

SENATE BILL REPORT

SB 5864

As of March 19, 2017

Title: An act relating to ending homelessness.

Brief Description: Concerning the goal of ending homelessness.

Sponsors: Senator Miloscia.

Brief History:

Committee Activity: Ways & Means: 3/16/17.

Brief Summary of Bill

- Expands mandated reporter requirements to street youth services staff and people who work with children.
- Requires the Department of Social and Health Services to locate unaccompanied homeless children and track specific information, subject to appropriation.
- Mandates that a parent or legal guardian who knowingly fails to report to law enforcement that a child in their care has been missing for more than 48 hours is guilty of a misdemeanor.
- Makes camping on public property illegal.
- Preempts homeless encampments.
- Revises the Homeless Housing and Assistance Act.
- Restructures the allocation of document recording surcharge fees.
- Extends the increased Homeless and Housing Assistance Act surcharge to 2022.
- Provides appropriations for specific programs to implement a quality management award system.
- Appropriates funds to the State Auditor for the purpose of an audit determining the effectiveness and efficiency of the state homeless programs.

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.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Daniel Masterson (786-7454)

Background: Department of Social and Health Services (DSHS). The DSHS was established in 1970 and was created by merging of a number of agencies. The DSHS consists of seven program area administrations including the Children's Administration (CA). The CA responds to allegations of abuse and neglect, offers child welfare services to families, and licenses foster homes, among other things.

The *Braam vs. State of Washington* lawsuit was filed in August 1998 on behalf of a class of foster children who had three or more placements while in foster care. The lawsuit alleged that the DSHS does not provide constitutionally required care to foster children. A settlement agreement was reached and approved by the court in November 2004. The goal of the settlement agreement was to improve the conditions and treatment of children in the custody of CA. In response to the Braam Settlement, DSHS developed a process to locate children missing from care.

The Division of Licensed Resources (DLR) within CA was established by executive order to improve the health and safety of children in out-of-home care, to strengthen monitoring and licensing of all licensed care resources, and to separate regulatory oversight from placement activities.

Mandated Reporters. Mandatory reporting laws require certain people to report suspected child abuse or child neglect to the DSHS or law enforcement. Practitioners, medical examiners, law enforcement officers, professional school personnel, registered or licensed nurses, social service counselors, psychologists, pharmacists, the Department of Early Learning employees, licensed or certified child care providers, juvenile probation officers, placement and liaison specialists, responsible living skills program staff, the DSHS employees, HOPE center staff, the Office of the Family and Children's Ombudsman (Ombuds) employees, any volunteers in the Ombuds' office, or host home providers are all examples of mandated reporters.

Upon suspecting child abuse or child neglect, a mandated reporter must make a report within 48 hours. Failing to report suspected child abuse or child neglect within 48 hours is considered a gross misdemeanor.

Office of Homeless Youth Prevention and Protection Programs (OHY). In 2015, the Legislature created the OHY within the Department of Commerce (Commerce). The OHY is responsible for leading efforts to coordinate a spectrum of funding, policy, and practice efforts related to homeless youth with a stated goal of preventing state systems from discharging youth and young adults into homelessness. Additionally, the OHY was authorized to provide the management and oversight of HOPE Centers, Crisis Residential Centers (CRCs), street youth services, and the Independent Youth Housing Program.

- The five stated goals of the OHY are stable housing, family reconciliation, permanent connections, education and employment, social and emotional well-being for youth and young adults.

- The OHY is to consult with an advisory committee, which consists of 12 members; comprised of advocates, at least two legislators, at least two parent advocates, at least one representative from law enforcement, service providers, and other stakeholders knowledgeable in the provision of services to homeless youth and young adults, including the prevention of youth and young adult homelessness, the dependency system, and family reunification. The members of the advisory committee must be appointed by the Governor, except for the Legislators who must be appointed by the Speaker of the House of Representatives and the President of the Senate.
- HOPE Centers provide temporary residential placements for street youth under the age of 18. Youth may self-refer to a HOPE Center for services, and entering a center is voluntary. While residing in a HOPE Center, youth undergo a comprehensive assessment in order to develop the best plan for the youth.
- The CRCs are short-term, semi-secure facilities for runaway youth and adolescents in conflict with their families. Youth cannot remain in a CRC more than 15 consecutive days. Counselors at a CRC work with the family to resolve the immediate conflict and develop better ways of dealing with the conflict in the future. DSHS is responsible for licensing CRCs.
- Street youth services fund outreach to street youth to connect them to shelter and services.
- The Independent Youth Housing Program provides rental assistance and case management services to eligible youth, ages 18 to 22, who have aged out of the foster care system.

Homeless Management Information System (HMIS). Commerce oversees Washington's HMIS. The HMIS is used by state and federally funded homeless and housing service providers to collect and manage data gathered during the course of providing housing assistance to people experiencing homelessness and to households at-risk of losing their housing. The purpose of HMIS is to provide information on the number of individuals experiencing homelessness in the state. Homeless persons may opt-in to provide their personally identifying information to HMIS.

State Preemption. State preemption of a subject of law occurs when the Legislature has determined that it will regulate a field of law and that local control over that subject is not permitted. For example, the state of Washington has preempted the field of firearms regulation and setting penalties for violations of the controlled substances act; for those subjects local governments may only enact laws and ordinances that are authorized by and consistent with state law.

Homeless Housing and Assistance Act (Act). The Legislature enacted the Act in 2005, with the goal of reducing homelessness by 50 percent statewide and in each county by 2015. Commerce, with the support of the Interagency Council on Homelessness and the Affordable Housing Advisory Board, is responsible for preparing and publishing a ten-year homeless housing strategic plan with statewide goals and performance measures, and providing biennial progress reports to the Governor and the Legislature. Local areas must also have ten-year plans that are substantially consistent with the state plan.

Commerce conducts an annual homeless census or count, often referred to as the Point in Time Count where sheltered and unsheltered homeless persons are counted on a specific evening. The 2016 Point in Time Count resulted in counting 20,844 homeless individuals.

Homeless Assistance Programs. Commerce manages a range of homeless assistance, prevention, and housing programs. Commerce programs include the following:

- the Housing and Essential Needs Program which provides rent assistance and essential needs—e.g. toiletries, bus tokens—for persons with a temporary disability who are homeless or at imminent documented risk of becoming homeless;
- the Consolidated Homeless Grant which provides grants for county governments and other designated entities for prevention services, emergency shelters, transitional housing and temporary rent assistance for people facing homelessness; and
- the OHY.

Homeless Assistance Program Funding. State homeless assistance programs are funded from a combination of the state General Fund and surcharges on documents recorded at county auditor offices. Revenue from these surcharges are split between the state and counties.

- The \$10 Affordable Housing for All surcharge was authorized by the Legislature in 2002. The county is allowed to keep up to 5 percent of the \$10 surcharge for the collection, administration, and local distribution of the funds. Of the remaining funds, 40 percent is transmitted into the state Affordable Housing for All Account administered by Commerce for extremely low-income households. The remaining revenue is retained by the counties for low-income housing programs and projects.
- The local homeless housing and assistance surcharge was first authorized in 2005 at \$10. The surcharge has increased to \$40 and will remain at that amount until June 30, 2019. The county auditor retains 2 percent; 60 percent goes to the county for homeless housing and assistance, of which 6 percent may be used by the county for administrative costs. Remaining funds are deposited into the Home Security Fund account. Commerce may use 12.5 percent for administrative fees and the remaining 87.5 percent is used to provide housing and shelter for homeless people and fund the homeless housing grant program. At least 45 percent of Home Security Account funds must be used for private rental housing payments; however, some uses such as youth prevention and protection programs are exempted from this requirement.
- Another local homeless housing and assistance surcharge was authorized in 2007 at \$8. The county auditor retains 90 percent of the funds for the county, of which 6 percent may be used by the county for administrative costs, and the remainder for the county's local homeless housing plan. The remaining funds are deposited into the state Home Security Fund account for Commerce to use for costs of creating and updating the statewide homeless housing strategic plan, measuring performance, providing technical assistance to local governments, and managing the homeless housing grant program. Funds may be also be used for housing and shelter for homeless people.

Washington State Quality Award (WSQA) Program. The WSQA program recognizes organizations that have implemented and achieved exceptional quality performance. The WSQA program is administered by a board of directors and volunteers operating as a non-profit organization. The WSQA program receives applications from organizations seeking feedback and recognition for significant performance efforts. Through an assessment process

of evaluation and scoring, the WSQA program decides whether to give the Washington State Quality Award to the organization.

Any local government receiving more than \$3.5 million during any previous any calendar year from the document recording surcharge funds collected pursuant to RCW 36.22.178, 36.22.179, and 36.22.1791 must apply to the WSQA program or similar Baldrige assessment organization for an independent assessment of its quality management, accountability, and performance system. After submitting an application, a local government is required to reapply at least every two years.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute): Part I - Children. It is the stated goal of the Legislature that there are to be no runaway or unaccompanied youth in Washington by July 1, 2018.

- Street youth services staff and any person who works with children are added to list of mandated reporters.
- Parents and legal guardians who knowingly fail to report to law enforcement that their child has been missing for more than 48 hours is guilty of a misdemeanor.
- DLR is to conduct biennial inspections of facilities licensed by the division that provide shelter to unaccompanied homeless youth. The results of these inspections are to be provided to the OHY and the Legislature.
- Subject to appropriation, DSHS is to develop a process to locate unaccompanied homeless children with the primary goal of returning the child to his or her parents/ legal guardian. This process includes locating dependent children missing from care. DSHS is to track a specific information which is to be reported to the Legislature on a monthly basis. The information to be tracked and includes but is not limited to: reports of unaccompanied homeless youth on a daily basis, the living situation of the youth, why the child ran away from home, why the parent believes the child ran away from home, and whether a parent refuses to maintain custody of the child.

Part II - Office of Homeless Youth Prevention and Protection Programs (OHY). By July 1, 2108, no youth shall be discharged from a public system of care into homelessness. The goals of the OHY are to provide stable housing, increase family reconciliation, and improve social and emotional well-being for homeless youth. Grants made by the OHY shall only fund housing or family reconciliation. No funds may be used for street youth services. The Independent Youth Housing Program is no longer administered by the OHY. The advisory committee is restructured to include four legislators and eight additional members as appointed by the Legislature.

- As of August 1, 2017, all grants must require outcome measures that demonstrate that services provided either reduces unaccompanied youth homelessness or increases family reunification, or both. If a grant recipient can not demonstrate these goals are being accomplished, the recipient is not eligible to receive a grant through the OHY.
- By December 1, 2017, the OHY is to report to the Legislature its status on reaching its measureable goals, and continue to provide such reporting monthly thereafter.
- OHY's initial report to the Governor and Legislature is changed to an annual report due by December 1st of each year.
- By July 1, 2018 all services for minors are to be provided separately from adults.

Homeless Management Information System. Any person seeking services from a service provider that uses HMIS must provide their personally identifying information to that service provider. For service providers that utilize HMIS and receive public funding, providing personally identifying information is required in order to receive any services. Commerce is to develop a system to share personally identifying information with DSHS and local law enforcement. By December 1, 2018, Commerce is to develop a web-based system for WA HMIS that is updated daily.

Part III - Unlawful Camping and Homeless Encampments. It is unlawful for any person to camp on private property without the consent of the property owner. Camping on public property is only allowed where expressly provided for by law. A law enforcement officer is to cite or arrest a person for unlawful camping. A violation for unlawful camping is a misdemeanor.

Commerce is to develop and maintain a central information system updated daily with reports from homeless shelters regarding the availability of bed space. Law enforcement and local governments are to have access to this system in order to search for homeless shelter space or homeless encampments. Beginning December 1, 2017, and annually thereafter, Commerce is report the Legislature regarding recommendations for improvements to the central information system.

The state preempts the entire field of homeless encampments. Commerce may authorize homeless encampments within specific guidelines. Before authorizing an encampment, Commerce must provide neighborhood notification and local public hearings must be completed in conjunction with at least one neighborhood group, the local city council, and the local county council. Encampments in public parks and other critical areas are allowed only after a countywide public vote.

- By January 1, 2018, the ten largest cities in the state, as determined by Commerce, must identify on a map all the unauthorized campsites in that jurisdiction. The map is to be posted on that jurisdiction's and Commerce's website, updated daily.
- By July 1, 2018, the largest cities in each of the state's two most populous counties must authorize as many encampment spaces as necessary to house all of that city's homeless population and enforce unauthorized camping statutes.
- By January 1, 2019, all unauthorized encampments must be closed down or that jurisdiction must not receive any state funding for homeless programs.
- By July 1, 2019, all cities in the state's most populous county must authorize as many encampment spaces as necessary to house all of the city's homeless population.
- By July 1, 2020, the largest city in the state's third most populous county must authorize as many encampment spaces as necessary to house all of that city's homeless population.
- By July 1, 2021, any local government that duly enacts laws or ordinances permitting homeless encampments must authorize as many encampment spaces as necessary to house all of that local government's homeless population.
- All available encampment spaces must be listed on that local government's web site and be reported daily to Commerce. A local government that fails to provide adequate homeless encampment spaces must not receive any state funding for homeless programs.

- On a daily basis, a local government must report the following information to the department, as well as list the information on that local government's web site: the number of unauthorized encampments; the number of unauthorized encampments that are closed; the total number of people in unauthorized encampments, emergency shelters, and transitional housing, as well as the number of entry and exits into such housing; and the number of deaths in both authorized and unauthorized encampments.
- By January 1, 2024, there must not be any authorized or unauthorized encampments as there will be an adequate supply of housing eliminating the need for such encampments.
- The State Auditor must provide an annual certification to the state Legislature and State Board of Health that Commerce is compliant with the requirements set forth in this section

Part IV - Homeless Housing and Assistance Act Program and Funding. The Legislature concludes that state and local homelessness strategies require more frequent review and transparent reporting of spending and performance to improve the development of cost-effective programs and identification of best practices. Commerce's annual Point-in-Time census must collect data on specific subpopulations of the homeless. The state homeless housing strategic plan must be updated by July 1, 2018, and every five years thereafter. The plan must be coordinated with the OHY advisory committee and its strategies to reduce homeless youth.

The Point in Time Count is to include the following additional data regarding the number of: chronically homeless individuals and families, unaccompanied homeless youth, male and female veterans, adults with severe mental illness, adults with chronic substance abuse issues, adults with HIV/AIDS, senior citizens, victims of domestic violence, and an estimate of the number of homeless individuals that are not included in the census.

Commerce will create guidelines by December 1, 2017, for local governments to update their homeless housing plans by December 1, 2018, and every five years thereafter. Local plans must include a local homelessness reduction goal for the county and an implementation plan, including a more aggressive goal and plan for youth homelessness, to achieve the goal over the five-year plan period. Commerce may require changes in local plans to be eligible for state funding appropriated for homeless programs and may withhold funds and require changes if locals are not meeting performance goals.

Each February 1st, Commerce must provide an update on the state's homeless housing strategic plan and its activities for the prior fiscal year. The report must include, but is not limited to: (1) an assessment of the current condition of homelessness; (2) the state's performance in meeting its strategic plan goals; (3) the results of the annual homeless point-in-time census; (4) an analysis of current drivers of homelessness; and (5) the amount of federal, state, local, and private funds spent on homelessness assistance, categorized by funding source and major assistance types. The report must be posted on its website and links can be included to updated information.

Every February 1st, any local government receiving state funds for homeless assistance must provide an annual performance report on meeting the goals in its homeless housing strategic plan. The report must be posted on Commerce's website. Commerce must produce and

report on local government homelessness spending from all sources by project during the prior state fiscal year in a format similar to the Commerce's report under subsection. If a local government fails to report or provides an inadequate performance report, Commerce must take corrective action, including withholding state funding for homeless assistance until the report is remedied.

The Interagency Council on Homelessness must respond to all state and local legislative and policy recommendations included in the state and local ending homeless plans. The Council must annually present its strategy for addressing the issues raised to the Legislature and include a report on the actions taken to date that addresses these issues.

Revenue from document recording surcharges are revised. Revenue from the \$10 Affordable Housing for All surcharge and the \$40 surcharge are first split 40 percent to the state and 60 percent to the county. The county may use up to 6 percent of its funds for county collection and administrative costs. Of the \$8 surcharge, counties may use up to 6 percent of its funds for county collection and administrative costs. State annual reporting and auditing of document recording surcharge usage is changed to fiscal year and due dates are changed to align with due dates of annual performance reports.

The Homeless Housing and Assistance Act \$40 surcharge authorized by RCW 36.22.179 is extended to June 30, 2022.

During each calendar year in which moneys from the Home Security Fund are available, grants may only be awarded for programs directly related to addressing the root causes of homelessness, preventing homelessness, and collecting data and information on homeless individuals.

Any local government receiving any funds during any previous fiscal year from the document recording surcharge funds collected pursuant to RCW 36.22.178, 36.22.179, and 36.22.1791 must apply to the WSQA program or similar Baldrige assessment organization for an independent assessment of its quality management, accountability, and performance system.

Part VI - Appropriations. Up to \$50,000 is appropriated for the fiscal year ending June 30, 2018, from the state General Fund to Commerce to be distributed to five housing authorities to implement a quality management system and prepare and submit an application to the WSQA program by December 1, 2019. Up to \$50,000 is appropriated for the fiscal year ending June 30, 2018, from the state General Fund to Commerce to be distributed to five community action agencies to implement a quality management system and prepare and submit an application to the WSQA program by December 1, 2019. Up to \$200,000 is appropriated for the fiscal year ending June 30, 2019, and every two years thereafter, from the state General Fund to the State Auditor's Office for the purpose of an audit to determine the effectiveness and efficiency of the state homeless programs.

Appropriation: Sections 501, 502, and 503 have specific appropriations.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: We do not have control of unauthorized encampments in local communities. The goal of this bill is to put the state on a course to eliminate homelessness in unsafe encampments and to eliminate youth homelessness. State agencies and local governments discharge youth into homelessness. That shouldn't happen on our watch. This bill tries to get more accountability, create more authorized encampments, and get people who need it into treatment.

CON: This bill would have a negative fiscal impact on counties due to increased law enforcement and criminal justice costs from enforcing the new misdemeanors. There would also be increased costs for additional planning and a county-wide vote. The changes to the document recording fee allocation would also negatively impact county revenues. Federal law does not allow collection of personally identifiable information of domestic violence victims and the terms of federal grants prohibit the collection of personal information as a condition of receiving services. Forcing people to give information deters them from seeking help and can create a safety risk for domestic violence victims. Domestic violence is underreported and concerns with privacy are a major reason why. We're concerned that this bill changes the priorities of the Office of Homeless Youth and that DSHS locators would replace street youth services. Street youth services in King County helps build trust with homeless youth and helps move them toward stable housing. The criminalization of homelessness makes it harder for people to exit homelessness because criminal records follow people into the employment and housing arenas. We should look at how many people exit homelessness as a measure of program success, instead of the current number of homeless people. We're concerned about the publishing of the location of all authorized encampments for safety reasons. The denial of all state homeless dollars if any unauthorized encampments remain after 2019 is counterproductive. The new misdemeanors won't help reduce homelessness but will overwhelm local governments with new costs. About 20-25 percent of people who are homeless nationally have mental illness. The prohibition of camping would have the effect of criminalizing mental illness because of the delay many people experience when waiting for a competency evaluation in jail. This can be expensive for the state and local governments.

OTHER: Street youth services are important and similar to the locators expanded in the bill. There's agreement around measuring the street youth service outcomes. We should allow youth to voluntarily provide information to HMIS, but not require it as a condition of receiving services. Seattle is concerned about the financial burden the bill would create. Creating capacity for all homeless people in Seattle in low barrier shelters would cost \$59 million in startup costs and \$53 million in operating costs. The 2 percent of the document recording fee that goes to county auditors funds the systems counties use to collect the fee. It's like the oil in your car that keeps the machinery moving. County auditors receive about \$880,000 per year statewide for this document recording fee collection. There should be an exemption from the document recording fee for liens from water/sewer districts for delinquent fines. This is a fairness issue because the fee is applied differently for city-provided utilities.

Persons Testifying: PRO: Senator Mark Miloscia, Prime Sponsor.

CON: Juliana Roe, Association of Counties; Mark Ellerbrook, King County; Debbi Trosvig, Snohomish County; Tamaso Johnson, WA State Coalition Against Domestic Violence; Sylvia Fuerstenberg, Nexus Youth and Family; Bob Cooper, WA Defender Association & WA Association of Criminal Defense Lawyers; Michele Thomas, WA Low Income Housing Alliance; Elisabeth Smith, American Civil Liberties Union of Washington; David Lord, Disability Rights Washington.

OTHER: Laurie Lippold, Partners for Our Children; Lyset Cadena, City of Seattle; Monty Cobb, WA Assoc. of County Officials for County Auditors; Joe Daniels, WA Assn. of Sewer/Water Districts.

Persons Signed In To Testify But Not Testifying: No one.