

HOUSE BILL REPORT

HB 2572

As Reported by House Committee On:
Human Services & Early Learning
Appropriations

Title: An act relating to implementation of the recommendations of the December 2019 report from the William D. Ruckelshaus center regarding residential habilitation center clients.

Brief Description: Concerning implementation of the recommendations of the December 2019 report from the William D. Ruckelshaus center regarding residential habilitation center clients.

Sponsors: Representatives Robinson, Corry, Senn, Dent, Kilduff, Ryu, Frame, Leavitt, Valdez, Davis and Cody; by request of Office of the Governor.

Brief History:

Committee Activity:

Human Services & Early Learning: 1/24/20, 1/29/20 [DPS];
Appropriations: 2/8/20 [DPS(HSEL)].

Brief Summary of Substitute Bill

- Requires the Developmental Disability Administration (DDA) to develop a plan to implement the 2019 report from the William D. Ruckelshaus Center regarding residential habilitation center clients and submit a preliminary plan and report to the Governor and the Legislature by November 1, 2020, and a final implementation plan and report by September 1, 2021.
- Establishes a joint executive and legislative task force to oversee the development of and to approve the DDA reports prior to submission.

HOUSE COMMITTEE ON HUMAN SERVICES & EARLY LEARNING

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Senn, Chair; Callan, Vice Chair; Frame, Vice Chair; Dent, Ranking Minority Member; Eslick, Assistant Ranking Minority Member; McCaslin, Assistant Ranking Minority Member; Corry, Goodman, Griffey, Kilduff, Klippert, Lovick and Ortiz-Self.

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.

Staff: Luke Wickham (786-7146).

Background:

Developmental Disabilities Administration.

The Department of Social and Health Services (DSHS) Developmental Disability Administration (DDA) assists individuals with developmental disabilities and their families to obtain services and support based on individual preferences, capabilities, and needs. The DDA clients live in residential habilitation centers (RHCs), an institutional setting, as well as in the community.

Eligibility for DDA services depends on whether the client has a qualified developmental disability, has a functional need, and meets certain income and asset standards.

The services provided to clients are designed to promote everyday activities, routines, and relationships common to most citizens, and they include employment services and community access services, which are contracted with counties.

Residential Habilitation Centers.

The DSHS operates four RHCs for individuals with developmental disabilities:

- The Fircrest RHC in Shoreline supports about 190 long-term residents and includes both a nursing facility and an Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/IID).
- The Lakeland Village RHC in Medical Lake supports about 170 long-term residents and includes both a nursing facility and an ICF/IID.
- The Rainier School RHC in Buckley supports about 150 long-term residents and includes an ICF/IID.
- The Yakima Valley School RHC supports about 50 long-term residents in a nursing facility and provides planned respite services and crisis stabilization stays.

The ICF/ID facilities are offered as an option to Medicaid recipients that meet the ICF/IID level of care criteria. In addition to meeting the level of care criteria, to be eligible for an ICF/IID, an individual's need for active treatment in an ICF/IID must arise from an intellectual disability. Federal law requires that ICF/IID services be provided to individuals needing and receiving active treatment services. Active treatment is a continuous, aggressive, and consistently implemented program of specialized and generic treatment, and health or related services directed toward helping the client function with as much self-determination and independence as possible. Active treatment does not include services to maintain generally independent clients who are able to function with little supervision or in the absence of a continuous active treatment program.

Nursing facilities provide 24-hour nursing care to aging individuals and individuals with developmental disabilities.

Supported Living Services.

Some clients of the DDA receive supported living services. These supported living services are provided to clients in the client's own home. Clients in group homes receive the same services as supported living but live in a facility that is licensed as an assisted living facility

or adult family home. The DDA contracts with supported living providers for this service and may include support with engagement in community activities, self-advocacy, building relationships, finances, shopping, menu planning and cooking, medication management, medical appointments, personal hygiene, and daily living activities.

2019 William D. Ruckelshaus Centers Report.

The 2019-21 Operating Budget required that the DSHS contract with the William D. Ruckelshaus Center (Ruckelshaus Center) or other neutral third party to continue the facilitation of meetings and discussions about how to support appropriate levels of care for RHC clients based on the clients' needs and ages.

The Ruckelshaus Center is a joint effort of Washington State University (WSU) and the University of Washington (UW) created to foster collaborative public policy in Washington and the Pacific Northwest. It is hosted and administered at a WSU Extension and hosted at the UW by the Daniel J. Evans School of Public Policy and Governance in Seattle. The Ruckelshaus Center was contracted to facilitate meetings and discussions and the 2019 Ruckelshaus Center report based on these meetings was completed in December 2019.

The 2019 Ruckelshaus Center report included the following recommendations regarding community residential services:

- improve case management ratios;
- assess options to expand forecast-based maintenance-level funding adjustments for DDA waiver services;
- expand state-operated community residential options;
- expand quality assurance efforts;
- conduct a rate study for contracted community residential service providers;
- assess options for an alternative, opt-in rate structure for contracted supported living; and
- increase funding for community-based overnight planned respite.

The 2019 Ruckelshaus Center report included the following recommendations regarding cross-system coordination:

- ask the Developmental Disabilities Council (DDC) to coordinate collaboration efforts;
- expand apprenticeship opportunities;
- continue reforming guardianship;
- prioritize funding housing for people with intellectual and developmental disabilities; and
- expand access to facility professionals.

The 2019 Ruckelshaus Center report included the following recommendations regarding state-operated nursing facilities:

- continue to invest in state-operated nursing facilities; and
- rebuild the nursing facility at Fircrest.

The 2019 Ruckelshaus Center report included the following recommendations regarding redesigning state-operated Intermediate Care Facilities (ICFs) to function as short-term crisis stabilization and intervention facilities:

- complete DDA assessments for ICF clients at least annually;
 - clearly explain to ICF clients and their families the temporary nature of ICFs;
 - expand the Family Mentor Project;
 - begin transition planning immediately;
 - establish transition teams; and
 - leverage the resulting ICF capacity to meet crisis stabilization needs.
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Summary of Substitute Bill:

Developmental Disability Administration Report.

The DDA must develop a plan to implement the 2019 report from the Ruckelshaus Center regarding RHC clients. The DDA must collaborate with the Office of Financial Management to create a financing plan to include as part of the recommendations.

A preliminary implementation plan must be included within a report to the Governor and the Legislature no later than November 1, 2020. A final implementation plan and report must be provided to the Governor and the Legislature no later than September 1, 2021. The final plan and report must describe the implementation plan, timeline, any recommended statutory changes, and a financing plan and expected fiscal impacts of operationalizing the recommendations.

Joint Executive and Legislative Task Force.

A joint executive and legislative task force (Task Force) is created to oversee the development of, and to approve, the preliminary and final reports prior to submission. The members of the Task Force must include:

- the Governor or his or her designee;
- one member from each of the two largest caucuses in the Senate;
- one member from each of the two largest caucuses in the House of Representatives;
- and
- the Secretary of the DSHS or his or her designee.

The Governor must convene and chair the Task Force. The DSHS must staff the Task Force. The Task Force must periodically meet with, provide updates to, and solicit feedback from stakeholders. The stakeholders must include but are not limited to:

- the DDC;
- The Arc of Washington;
- Disability Rights Washington;
- family members or guardians of current RHC residents;
- individuals with developmental disabilities;
- the Washington Federation of State Employees;
- developmental disability self-advocacy organizations; and
- the Service Employees International Union.

The preliminary and final reports must advance the recommendations of the 2019 Ruckelshaus Center report to design and implement a modern, community-focused, person-centered, and individualized service delivery system for individuals who reside in RHCs,

with an emphasis on investments in community residential service options, including services and options for those with complex behavioral needs.

In developing the implementation plan, the Task Force must review and consider the recommendations from the 2019 Ruckelshaus Center report.

Substitute Bill Compared to Original Bill:

The substitute bill adds developmental disability self-advocacy organizations to the stakeholders that the task force must meet with and solicit feedback from.

The substitute bill adds conducting a rate study to determine future rates, and enhanced rates when appropriate, for community contracted providers to the list of recommendations the task force must review and consider.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill moves the state in the right direction. The RHCs should be closed or people should be transitioned out of these facilities. The 2019 Ruckelshaus Center report is a consensus report, and this bill provides the next step to implement this report. The recommendations for reform for individuals with intellectual and developmental disabilities are effective and thoughtful and will help these individuals lead meaningful lives. About 14,000 individuals do not receive paid services even though they may need them. About 260 individuals live in a nursing facility, while about 135 live in an ICF. It is not necessary to live in an institution to receive appropriate services. The problems with ICFs have jeopardized federal funding and the services available for individuals with intellectual and developmental disabilities. This bill establishes a framework for implementing the 2019 Ruckelshaus Center report. This state has grappled for years with how to best serve individuals with intellectual and developmental disabilities. There have been workgroups and reports on this topic since 1980 but never before has so much consensus been achieved among stakeholders and providers regarding improvements to the service delivery system. Over 40 percent of the individuals who were moved out of Rainier Program Area Team A were moved to other RHCs, so it is important to build more community supports for individuals with intellectual and developmental disabilities. The 2019 Ruckelshaus Center report and Task Force created by this bill work to implement the 2019 Ruckelshaus Center report recommendations rather than conducting further study of the issue.

(Opposed) People with high acuity needs can be served very well in the community in state operated living alternatives, and other services. Building another state operated nursing facility will lead to consigning individuals to another lifetime in institutions.

(Other) There is universal consensus on one thing—institutions need to close and should not be used as crisis centers. There is cautious optimism regarding this bill. People need services, but the money should be spent on services in the community and not on institutions.

Persons Testifying: (In support) Representative Robinson, prime sponsor; Cheryl Strange, Department of Social and Health Services; Julia Bell, Washington State Developmental Disabilities Council; Matt Zuvich, Washington Federation of State Employees; Jeff Carter, Action DD; and Amber Leaders, Office of the Governor.

(Opposed) David Lord, Disability Rights Washington.

(Other) Krista Milhofer, People First of Washington; and Robert Wardell and Kyle Matheson, People First of Washington and Self Advocates in Leadership.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on Human Services & Early Learning be substituted therefor and the substitute bill do pass. Signed by 31 members: Representatives Ormsby, Chair; Robinson, 1st Vice Chair; Bergquist, 2nd Vice Chair; Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier, Chandler, Chopp, Cody, Dolan, Dye, Fitzgibbon, Hansen, Hoff, Hudgins, Kilduff, Kraft, Macri, Mosbrucker, Pettigrew, Pollet, Ryu, Schmick, Senn, Steele, Sullivan, Sutherland, Tarleton, Tharinger and Ybarra.

Staff: Mary Mulholland (786-7391).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Human Services & Early Learning:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) After 40 years of debate and four legislatively directed work groups, a road map was provided to improve service delivery for people with developmental

disabilities. Passionate people with diverse views were able to sit in a room together and really get to know each other. Institutional residents and self-advocates expressed goals and criticism of the system that are aligned with those of other organizations. The 2019 work group's recommendations are holistic and include investments in the community. It is important to be comprehensive and to address the individual needs of people with developmental disabilities. Enactment of the proposal will affirm the legislature's commitment to the long path ahead.

(Opposed) There is much merit in the Ruckelshaus Center report and the proposal, but the language that sanctions the building of a new skilled nursing facility on the Fircrest campus should be removed. There is support for the idea that old, unsafe buildings should be replaced, but there is no need to build another large institution that will be in place for generations. It is recognized that people in institutions can be supported in the community. The Legislature could direct the Department of Social and Health Services Developmental Disabilities Administration (DDA) to do an individual assessment on what is required to support people in the community and ensure that plans are in place.

(Other) People with developmental disabilities should be able to live on their own or in group homes. People in institutions have less access to jobs, social gatherings, and their families. Institutions should be shut down at some point. People have the right to live in the community, and that is possible with appropriate supports.

The proposal may be the beginning of the end for discrimination and continued state exposure to legal risk associated with the Olmstead Act.

A different rate structure may be needed to incentivize community-based providers to serve individuals with developmental disabilities and skilled nursing needs. Institutions are a cruel place to put people who are in crisis and could mean folks lose a place in the community to return to.

Persons Testifying: (In support) Sue Elliott, The Arc of Washington State; and Lindsey Grad, Service Employees International Union 1199NW.

(Opposed) David Lord, Disability Rights Washington.

(Other) Cody Wells and Krista Milhofer, People First of Washington; and Robert Wardell.

Persons Signed In To Testify But Not Testifying: None.