

CERTIFICATION OF ENROLLMENT

SENATE BILL 5705

Chapter 409, Laws of 2003

58th Legislature
2003 Regular Session

DEPARTMENT OF SERVICES FOR THE BLIND

EFFECTIVE DATE: 7/27/03

Passed by the Senate April 22, 2003
YEAS 46 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House April 18, 2003
YEAS 98 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

Approved May 20, 2003.

GARY LOCKE

Governor of the State of Washington

CERTIFICATE

I, Milton H. Doumit, Jr., Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5705** as passed by the Senate and the House of Representatives on the dates hereon set forth.

MILTON H. DOUMIT JR.

Secretary

FILED

May 20, 2003 - 4:01 p.m.

**Secretary of State
State of Washington**

SENATE BILL 5705

AS AMENDED BY THE HOUSE

Passed Legislature - 2003 Regular Session

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; creating a new
6 section; and repealing RCW 74.18.160 and 74.18.250.

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

8 NEW SECTION. **Sec. 1.** The legislature finds and declares the
9 following:

10 (1) Thousands of citizens in the state have disabilities, including
11 blindness or visual impairment, that prevent them from using
12 conventional print material.

13 (2) Governmental and nonprofit organizations provide access to
14 reading material by specialized means, including books and magazines
15 prepared in braille, audio, and large-type formats.

16 (3) Access to time-sensitive or local or regional publications, or
17 both, is not feasible to produce through these traditional means and
18 formats.

1 (4) Lack of direct and prompt access to information included in
2 newspapers, magazines, newsletters, schedules, announcements, and other
3 time-sensitive materials limits educational opportunities, literacy,
4 and full participation in society by people with print disabilities.

5 (5) Creation and storage of information by computer results in
6 electronic files used for publishing and distribution.

7 (6) The use of high-speed computer and telecommunications
8 technology combined with customized software provides a practical and
9 cost-effective means to convert electronic text-based information,
10 including daily newspapers, into synthetic speech suitable for
11 statewide distribution by telephone.

12 (7) Telephonic distribution of time-sensitive information,
13 including daily newspapers, will enhance the state's current efforts to
14 meet the needs of blind and disabled citizens for access to information
15 which is otherwise available in print, thereby reducing isolation and
16 supporting full integration and equal access for such individuals.

17 **Sec. 2.** RCW 74.18.010 and 1983 c 194 s 1 are each amended to read
18 as follows:

19 The purposes of this chapter are to promote (~~(the economic)~~)
20 employment and (~~(social welfare)~~) independence of blind persons in the
21 state of Washington(~~(, to relieve blind or visually handicapped persons~~
22 ~~from the distress of poverty)~~) through their complete integration into
23 society on the basis of equality, and to encourage public acceptance of
24 the abilities of blind persons(~~(, and to promote public awareness of~~
25 ~~the causes of blindness)~~).

26 **Sec. 3.** RCW 74.18.020 and 1983 c 194 s 2 are each amended to read
27 as follows:

28 Unless the context clearly requires otherwise, the definitions in
29 this section apply throughout this chapter.

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

32 (2) "Director" means the director of the (~~(state agency)~~)
33 department of services for the blind. The director is appointed by the
34 governor with the consent of the senate.

35 (3) (~~("Advisory council")~~) "Rehabilitation council for the blind"

1 means the body of members appointed by the governor in accordance with
2 the provisions of RCW 74.18.070 to advise the state agency.

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

13 (5) "Telephonic reading service" means audio information provided
14 by telephone, including the acquisition and distribution of daily
15 newspapers and other information of local, state, or national interest.

16 NEW SECTION. Sec. 4. A new section is added to chapter 74.18 RCW
17 to read as follows:

18 (1)(a) The director shall provide access to a telephonic reading
19 service for blind and disabled persons.

20 (b) The director shall establish criteria for eligibility for blind
21 and disabled persons who may receive the telephonic reading services.
22 The criteria may be based upon the eligibility criteria for persons who
23 receive services established by the national library service for the
24 blind and physically handicapped of the library of congress.

25 (2) The director may enter into contracts or other agreements that
26 he or she determines to be appropriate to provide telephonic reading
27 services pursuant to this section.

28 (3) The director may expand the type and scope of materials
29 available on the telephonic reading service in order to meet the local,
30 regional, or foreign language needs of blind or visually impaired
31 residents of this state. The director may also expand the scope of
32 services and availability of telephonic reading services by current
33 methods and technologies that may be developed. The director may
34 inform current and potential patrons of the availability of telephonic
35 reading services through appropriate means, including, but not limited
36 to, direct mailings, direct telephonic contact, and public service
37 announcements.

1 (4) The director may expend moneys from the business enterprises
2 revolving account accrued from vending machine sales in state and local
3 government buildings, as well as donations and grants, for the purpose
4 of supporting the cost of activities described in this section.

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

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

14 **Sec. 6.** RCW 74.18.060 and 1983 c 194 s 6 are each amended to read
15 as follows:

16 The department shall:

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

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

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

28 **Sec. 7.** RCW 74.18.070 and 2000 c 57 s 1 are each amended to read
29 as follows:

30 (1) There is hereby created the rehabilitation council for the
31 blind. The rehabilitation council shall consist of the minimum number
32 of voting members to meet the requirements of the rehabilitation
33 council required under the federal rehabilitation act of 1973 as now or
34 hereafter amended. A majority of the voting members shall be blind
35 persons. Rehabilitation council members shall be residents of the

1 state of Washington, and shall (~~represent~~) be appointed in accordance
2 with the categories of membership specified in the federal
3 rehabilitation act of 1973 as now or hereafter amended. The director
4 of the department (~~of services for the blind~~) shall be an ex officio,
5 nonvoting member.

6 (2) The governor shall appoint members of the rehabilitation
7 council for terms of three years, except that the initial appointments
8 shall be as follows: (a) Three members for terms of three years; (b)
9 two members for terms of two years; and (c) other members for terms of
10 one year. Vacancies in the membership of the rehabilitation council
11 shall be filled by the governor for the remainder of the unexpired
12 term.

13 (3) The governor may remove members of the rehabilitation council
14 for cause.

15 **Sec. 8.** RCW 74.18.090 and 2000 c 57 s 3 are each amended to read
16 as follows:

17 The rehabilitation council for the blind may:

18 (1) Provide counsel to the director in developing, reviewing,
19 making recommendations, and agreeing on the department's state plan for
20 vocational rehabilitation, budget requests, permanent rules concerning
21 services to blind (~~citizens~~) persons, and other major policies which
22 impact the quality or quantity of services for (~~the~~) blind persons;

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

27 (3) Annually make recommendations to the governor and the
28 legislature on issues related to the department (~~of services for the~~
29 ~~blind~~), other state agencies, or state laws which have a significant
30 effect on the opportunities, services, or rights of blind (~~citizens~~)
31 persons;

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

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

1 **Sec. 9.** RCW 74.18.110 and 1983 c 194 s 11 are each amended to read
2 as follows:

3 The department (~~((of services for the blind))~~) may receive, accept,
4 and disburse gifts, grants, conveyances, devises, and bequests from
5 public or private sources, in trust or otherwise, if the terms and
6 conditions thereof will provide services for ~~((the))~~ blind persons in
7 a manner consistent with the purposes of this chapter and with other
8 provisions of law. Any money so received shall be deposited in the
9 state treasury for investment or expenditure in accordance with the
10 conditions of its receipt.

11 **Sec. 10.** RCW 74.18.120 and 1989 c 175 s 150 are each amended to
12 read as follows:

13 ~~((1) ((Any person aggrieved by a decision, action, or inaction of
14 the department or its agents may request, and shall receive from the
15 department, an administrative review and redetermination of that
16 decision, action, or inaction.~~

17 ~~((2) After completion of an administrative review,))~~ An applicant or
18 ~~((client aggrieved by))~~ eligible person who is dissatisfied with a
19 decision, action, or inaction ((of)) made by the department or its
20 agents ((may request, and shall be granted,)) regarding that person's
21 eligibility or department services provided to that person is entitled
22 to an administrative hearing. Such administrative hearings shall be
23 conducted pursuant to chapter 34.05 RCW by an administrative law judge.

24 ~~((3))~~ (2) The applicant or eligible individual may appeal final
25 decisions ((of)) issued following administrative hearings ((shall be
26 the subject of appeal)) under RCW 34.05.510 through 34.05.598.

27 ~~((4) In the event of an appeal from the final decision of an
28 administrative hearing in which the department has overruled the
29 proposed decision by an administrative law judge, the following terms
30 shall apply for an appeal under RCW 34.05.510 through 34.05.598: (a)
31 Upon request a copy of the transcript and evidence from the
32 administrative hearing shall be made available without charge to the
33 appellant; (b) the appellant shall not be required to post bond or pay
34 any filing fee; and (c) an appellant receiving a favorable decision
35 upon appeal shall be entitled to reasonable attorney's fees and
36 costs.))~~

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

4 **NEW SECTION. Sec. 11.** A new section is added to chapter 74.18 RCW
5 to read as follows:

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

11 (a) Current employees of the department;

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

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

16 (2) The investigation shall consist of a background check as
17 allowed through the Washington state criminal records privacy act under
18 RCW 10.97.050, the Washington state patrol criminal identification
19 system under RCW 43.43.832 through 43.43.834, and the federal bureau of
20 investigation. The background check shall include a fingerprint check
21 using a complete Washington state criminal identification fingerprint
22 card. If the applicant or service provider has had a background check
23 within the previous two years, the department may waive the
24 requirement.

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

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

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

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

1 (b) Assurance that access to background check information shall be
2 limited to only those individuals processing the information at the
3 department;

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

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

9 NEW SECTION. **Sec. 12.** A new section is added to chapter 74.18 RCW
10 to read as follows:

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

15 (2) The department shall adopt rules and develop contract language
16 to safeguard the confidentiality of all personal information, including
17 photographs and lists of names. Rules and contract language shall
18 ensure that:

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

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

25 (c) All applicants and eligible individuals and, as appropriate,
26 those individuals' representatives, service providers, cooperating
27 agencies, and interested persons are informed upon initial intake of
28 the confidentiality of personal information and the conditions for
29 accessing and releasing this information;

30 (d) All applicants or their representatives are informed about the
31 department's need to collect personal information and the policies
32 governing its use, including: (i) Identification of the authority
33 under which information is collected; (ii) explanation of the principal
34 purposes for which the department intends to use or release the
35 information; (iii) explanation of whether providing requested
36 information to the department is mandatory or voluntary and the effects
37 of not providing requested information; (iv) identification of those

1 situations in which the department requires or does not require
2 informed written consent of the individual before information may be
3 released; and (v) identification of other agencies to which information
4 is routinely released; and

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

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

12 The department shall provide a program of vocational rehabilitation
13 to assist blind persons to overcome (~~vocational handicaps~~) barriers
14 to employment and to develop skills necessary for (~~self-support~~)
15 employment and (~~self-care~~) independence. Applicants eligible for
16 vocational rehabilitation services shall be blind persons (~~who are~~
17 ~~blind as defined in RCW 74.18.020 and~~) who also (~~(1) have no vision~~
18 ~~or limited vision which constitutes or results in a substantial~~
19 ~~handicap to employment and (2) can reasonably be expected to benefit~~
20 ~~from vocational rehabilitation services in terms of employability~~)
21 meet eligibility requirements as specified in the federal
22 rehabilitation act of 1973.

23 **Sec. 14.** RCW 74.18.140 and 1983 c 194 s 14 are each amended to
24 read as follows:

25 The department (~~may provide to eligible individuals~~) shall ensure
26 that vocational rehabilitation services(~~(, including medical and~~
27 ~~vocational diagnosis; vocational counseling, guidance, referral, and~~
28 ~~placement; rehabilitation training; physical and mental restoration;~~
29 ~~maintenance and transportation; reader services; interpreter services~~
30 ~~for the deaf; rehabilitation teaching services; orientation and~~
31 ~~mobility services; occupational licenses, tools, equipment, and initial~~
32 ~~stocks and supplies; telecommunications, sensory, and other~~
33 ~~technological aids and devices; and other goods and services which can~~
34 ~~be reasonably expected to benefit a client in terms of employability~~)
35 in accordance with requirements under the federal rehabilitation act of
36 1973 are available to meet the identified requirements of each eligible

1 individual in preparing for, securing, retaining, or regaining an
2 employment outcome that is consistent with the individual's strengths,
3 resources, priorities, concerns, abilities, capabilities, interests,
4 and informed choice.

5 **Sec. 15.** RCW 74.18.150 and 1996 c 7 s 1 are each amended to read
6 as follows:

7 The department may grant to eligible participants in the vocational
8 rehabilitation ~~((clients))~~ program equipment and materials ~~((not to~~
9 ~~exceed the amount allowed by state financial policies and regulations))~~
10 in accordance with the provisions related to transfer of capital assets
11 as set forth by the office of financial management in the state
12 administrative and accounting manual, provided that the equipment or
13 materials are required by the ~~((client's))~~ individual's ~~((written~~
14 ~~rehabilitation program))~~ plan for employment and are used ~~((by the~~
15 ~~client or former client))~~ in a manner consistent therewith. The
16 department shall adopt rules to implement this section.

17 **Sec. 16.** RCW 74.18.170 and 1983 c 194 s 16 are each amended to
18 read as follows:

19 The department may establish, construct, and/or operate
20 rehabilitation or habilitation facilities to provide instruction in
21 alternative skills necessary to adjust to blindness or substantial
22 vision loss, to assist blind persons to develop increased confidence
23 and independence, or to provide other services consistent with the
24 purposes of this chapter. The department shall adopt rules concerning
25 selection criteria for participation, services, and other matters
26 necessary for efficient and effective operation of such facilities.

27 **Sec. 17.** RCW 74.18.180 and 1983 c 194 s 18 are each amended to
28 read as follows:

29 (1) The department ~~((, to the extent appropriations are made~~
30 ~~available,))~~ may provide a program of independent living services for
31 ~~((independent living designed to meet the current and future needs of))~~
32 blind ~~((individuals))~~ persons who ~~((presently cannot function~~
33 ~~independently in their living environment, but who may benefit from~~
34 ~~services that will enable them to maintain contact with society and~~

1 ~~perform some tasks of daily living independently))~~ are not seeking
2 vocational rehabilitation services.

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

8 **Sec. 18.** RCW 74.18.200 and 1985 c 97 s 1 are each amended to read
9 as follows:

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

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

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

19 (3) "Vending machine" means any coin-operated machine that sells or
20 provides food, tobacco, sundries, or other retail merchandise or
21 service.

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

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

33 ~~((+5))~~ (6) "Public building" means any building and immediately
34 adjacent outdoor space associated therewith, such as a patio or
35 entryway, which is: (a) Owned by the state of Washington or any
36 political subdivision thereof or any space leased by the state of
37 Washington or any political subdivision thereof in any privately-owned

1 building; and (b) dedicated to the administrative functions of the
2 state or any political subdivision(~~(: PROVIDED, That any vending~~
3 ~~facility or vending machine))~~). However, this term shall not include
4 property under the jurisdiction and control of a local board of
5 education (~~(shall not be included)~~) without the consent (~~(and~~
6 ~~approval)~~) of (~~(that local)~~) such board.

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

13 **Sec. 19.** RCW 74.18.210 and 1983 c 194 s 21 are each amended to
14 read as follows:

15 The department shall maintain or cause to be maintained a business
16 enterprises program for blind persons to operate vending facilities in
17 public buildings. The purposes of the business enterprises program are
18 to implement the Randolph-Sheppard Act and thereby give priority to
19 qualified blind persons in operating vending facilities on federal
20 property, to make similar provisions for vending facilities in public
21 buildings in the state of Washington and thereby increase employment
22 opportunities for blind persons, and to encourage (~~(the))~~ blind persons
23 to become successful, independent business persons.

24 **Sec. 20.** RCW 74.18.230 and 2002 c 71 s 2 are each amended to read
25 as follows:

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

28 (2) The net proceeds from any vending machine operation in a public
29 building, other than an operation managed by a licensee, shall be made
30 payable to the business enterprises program, which will pay only the
31 blind vendors' portion, at the subscriber's rate, for the purpose of
32 funding a plan of health insurance for blind vendors, as provided in
33 RCW 41.05.225. Net proceeds, for purposes of this section, means
34 (~~(the))~~ gross (~~(amount received)~~) sales less (~~(the costs of the~~
35 ~~operation, including)~~) state sales tax and a fair minimum return to the

1 vending machine owner or service provider, which return shall ((~~not~~
2 ~~exceed~~)) be a reasonable amount to be determined by the department.

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

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

10 NEW SECTION. **Sec. 21.** The following acts or parts of acts are
11 each repealed:

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

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

Passed by the Senate April 22, 2003.

Passed by the House April 18, 2003.

Approved by the Governor May 20, 2003.

Filed in Office of Secretary of State May 20, 2003.