

FINAL BILL REPORT

E2SHB 2078

C 447 L 09
Synopsis as Enacted

Brief Description: Concerning persons with developmental disabilities who are in correctional facilities or jails.

Sponsors: House Committee on Health & Human Services Appropriations (originally sponsored by Representatives Roberts, O'Brien, Walsh, Jacks, Appleton, Goodman, Dickerson, Green, Kagi, Chase, Wood, Kenney and Haler).

House Committee on Human Services
House Committee on Health & Human Services Appropriations
Senate Committee on Human Services & Corrections

Background:

In 2006 a 41-year-old man with developmental disabilities was booked into a county jail pursuant to a 911 call for misdemeanor assault. The person who called 911 was the man's mother, and the alleged assault was treated as a domestic violence matter. Thus, the responding officers were required to take the person considered to be the aggressor to jail. The man had the physical abilities of an adult, but had not developed mentally beyond a child-like stage. He was in jail for approximately two weeks and released. Several hours after his release, he was returned to jail because his mother again called 911. He was released seven days later, having spent a total of 22 days in jail in solitary confinement. While in jail, the man refused food and water, and his physical and mental health deteriorated significantly.

Eligibility for Services.

A person who has been assessed as being eligible for services provided by the Division of Developmental Disabilities is eligible for both state assistance and federal medical assistance. Medical assistance benefits allow for medical care as provided under Title XIX of the federal Social Security Act. If an eligible person is booked into a correctional facility, he or she does not receive state-funded services while in custody, and the person is no longer eligible for medical assistance.

In 2008 a work group convened to examine the feasibility of expediting the eligibility reinstatement process for individuals who were receiving medical assistance at the time of

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incarceration. In January 2009 the Department of Social and Health Services released a report to the Legislature in which it proposed a five-phase model for promptly reinstating the eligibility for any person who was receiving medical assistance at the time of incarceration.

Training for Law Enforcement Personnel.

In 2003 the Legislature required the Criminal Justice Training Commission to develop a training session on law enforcement interaction with persons who suffer from mental illness and who have developmental disabilities. At the minimum, the training was required to address the following:

- the cause and nature of mental illnesses and developmental disabilities;
- how to identify indicators of mental illness and developmental disabilities;
- how to respond appropriately in common situations;
- conflict resolution and de-escalation techniques for potentially dangerous situations involving persons with mental illness or developmental disabilities;
- appropriate language use;
- alternatives to lethal force; and
- community and state resources available to persons who have a mental illness or developmental disabilities.

The 2003 statute did not include a requirement for training to personnel for city and county jail facilities.

Summary:

The Developmental Disabilities Council and the Washington Association of Sheriffs and Police Chiefs are required to convene a work group in consultation with:

- the Department of Corrections;
- the Department of Social and Health Services (DSHS);
- Disability Rights Washington;
- consumer advocates;
- Washington Traumatic Brain Injury Strategic Partnership; and
- other interested organizations.

The work group is required to develop recommendations and report to the Legislature by December 1, 2009, regarding:

- expeditiously reviewing and determining eligibility for developmental disabilities services for an offender with developmental disabilities prior to his or her release;
- the appropriate role of the DSHS in providing alternatives to confinement and consultation regarding technical assistance for reasonable accommodations for offenders in correctional facilities who have a developmental disability;
- increasing the authority of the courts to order alternatives to confinement prior to trial or following conviction where the sentence is 12 months or less;
- establishing a diversion option under the Sentencing Reform Act for persons with developmental disabilities;
- the feasibility of developing and adopting law enforcement training for responding to persons with developmental disabilities analogous to crisis intervention training for response to persons with mental illness;

- the feasibility of adopting standardized statewide screening and application practices and forms to facilitate applications for medical assistance services by the Division of Developmental Disabilities;
- the need for and feasibility of developing a screening tool and training for corrections staff for identification of persons with developmental disabilities; and
- the feasibility of developing a screening tool for traumatic brain injuries and information regarding best practices for accommodations of persons with traumatic brain injuries.

By July 1, 2010, the workgroup must develop a simple screening tool that may be used by jails as part of a jail's intake and/or classification process which will identify offenders with the most common types of developmental disabilities. In addition, the workgroup must develop:

- a model policy for the use of the screening tool;
- a cost-effective means to provide concise training to jail and staff on the use of the tool; and
- information on best practices and training regarding appropriate accommodations for persons with developmental disabilities during confinement in jail.

This act expires December 1, 2010.

Votes on Final Passage:

House	96	0	
Senate	47	0	(Senate amended)
House	95	0	(House concurred)

Effective: July 26, 2009