

SENATE BILL REPORT

ESSB 6419

As Passed Senate, February 19, 2020

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: Senate Committee on Human Services, Reentry & Rehabilitation (originally sponsored by Senators Keiser, Braun, Rolfes, Randall, Rivers, Dhingra, Darneille, Wilson, C., Saldaña and Salomon; by request of Office of the Governor).

Brief History:

Committee Activity: Human Services, Reentry & Rehabilitation: 1/28/20, 2/04/20 [DPS-WM].

Ways & Means: 2/10/20, 2/11/20 [DPS (HSRR)].

Floor Activity:

Passed Senate: 2/19/20, 47-0.

Brief Summary of Engrossed First Substitute Bill

- Requires the Developmental Disability Administration to develop a plan to implement the recommendations of the William D. Ruckelshaus Center Report on services for persons with developmental disabilities.
- Establishes a joint executive-legislative task force to oversee plan development.

SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

Majority Report: That Substitute Senate Bill No. 6419 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Darneille, Chair; Nguyen, Vice Chair; Walsh, Ranking Member; Cleveland, O'Ban, Wilson, C. and Zeiger.

Staff: Kevin Black (786-7747)

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

Majority Report: Do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Operating, Capital Lead; Mullet, Capital Budget Cabinet; Braun, Ranking Member; Brown, Assistant Ranking Member, Operating; Honeyford, Assistant Ranking Member, Capital; Becker, Billig, Carlyle, Conway, Darneille, Dhingra, Hasegawa, Hunt, Keiser, Liias, Muzzall, Pedersen, Rivers, Schoesler, Van De Wege, Wagoner, Warnick and Wilson, L..

Staff: Kevin Black (786-7747)

Background: Developmental Disabilities Administration. The Developmental Disability Administration (DDA) is a division of the Department of Social and Health Services (DSHS) which assists persons with developmental disabilities and their families to obtain services and support based on individual preferences, capabilities, and needs. DDA clients live in a variety of settings, including private residences, state-funded community settings, and residential habilitation centers (RHCs).

DDA offers community services to clients who are eligible for Medicaid through a Home and Community Based Services waiver. Waiver funding is capped and otherwise eligible clients for which there is not sufficient funding are placed on a waiting list. 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. DDA services are designed to promote everyday activities, routines, and relationships common to most citizens, and include employment services and community access services.

Residential Habilitation Centers. DSHS operates four RHCs which provide residential services for persons with developmental disabilities in an institutional setting:

- the Fircrest RHC in Shoreline supports about 190 long-term residents and includes both a nursing facility and an intermediate care facility (ICF);
- the Lakeland Village in Medical Lake RHC supports about 170 long-term residents and includes both a nursing facility and an ICF;
- the Rainier School RHC in Buckley supports about 150 long-term residents and includes an ICF; and
- the Yakima Valley School RHC supports about 50 long-term residents in a nursing facility and provides planned respite services and crisis stabilization stays.

ICF facilities are offered as an option to Medicaid recipients that meet ICF level of care criteria. To be eligible, a person's need for active treatment in an ICF must arise from an intellectual disability. Federal law requires ICF services to be provided to persons needing and receiving active treatment services, meaning a continuous, aggressive, and consistently implemented program of specialized and generic treatment. An ICF facility at Rainier School was closed in September 2019, after loss of federal funding based on insufficient active treatment services being provided. Another ICF at Lakeland Village was closed to new patients by agreement with the federal government, and it is believed that other RHC facilities are at risk of losing certification based on an inability to meet high federal standards for treatment in ICF settings.

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 in their own home. DDA clients residing in group homes receive supported living services in a facility licensed as an assisted living facility or adult family home. DDA contracts with supported living providers for these supportive services which may include 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 Ruckelshaus Report. The 2019-21 operating budget required DSHS to contract with the William D. Ruckelshaus Center to facilitate meetings and discussions about appropriate levels of care for RHC clients. On November 27, 2019, it published a report titled *Rethinking Intellectual and Developmental Disability Policy to Empower Clients, Develop Providers, and Improve Services* (Ruckelshaus Report). The William D. Ruckelshaus Center is a joint effort of Washington State University (WSU) and the University of Washington (UW), created to foster collaborative public policy in the state of Washington and Pacific Northwest. It is hosted and administered at a WSU Extension and hosted at UW by the Daniel J. Evans School of Public Policy and Governance in Seattle.

The Ruckelshaus Report includes 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 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 Ruckelshaus Report includes the following recommendations regarding cross-system coordination:

- ask the Developmental Disabilities Council 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 Ruckelshaus Report includes the following recommendations regarding state-operated nursing facilities:

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

The Ruckelshaus Report includes the following recommendations regarding redesigning 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.

The Ruckelshaus Report recommends that implementation of the following recommendations begin in 2020: expand state-operated living alternatives; rebuild Fircrest nursing facility; and expand the Family Mentor Project. Other recommendations are for implementation to begin in 2021.

Summary of Engrossed First Substitute Bill: The DDA must develop a plan to implement the recommendations of the Ruckelshaus Report, including a financing plan developed in collaboration with the Office of Financial Management, by November 1, 2020. A final plan must be submitted to the Governor and Legislature by September 1, 2021.

A joint executive and legislative task force is created to oversee the development of the plan and approve the plan reports. The members of the task force must include:

- the Governor or Governor's designee;
- one member of each of the four legislative caucuses; and
- the secretary of DSHS or secretary's designee.

The Governor or Governor's designee must convene and chair the task force, which must be staffed by DSHS. The task force must meet with and provide updates to stakeholders, including the Developmental Disabilities Council, the Arc of Washington, Disability Rights Washington, family members or guardians of current residential habilitation center residents, individuals with developmental disabilities, developmental disability self-advocacy organizations, the Washington Federation of State Employees, and the Service Employees International Union 1199. The task force must make funds available to reimburse travel expenses for certain stakeholders and allow stakeholders to participate remotely.

The reports must address, consider, and advance the recommendations of the Ruckelshaus Report.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: Yes.

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

Staff Summary of Public Testimony on Original Bill (Human Services, Reentry & Rehabilitation): *The committee recommended a different version of the bill than what was heard.* PRO: This bill is the result of three decades of conflict which have now been

resolved. We met for 18 months to discuss concerns slowly, in a civil way. The key was quality of care, not money. The culture has changed. RHC placements are now considered temporary facilities, or ICFs. Not recognizing this threatens decertification and jeopardizes federal funding. We are working to make services more available, more appropriate, and more comprehensive while preserving vital funding. Never before has this level of consensus been achieved between diverse interests and advocates. These recommendations will benefit all individuals with developmental disabilities around the state. Please build more supported living outside of SOLAs to promote client choice. My daughter has high needs but has been successful in the community for five years with supported services. We owe it to persons with development disabilities and their families to provide them with not only a home but a choice. This conflict goes back to the 1980s when litigation shattered the trust between families and developmental disability advocates. For the first time in 40 years, we have a path forward with all families moving together. This plan recognizes the need for a safety net which the state is responsible for providing. Having a caseload forecast that accurately predicts the need for services is revolutionary. Services no longer need to be centralized far away from the community, because they have become available close to home. The nursing home at Fircrest is a needed facility for a minority of the population. This task force is not designed to be a discussion group, but to supervise an implementation plan for consensus-based recommendations.

CON: We believe in supporting movement of persons with developmental disabilities into the community. We oppose building a new nursing home at Fircrest. This is not appropriate and too expensive. People with developmental disabilities can be supported in the community when they have high acuity needs. SOLAs and community arrangements can pick up the excess demand for nursing care. My son waived his right to institutionalization to receive services in the community. Families have not been consulted about this plan and don't know about this bill. We deserve to be better informed.

OTHER: We need to close the institutions down. I lived in Rainier School starting in 1966 and now live in the community. People with intellectual disabilities should be part of the group. No decisions about us without us.

Persons Testifying (Human Services, Reentry & Rehabilitation): PRO: Senator Karen Keiser, Prime Sponsor; Julia Bell, Developmental Disabilities Council; Kari Cunningham-Rosvik, psychiatric nurse practitioner/parent; Matt Zuvich, Washington Federation of State Employees; Sue Elliott, The Arc of Washington State; Cheryl Strange, DSHS; Jeff Carter, Action DD; Amber Leaders, Office of the Governor.

CON: David Lord, Disability Rights Washington; Kelley Nesbitt, family disability advocate.

OTHER: Robert Wardell, citizen; Krista Milhofer, People First of Washington.

Persons Signed In To Testify But Not Testifying (Human Services, Reentry & Rehabilitation): No one.

Staff Summary of Public Testimony on First Substitute (Ways & Means): PRO: This bill reflects the culmination of work over the last two years. There has been disagreement over the last 40 years and many workgroups to discuss where individuals with developmental

disabilities are best served. We believe this bill is a pathway forward. These recommendations are years in the making, are consensual of the members of the workgroup, and will greatly benefit those with developmental disabilities. DSHS is willing and eager to participate in this process.

CON: We are opposed to the sections of the bill that contemplate rebuilding a nursing home. We believe these individuals need to be assessed and plans developed to serve them in community settings.

Persons Testifying (Ways & Means): PRO: Senator Karen Keiser, Prime Sponsor; Sue Elliott, The Arc of Washington State; Don Clintsman, Chief of Staff, Department of Social & Health Services.

CON: David Lord, Disability Rights Washington.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.