

---

SENATE BILL 5705

---

State of Washington

58th Legislature

2003 Regular Session

By Senators Winsley, Thibaudeau, Carlson, Fraser and Shin; by request of Department of Services for the Blind

Read first time 02/07/2003. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to changing provisions on the department of  
2 services for the blind; amending RCW 74.18.010, 74.18.020, 74.18.050,  
3 74.18.060, 74.18.070, 74.18.090, 74.18.110, 74.18.120, 74.18.130,  
4 74.18.140, 74.18.150, 74.18.170, 74.18.180, 74.18.200, 74.18.210, and  
5 74.18.230; adding new sections to chapter 74.18 RCW; and repealing RCW  
6 74.18.160 and 74.18.250.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 **Sec. 1.** RCW 74.18.010 and 1983 c 194 s 1 are each amended to read  
9 as follows:

10 The purposes of this chapter are to promote (~~(the economic)~~)  
11 employment and (~~(social welfare)~~) independence of blind persons in the  
12 state of Washington(~~(, to relieve blind or visually handicapped persons~~  
13 ~~from the distress of poverty)~~) through their complete integration into  
14 society on the basis of equality, and to encourage public acceptance of  
15 the abilities of blind persons(~~(, and to promote public awareness of~~  
16 ~~the causes of blindness)~~).

17 **Sec. 2.** RCW 74.18.020 and 1983 c 194 s 2 are each amended to read  
18 as follows:

1 Unless the context clearly requires otherwise, the definitions in  
2 this section apply throughout this chapter.

3 (1) "Department" means an agency of state government called the  
4 department of services for the blind.

5 (2) "Director" means the director of the state agency appointed by  
6 the governor with the consent of the senate.

7 (3) (~~"Advisory council"~~) "Rehabilitation council for the blind"  
8 means the body of members appointed by the governor in accordance with  
9 the provisions of RCW 74.18.070 to advise the state agency.

10 (4) "Blind person" means a person who: (a) Has no vision or whose  
11 vision with corrective lenses is so (~~defective as to prevent the~~  
12 ~~performance of ordinary activities for which eyesight is essential, or~~  
13 ~~who~~) limited that the individual requires alternative methods or  
14 skills to do efficiently those things that are ordinarily done with  
15 sight by individuals with normal vision; (b) has an eye condition of a  
16 progressive nature which may lead to blindness; or (c) is blind for  
17 purposes of the business enterprise program as set forth in RCW  
18 74.18.200 through 74.18.230 in accordance with requirements of the  
19 Randolph-Sheppard Act of 1936.

20 **Sec. 3.** RCW 74.18.050 and 1983 c 194 s 5 are each amended to read  
21 as follows:

22 The director may appoint such personnel as necessary, none of whom  
23 shall be members of the (~~advisory~~) rehabilitation council for the  
24 blind. The director and other personnel who are assigned substantial  
25 responsibility for formulating agency policy or directing and  
26 controlling a major administrative division, together with their  
27 confidential secretaries, up to a maximum of six persons, shall be  
28 exempt from the provisions of chapter 41.06 RCW.

29 **Sec. 4.** RCW 74.18.060 and 1983 c 194 s 6 are each amended to read  
30 as follows:

31 The department shall:

32 (1) Serve as the sole agency of the state for contracting for and  
33 disbursing all federal and state funds appropriated for programs  
34 established by and within the jurisdiction of this chapter, and make  
35 reports and render accounting as may be required;

1 (2) Adopt rules, in accordance with chapter 34.05 RCW, necessary to  
2 carry out the purposes of this chapter;

3 (3) Negotiate agreements with other state agencies to provide  
4 services (~~((for individuals who are both blind and otherwise disabled))~~)  
5 so that (~~((multiply handicapped persons and the elderly blind))~~)  
6 individuals of any age who are blind or are both blind and otherwise  
7 disabled receive the most beneficial services.

8 **Sec. 5.** RCW 74.18.070 and 2000 c 57 s 1 are each amended to read  
9 as follows:

10 (1) There is hereby created the rehabilitation council for the  
11 blind. The rehabilitation council shall consist of the minimum number  
12 of voting members to meet the requirements of the rehabilitation  
13 council required under the federal rehabilitation act of 1973 as now or  
14 hereafter amended. A majority of the voting members shall be blind  
15 persons. Rehabilitation council members shall be residents of the  
16 state of Washington, and shall (~~((represent))~~) be appointed in accordance  
17 with the categories of membership specified in the federal  
18 rehabilitation act of 1973 as now or hereafter amended. The director  
19 of the department (~~((of services for the blind))~~) shall be an ex officio,  
20 nonvoting member.

21 (2) The governor shall appoint members of the rehabilitation  
22 council for terms of three years, except that the initial appointments  
23 shall be as follows: (a) Three members for terms of three years; (b)  
24 two members for terms of two years; and (c) other members for terms of  
25 one year. Vacancies in the membership of the rehabilitation council  
26 shall be filled by the governor for the remainder of the unexpired  
27 term.

28 (3) The governor may remove members of the rehabilitation council  
29 for cause.

30 **Sec. 6.** RCW 74.18.090 and 2000 c 57 s 3 are each amended to read  
31 as follows:

32 The rehabilitation council for the blind may:

33 (1) Provide counsel to the director in developing, reviewing,  
34 making recommendations, and agreeing on the department's state plan for  
35 vocational rehabilitation, budget requests, permanent rules concerning

1 services to blind (~~citizens~~) persons, and other major policies which  
2 impact the quality or quantity of services for (~~the~~) blind persons;

3 (2) Undertake annual reviews with the director of the needs of  
4 blind (~~citizens~~) persons, the effectiveness of the services and  
5 priorities of the department to meet those needs, and the measures that  
6 could be taken to improve the department's services;

7 (3) Annually make recommendations to the governor and the  
8 legislature on issues related to the department (~~of services for the~~  
9 ~~blind~~), other state agencies, or state laws which have a significant  
10 effect on the opportunities, services, or rights of blind (~~citizens~~)  
11 persons;

12 (4) Advise and make recommendations to the governor on the criteria  
13 and qualifications pertinent to the selection of the director;

14 (5) Perform additional functions as required by the federal  
15 rehabilitation act of 1973 as now or hereafter amended.

16 **Sec. 7.** RCW 74.18.110 and 1983 c 194 s 11 are each amended to read  
17 as follows:

18 The department (~~of services for the blind~~) may receive, accept,  
19 and disburse gifts, grants, conveyances, devises, and bequests from  
20 public or private sources, in trust or otherwise, if the terms and  
21 conditions thereof will provide services for (~~the~~) blind persons in  
22 a manner consistent with the purposes of this chapter and with other  
23 provisions of law. Any money so received shall be deposited in the  
24 state treasury for investment or expenditure in accordance with the  
25 conditions of its receipt.

26 **Sec. 8.** RCW 74.18.120 and 1989 c 175 s 150 are each amended to  
27 read as follows:

28 (~~Any person aggrieved by a decision, action, or inaction of~~  
29 ~~the department or its agents may request, and shall receive from the~~  
30 ~~department, an administrative review and redetermination of that~~  
31 ~~decision, action, or inaction.~~

32 (~~After completion of an administrative review,~~) An applicant or  
33 (client aggrieved by) eligible person who is dissatisfied with a  
34 decision, action, or inaction (of) made by the department or its  
35 agents (may request, and shall be granted,) regarding that person's

1 eligibility or department services provided to that person is entitled  
2 to an administrative hearing. Such administrative hearings shall be  
3 conducted pursuant to chapter 34.05 RCW by an administrative law judge.

4 ~~((3))~~ (2) The applicant or eligible individual may appeal final  
5 decisions ~~((of))~~ issued following administrative hearings ~~((shall be~~  
6 ~~the subject of appeal))~~ under RCW 34.05.510 through 34.05.598.

7 ~~((4) In the event of an appeal from the final decision of an~~  
8 ~~administrative hearing in which the department has overruled the~~  
9 ~~proposed decision by an administrative law judge, the following terms~~  
10 ~~shall apply for an appeal under RCW 34.05.510 through 34.05.598: (a)~~  
11 ~~Upon request a copy of the transcript and evidence from the~~  
12 ~~administrative hearing shall be made available without charge to the~~  
13 ~~appellant; (b) the appellant shall not be required to post bond or pay~~  
14 ~~any filing fee; and (c) an appellant receiving a favorable decision~~  
15 ~~upon appeal shall be entitled to reasonable attorney's fees and~~  
16 ~~costs.))~~

17 (3) The department shall develop rules governing other processes  
18 for dispute resolution as required under the federal rehabilitation act  
19 of 1973.

20 NEW SECTION. Sec. 9. A new section is added to chapter 74.18 RCW  
21 to read as follows:

22 (1) The department shall investigate the conviction records,  
23 pending charges, and disciplinary board final decisions of individuals  
24 acting on behalf of the department who will or may have unsupervised  
25 access to persons with significant disabilities as defined by the  
26 federal rehabilitation act of 1973. This includes:

27 (a) Current employees of the department;

28 (b) Applicants seeking or being considered for any position with  
29 the department; and

30 (c) Any service provider, contractor, student intern, volunteer, or  
31 other individual acting on behalf of the department.

32 (2) The investigation shall consist of a background check as  
33 allowed through the Washington state criminal records privacy act under  
34 RCW 10.97.050, the Washington state patrol criminal identification  
35 system under RCW 43.43.832 through 43.43.834, and the federal bureau of  
36 investigation. The background check shall include a fingerprint check  
37 using a complete Washington state criminal identification fingerprint

1 card. If the applicant or service provider has had a background check  
2 within the previous two years, the department may waive the  
3 requirement.

4 (3) When necessary, applicants may be employed and service  
5 providers may be engaged on a conditional basis pending completion of  
6 the background check.

7 (4) The department shall use the information solely to determine  
8 the character, suitability, and competence of employees, applicants,  
9 service providers, contractors, student interns, volunteers, and other  
10 individuals in accordance with RCW 41.06.475.

11 (5) The department shall adopt rules addressing procedures for  
12 undertaking background checks which shall include, but not be limited  
13 to, the following:

14 (a) The manner in which the individual will be provided access to  
15 and review of information obtained based on the background check  
16 required;

17 (b) Assurance that access to background check information shall be  
18 limited to only those individuals processing the information at the  
19 department;

20 (c) Action that shall be taken against a current employee, service  
21 provider, contractor, student intern, or volunteer who is disqualified  
22 from a position because of a background check not previously performed.

23 (6) The department shall determine who will pay costs associated  
24 with the background check.

25 NEW SECTION. **Sec. 10.** A new section is added to chapter 74.18 RCW  
26 to read as follows:

27 (1) Personal information and records obtained and retained by the  
28 department concerning applicants and eligible individuals are  
29 confidential, are not subject to public disclosure, and may be released  
30 only in accordance with law or with this provision.

31 (2) The department shall adopt rules and develop contract language  
32 to safeguard the confidentiality of all personal information, including  
33 photographs and lists of names. Rules and contract language shall  
34 ensure that:

35 (a) Specific safeguards are established to protect all current and  
36 future stored personal information;

1 (b) Specific safeguards and procedures are established for the  
2 release of personal health information in accordance with the health  
3 insurance portability and accountability act of 1996, 45 C.F.R. 160  
4 through 45 C.F.R. 164;

5 (c) All applicants and eligible individuals and, as appropriate,  
6 those individuals' representatives, service providers, cooperating  
7 agencies, and interested persons are informed upon initial intake of  
8 the confidentiality of personal information and the conditions for  
9 accessing and releasing this information;

10 (d) All applicants or their representatives are informed about the  
11 department's need to collect personal information and the policies  
12 governing its use, including: (i) Identification of the authority  
13 under which information is collected; (ii) explanation of the principal  
14 purposes for which the department intends to use or release the  
15 information; (iii) explanation of whether providing requested  
16 information to the department is mandatory or voluntary and the effects  
17 of not providing requested information; (iv) identification of those  
18 situations in which the department requires or does not require  
19 informed written consent of the individual before information may be  
20 released; and (v) identification of other agencies to which information  
21 is routinely released; and

22 (e) An explanation of department policies and procedures affecting  
23 personal information will be provided at intake or on request to each  
24 individual in that individual's native language and in an appropriate  
25 format including but not limited to braille, audio recording,  
26 electronic media, or large print.

27 **Sec. 11.** RCW 74.18.130 and 1983 c 194 s 13 are each amended to  
28 read as follows:

29 The department shall provide a program of vocational rehabilitation  
30 to assist blind persons to overcome (~~vocational handicaps~~) barriers  
31 to employment and to develop skills necessary for (~~self-support~~)  
32 employment and (~~self-care~~) independence. Applicants eligible for  
33 vocational rehabilitation services shall be blind persons (~~who are~~  
34 ~~blind as defined in RCW 74.18.020 and~~) who also (~~(1) have no vision~~  
35 ~~or limited vision which constitutes or results in a substantial~~  
36 ~~handicap to employment and (2) can reasonably be expected to benefit~~

1 ~~from vocational rehabilitation services in terms of employability))~~  
2 meet eligibility requirements as specified in the federal  
3 rehabilitation act of 1973.

4 **Sec. 12.** RCW 74.18.140 and 1983 c 194 s 14 are each amended to  
5 read as follows:

6 The department (~~may provide to eligible individuals~~) shall ensure  
7 that vocational rehabilitation services(~~(, including medical and~~  
8 ~~vocational diagnosis; vocational counseling, guidance, referral, and~~  
9 ~~placement; rehabilitation training; physical and mental restoration;~~  
10 ~~maintenance and transportation; reader services; interpreter services~~  
11 ~~for the deaf; rehabilitation teaching services; orientation and~~  
12 ~~mobility services; occupational licenses, tools, equipment, and initial~~  
13 ~~stocks and supplies; telecommunications, sensory, and other~~  
14 ~~technological aids and devices; and other goods and services which can~~  
15 ~~be reasonably expected to benefit a client in terms of employability))  
16 in accordance with requirements under the federal rehabilitation act of  
17 1973 are available to meet the identified requirements of each eligible  
18 individual in preparing for, securing, retaining, or regaining an  
19 employment outcome that is consistent with the individual's strengths,  
20 resources, priorities, concerns, abilities, capabilities, interests,  
21 and informed choice.~~

22 **Sec. 13.** RCW 74.18.150 and 1996 c 7 s 1 are each amended to read  
23 as follows:

24 The department may grant to eligible participants in the vocational  
25 rehabilitation (~~clients~~) program equipment and materials (~~(not to~~  
26 ~~exceed the amount allowed by state financial policies and regulations))~~  
27 in accordance with the provisions related to transfer of capital assets  
28 as set forth by the office of financial management in the state  
29 administrative and accounting manual, provided that the equipment or  
30 materials are required by the (~~client's~~) individual's (~~written~~  
31 ~~rehabilitation program~~) plan for employment and are used (~~by the~~  
32 ~~client or former client~~) in a manner consistent therewith. The  
33 department shall adopt rules to implement this section.

34 **Sec. 14.** RCW 74.18.170 and 1983 c 194 s 16 are each amended to  
35 read as follows:



1 The department may establish, construct, and/or operate  
2 rehabilitation or habilitation facilities to provide instruction in  
3 alternative skills necessary to adjust to blindness or substantial  
4 vision loss, to assist blind persons to develop increased confidence  
5 and independence, or to provide other services consistent with the  
6 purposes of this chapter. The department shall adopt rules concerning  
7 selection criteria for participation, services, and other matters  
8 necessary for efficient and effective operation of such facilities.

9 **Sec. 15.** RCW 74.18.180 and 1983 c 194 s 18 are each amended to  
10 read as follows:

11 (1) The department~~((, to the extent appropriations are made~~  
12 ~~available,))~~ may provide a program of independent living services for  
13 ~~((independent living designed to meet the current and future needs of))~~  
14 blind ~~((individuals))~~ persons who ~~((presently cannot function~~  
15 ~~independently in their living environment, but who may benefit from~~  
16 ~~services that will enable them to maintain contact with society and~~  
17 ~~perform some tasks of daily living independently))~~ are not seeking  
18 vocational rehabilitation services.

19 (2) Independent living services may include, but are not limited  
20 to, instruction in adaptive skills of blindness, counseling regarding  
21 adjustment to vision loss, and provision of adaptive devices that  
22 enable service recipients to participate in the community and maintain  
23 or increase their independence.

24 **Sec. 16.** RCW 74.18.200 and 1985 c 97 s 1 are each amended to read  
25 as follows:

26 Unless the context clearly requires otherwise, the definitions in  
27 this section apply in RCW 74.18.200 through 74.18.230.

28 (1) "Business enterprises program" means a program operated by the  
29 department under the federal Randolph-Sheppard Act, 20 U.S.C. Sec. 107  
30 et seq., and under this chapter in support of blind persons operating  
31 vending businesses in public buildings.

32 (2) "Vending facility" means any stand, snack bar, cafeteria, or  
33 business at which food, tobacco, sundries, or other retail merchandise  
34 or service is sold or provided.

35 (3) "Vending machine" means any coin-operated machine that sells or

1 provides food, tobacco, sundries, or other retail merchandise or  
2 service.

3 (4) "Blind person" means a person whose central visual acuity does  
4 not exceed 20/200 in the better eye with correcting lenses or whose  
5 visual acuity, if better than 20/200, is accompanied by a limit to the  
6 field of vision in the better eye to such a degree that its widest  
7 diameter subtends an angle of no greater than 20 degrees. In  
8 determining whether an individual is blind, there shall be an  
9 examination by a physician skilled in diseases of the eye, or by an  
10 optometrist, whichever the individual selects.

11 (5) "Licensee" means a blind person licensed by the state of  
12 Washington under the Randolph-Sheppard Act, this chapter, and the rules  
13 issued hereunder.

14 ~~((+5))~~ (6) "Public building" means any building and adjacent  
15 outdoor space associated therewith which is: (a) Owned by the state of  
16 Washington or any political subdivision thereof or any space leased by  
17 the state of Washington or any political subdivision thereof in any  
18 privately-owned building; and (b) dedicated to the administrative  
19 functions of the state or any political subdivision~~((:—PROVIDED, That~~  
20 ~~any vending facility or vending machine)).~~ However, this term shall  
21 not include property under the jurisdiction and control of a local  
22 board of education~~((shall not be included))~~ without the consent~~((and~~  
23 ~~approval))~~ of~~((that local))~~ such board.

24 (7) "Priority" means the department has first and primary right to  
25 operate the food service and vending facilities, including vending  
26 machines, on federal, state, county, municipal, and other local  
27 government property except those otherwise exempted by statute. Such  
28 right may, at the sole discretion of the department, be waived in the  
29 event that the department is temporarily unable to assert the priority.

30 **Sec. 17.** RCW 74.18.210 and 1983 c 194 s 21 are each amended to  
31 read as follows:

32 The department shall maintain or cause to be maintained a business  
33 enterprises program for blind persons to operate vending facilities in  
34 public buildings. The purposes of the business enterprises program are  
35 to implement the Randolph-Sheppard Act and thereby give priority to  
36 qualified blind persons in operating vending facilities on federal  
37 property, to make similar provisions for vending facilities in public

1 buildings in the state of Washington and thereby increase employment  
2 opportunities for blind persons, and to encourage ~~((the))~~ blind persons  
3 to become successful, independent business persons.

4 **Sec. 18.** RCW 74.18.230 and 2002 c 71 s 2 are each amended to read  
5 as follows:

6 (1) There is established in the state treasury an account known as  
7 the business enterprises revolving account.

8 (2) The net proceeds from any vending machine operation in a public  
9 building, other than an operation managed by a licensee, shall be made  
10 payable to the business enterprises program, which will pay only the  
11 blind vendors' portion, at the subscriber's rate, for the purpose of  
12 funding a plan of health insurance for blind vendors, as provided in  
13 RCW 41.05.225. Net proceeds, for purposes of this section, means  
14 ~~((the))~~ gross ~~((amount received))~~ sales less ~~((the costs of the~~  
15 ~~operation, including))~~ state sales tax and a fair minimum return to the  
16 vending machine owner or service provider, which return shall ~~((not~~  
17 ~~exceed))~~ be a reasonable amount to be determined by the department.

18 (3) All federal moneys in the business enterprises revolving  
19 account shall be expended only for development and expansion of  
20 locations, equipment, management services, and payments to licensees in  
21 the business enterprises program.

22 (4) The business enterprises program shall be supported by the  
23 business enterprises revolving account and by income which may accrue  
24 to the department pursuant to the federal Randolph-Sheppard Act.

25 NEW SECTION. **Sec. 19.** The following acts or parts of acts are  
26 each repealed:

27 (1) RCW 74.18.160 (Vocational rehabilitation--Orientation and  
28 training center) and 1983 c 194 s 17; and

29 (2) RCW 74.18.250 (Specialized medical eye care--Prevention of  
30 blindness) and 1983 c 194 s 24.

--- END ---