimbursed for travel
39 expenses in accordance with RCW 43.03.050 and 43.03.060.

1 (7) "Caseload," as used in this chapter, means:

2 (a) The number of persons expected to meet entitlement
3 requirements and require the services of public assistance programs,
4 state correctional institutions, state correctional noninstitutional
5 supervision, state institutions for juvenile offenders, the common
6 school system, long-term care, medical assistance, foster care, and
7 adoption support;

8 (b) The number of students who are eligible for the Washington
9 college bound scholarship program and are expected to attend an
10 institution of higher education as defined in RCW 28B.92.030;

11 (c) The number of students who are eligible for the Washington
12 college grant program under RCW 28B.92.200 and 28B.92.205 and are
13 expected to attend an institution of higher education as defined in
14 RCW 28B.92.030; and

15 (d) The number of children who are eligible, as defined in RCW
16 43.216.505, to participate in, and the number of children actually
17 served by, the early childhood education and assistance program.

18 (8) The caseload forecast council shall forecast the temporary
19 assistance for needy families and the working connections child care
20 programs as a courtesy.

21 (9) ((The)) By January 1, 2023, the caseload forecast council
22 shall present the number of individuals who are assessed as eligible
23 for and have requested a service through the individual and family
24 services waiver and the basic plus waiver administered by the
25 developmental disabilities administration as a courtesy. The caseload
26 forecast council shall be presented with the service request list as
27 defined in RCW 71A.10.020 to aid in development of this information.

28 (10) Beginning with the official forecast submitted in November
29 2022 and subject to the availability of amounts appropriated for this
30 specific purpose, the caseload forecast council shall forecast the
31 number of individuals who are assessed as eligible for and have
32 requested supported living services, a service through the core
33 waiver, an individual and family services waiver, and the basic plus
34 waiver administered by the developmental disabilities administration
35 as a courtesy. The caseload forecast council shall be presented with
36 the service request list as defined in RCW 71A.10.020 to aid in
37 development of this information.

38 (11) As a courtesy, beginning with the official forecast
39 submitted in November 2022, the caseload forecast council shall
40 forecast the number of individuals who are expected to reside in

1 state-operated living alternatives administered by the developmental
2 disabilities administration.

3 (12) The caseload forecast council shall forecast youth
4 participating in the extended foster care program pursuant to RCW
5 74.13.031 separately from other children who are residing in foster
6 care and who are under eighteen years of age.

7 ((11)) (13) The caseload forecast council shall forecast the
8 number of youth expected to receive behavioral rehabilitation
9 services while involved in the foster care system and the number of
10 screened in reports of child abuse or neglect.

11 ((12)) (14) Unless the context clearly requires otherwise, the
12 definitions provided in RCW 43.88.020 apply to this chapter.

13 ((13)) (15) During the 2021-2023 fiscal biennium, and beginning
14 with the November 2021 forecast, the caseload forecast council shall
15 produce an unofficial forecast of the long-term caseload for juvenile
16 rehabilitation as a courtesy.

17 NEW SECTION. **Sec. 3.** A new section is added to chapter 71A.18
18 RCW to read as follows:

19 (1) Expenditures for the individual and family services waiver
20 and the basic plus waiver administered under Title 71A RCW must be
21 considered by the governor and the legislature for inclusion in
22 maintenance level budgets beginning with the governor's budget
23 proposal submitted in December 2022 and funding for these
24 expenditures are subject to amounts appropriated for this specific
25 purpose. The department of social and health services must annually
26 submit a budget request for these expenditures.

27 (2) Beginning with the governor's budget proposal submitted in
28 December 2022 and within the department's existing appropriations,
29 the department of social and health services must annually submit a
30 budget request for expenditures for the number of individuals who are
31 expected to reside in state-operated living alternatives administered
32 by the developmental disabilities administration under Title 71A RCW.

33 NEW SECTION. **Sec. 4.** (1) With consideration to legislative
34 intent to expand community residential settings, and within the
35 department's existing appropriations, the department of social and
36 health services shall examine the need for community respite beds to
37 serve eligible individuals and stabilization, assessment, and
38 intervention beds to provide crisis stabilization services for

1 individuals with complex behavioral needs. No later than October 1,
2 2022, the department of social and health services must submit a
3 preliminary report to the governor and the legislature that estimates
4 the number of beds needed in fiscal years 2023 through 2025,
5 recommends geographic locations of these beds, provides options for
6 contracting with community providers for these beds, provides options
7 for utilizing existing intermediate care facilities to meet these
8 needs, includes the average length of stay for clients residing in
9 state-operated intermediate care facilities, and recommends whether
10 or not an increase to respite hours is needed. A progress report is
11 due on October 1, 2023, and a final report of this information shall
12 be submitted no later than October 1, 2024.

13 (2) This section expires January 1, 2025.

14 **NEW SECTION.** **Sec. 5.** (1) The department of social and health
15 services must contract with a private vendor for a study of medicaid
16 rates for contracted community residential service providers. The
17 study must be submitted to the governor and the appropriate
18 committees of the legislature no later than December 1, 2023, and
19 must include:

20 (a) A recommendation of rates needed for facilities to cover
21 their costs and adequately recruit, train, and retain direct care
22 professionals;

23 (b) Recommendations for an enhanced rate structure, including
24 when and for whom this rate structure would be appropriate; and

25 (c) An assessment of options for an alternative, opt-in rate
26 structure for contracted supported living providers who voluntarily
27 serve individuals with complex behaviors, complete additional
28 training, and submit to additional monitoring.

29 (2) This section expires January 31, 2024.

30 **NEW SECTION.** **Sec. 6.** (1) With consideration to legislative
31 intent to expand community residential settings and within the
32 department's existing appropriations, the department of social and
33 health services shall submit by October 1, 2022, a five-year plan to
34 phase-in the appropriate level of funding and staffing to achieve
35 case management ratios of one case manager to no more than 35
36 clients. The five-year plan must include:

1 (a) An analysis of current procedures to hire and train new staff
2 within the developmental disabilities administration of the
3 department of social and health services;

4 (b) Identification of any necessary changes to these procedures
5 to ensure a more efficient and timely process for hiring and training
6 staff; and

7 (c) Identification of the number of new hires needed on an annual
8 basis to achieve the phased implementation included in the five-year
9 plan.

10 (2) This section expires January 31, 2024.

11 NEW SECTION. **Sec. 7.** (1) Within the department's existing
12 appropriations, and no later than June 30, 2023, the department of
13 social and health services in collaboration with appropriate
14 stakeholders shall develop uniform quality assurance metrics that are
15 applied across community residential settings, intermediate care
16 facilities, and state-operated nursing facilities. The department of
17 social and health services must submit a report of these activities
18 to the governor and the legislature no later than June 30, 2023.

19 (2) This section expires July 31, 2023.

20 NEW SECTION. **Sec. 8.** (1) The joint legislative audit and review
21 committee shall:

22 (a) Review the developmental disabilities administration's
23 existing processes and staffing methodology used for determining
24 eligibility, assessing for eligibility, delivering services, and
25 managing individuals who are waiting for services;

26 (b) Review best practices from other states regarding eligibility
27 determination, eligibility assessment, service delivery, management
28 of individuals who are waiting for services, and staffing models; and

29 (c) Identity options for streamlining the eligibility,
30 assessment, service delivery, and management of individuals who are
31 waiting for services processes and the potential staffing impacts.

32 (2) The joint legislative audit and review committee shall report
33 its findings and recommendations to the governor and the appropriate
34 committees of the legislature by December 1, 2024.

35 (3) This section expires January 31, 2025.

Part 2: Improve Cross-System Coordination

1 NEW SECTION. **Sec. 9.** An individual's disability will often
2 overshadow other medical or functional needs which can result in
3 missed connections and poor outcomes. It is the intent of the
4 legislature that cross-system coordination involving individuals with
5 intellectual and developmental disabilities be improved to ensure
6 that these individuals receive the appropriate types of services and
7 supports when they are needed to adequately address mental health
8 conditions, medical conditions, individual preferences, and the
9 natural aging process.

10 NEW SECTION. **Sec. 10.** (1) Within the department's existing
11 appropriations, the department of social and health services shall
12 work with the developmental disabilities council to:

13 (a) Coordinate collaboration efforts among relevant stakeholders
14 to develop and disseminate best practices related to serving
15 individuals with co-occurring intellectual and developmental
16 disabilities and mental health conditions;

17 (b) Work with Washington state's apprenticeship and training
18 council, colleges, and universities to establish medical, dental,
19 nursing, and direct care apprenticeship programs that would address
20 gaps in provider training and overall competence;

21 (c) Devise options for consideration by the governor and the
22 legislature to prioritize funding for housing for individuals with
23 intellectual and developmental disabilities when a lack of affordable
24 housing is the barrier preventing an individual from moving to a
25 least restrictive community setting; and

26 (d) Coordinate collaboration efforts among relevant stakeholders
27 to examine existing law with regard to guardianship and protective
28 proceedings and make any necessary recommendations for changes to
29 existing law to ensure that guardianship or other protective
30 proceedings are designed to provide individuals with intellectual and
31 developmental disabilities with the decision-making support they
32 require to live as independently as possible in the least restrictive
33 environment, including consideration of mechanisms that enable
34 regular payment for services rendered by these legal representatives
35 when appropriate.

36 (2) Within the department's existing appropriations, the
37 department of social and health services shall work with the health
38 care authority and Washington state's managed care organizations to
39 establish the necessary agreements for intellectual and developmental

1 disabilities clients who live in the community to access intermediate
2 care facility-based professionals to receive care covered under the
3 state plan. The department of social and health services must
4 consider methods to deliver these services at mobile or brick-and-
5 mortar clinical settings in the community.

6 (3) No later than December 1, 2022, the department of social and
7 health services shall submit a report describing the efforts outlined
8 in subsections (1) and (2) of this section and any recommendations
9 for policy or fiscal changes to the governor and the legislature for
10 consideration in the 2023 legislative session.

11 (4) This section expires January 31, 2023.

12 **Part 3: Redesign State-Operated Intermediate Care Facilities to**
13 **Function as Short-Term Crisis Stabilization and Intervention**

14 NEW SECTION. **Sec. 11.** It is the intent of the legislature that
15 intermediate care facilities be redesigned from long-term care
16 settings to settings that support short-term crisis stabilization and
17 intervention and that, in order to achieve stable, permanent
18 placements in the least restrictive settings possible, an
19 infrastructure of procedures be developed to ensure that individuals
20 placed in intermediate care settings remain in that setting no longer
21 than is absolutely necessary.

22 NEW SECTION. **Sec. 12.** (1) Within the department of social and
23 health services' existing appropriations, the developmental
24 disabilities administration must develop procedures that ensure that:

25 (a) Clear, written, and verbal information is provided to the
26 individual and their family member that explains:

27 (i) That placement in the intermediate care facility is
28 temporary; and

29 (ii) What constitutes continuous aggressive active treatment and
30 its eligibility implications;

31 (b) Discharge planning begins immediately upon placement of an
32 individual within the intermediate care facility and that the
33 individual and their family member is provided clear descriptions of
34 all placement options and their requirements;

35 (c) When stabilization services are available in the community,
36 the individual is presented with the option to receive those services

1 in the community prior to being offered services in a state-operated
2 intermediate care facility; and

3 (d) When the individual has not achieved crisis stabilization
4 after 60 consecutive days in the state-operated intermediate care
5 facility, the department of social and health services must convene
6 the individual's team of care providers including, but not limited
7 to, the individual's case manager, the individual's community-based
8 providers, and, if applicable, the individual's managed care
9 organization to review and make any necessary changes to the
10 individual's care plan.

11 (2) Subject to funding appropriated specifically for this
12 purpose, the department of social and health services must expand the
13 number of family mentors and establish peer mentors to connect each
14 client in an intermediate care facility with a mentor to assist in
15 their transition planning.

16 (3) Subject to funding appropriated specifically for this
17 purpose, the department of social and health services must make every
18 effort to ensure the individual does not lose their community
19 residential services while the individual is receiving stabilization
20 services in a state-operated intermediate care facility. The
21 department of social and health services must:

22 (a) Work with community residential service providers to provide
23 a 90-day vacancy payment for individuals who are transferred from the
24 community residential service provider to a state-operated
25 intermediate care facility for stabilization services; and

26 (b) Utilize client resources or other resources to pay the rent
27 for individuals who are facing eviction due to failure to pay the
28 rent caused by the transfer to a state-operated intermediate care
29 facility for stabilization services.

30 (4) No later than November 1, 2022, the department of social and
31 health services must submit a report describing the efforts outlined
32 in subsections (1) through (3) of this section and make any necessary
33 recommendations for policy or fiscal changes to the governor and the
34 legislature for consideration in the 2023 legislative session.

35 (5) This section expires January 31, 2023.

36 NEW SECTION. **Sec. 13.** If specific funding for the purposes of
37 this act, referencing this act by bill or chapter number, is not

1 provided by June 30, 2022, in the omnibus appropriations act, this
2 act is null and void."

3 Correct the title.

EFFECT: Requires the Department of Social and Health Services to report in years 2022 through 2024 to the Governor and the Legislature on the average length of stay for clients residing in state-operated intermediate care facilities.

Modifies dates by which various activities and reports are due.

Makes other technical and clarifying language changes.

Renders the bill null and void if funding is not provided in the 2022 supplemental operating budget.

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