

HOUSE BILL REPORT

E2SSB 5304

As Passed House - Amended:

April 9, 2021

Title: An act relating to providing reentry services to persons releasing from state and local institutions.

Brief Description: Providing reentry services to persons releasing from state and local institutions.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Wilson, C., Dhingra, Darneille, Das, Frockt, Hasegawa, Holy, Lovelett, Nguyen, Rivers and Wellman).

Brief History:

Committee Activity:

Health Care & Wellness: 3/24/21, 3/25/21 [DPA];

Appropriations: 3/31/21, 4/1/21 [DPA(HCW)].

Floor Activity:

Passed House: 4/9/21, 74-23.

Brief Summary of Engrossed Second Substitute Bill (As Amended By House)

- Expands the requirement to reinstate medical assistance coverage for persons being released from confinement.
- Directs the Health Care Authority (Authority) to seek a federal waiver to provide medical services to persons who are confined in a correctional institution, state hospital, or other treatment facility for up to 30 days prior to the person's release or discharge.
- Instructs the Authority to convene a reentry services work group to consider improvements to reentry services for persons with behavioral health needs.
- Directs the Washington State Institute for Public Policy to update its

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previous evaluations of the Reentry Community Services program.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: Do pass as amended. Signed by 13 members: Representatives Cody, Chair; Bateman, Vice Chair; Bronoske, Davis, Harris, Macri, Maycumber, Riccelli, Rude, Simmons, Stonier, Tharinger and Ybarra.

Minority Report: Without recommendation. Signed by 2 members: Representatives Schmick, Ranking Minority Member; Caldier, Assistant Ranking Minority Member.

Staff: Christopher Blake (786-7392).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Health Care & Wellness. Signed by 28 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke, Chopp, Cody, Dolan, Fitzgibbon, Frame, Hansen, Harris, Hoff, Jacobsen, Johnson, J., Lekanoff, Pollet, Ryu, Senn, Springer, Steele, Stonier, Sullivan and Tharinger.

Minority Report: Do not pass. Signed by 3 members: Representatives Caldier, Chandler and Dye.

Minority Report: Without recommendation. Signed by 2 members: Representatives Rude and Schmick.

Staff: Meghan Morris (786-7119).

Background:

Medicaid Coverage for Persons in Confinement.

Medicaid is a program jointly administered by the federal and state government that provides health benefits to eligible individuals. Federal law prohibits Medicaid benefits from being provided to a person who is incarcerated, except for selected inpatient services. State law requires the suspension of Medicaid benefits for a person who is incarcerated, rather than the termination of such benefits. The person must be allowed to apply for suspended Medicaid benefits, regardless of whether the person's release date is known. When persons with a mental condition who were enrolled in Medicaid immediately prior to confinement in a correctional institution or institute for mental disease are released their

Medicaid coverage must be fully reinstated on the day of release.

Offender Reentry Community Safety Program.

The Offender Reentry Community Safety program (Program) is administered by the Department of Corrections (Department). Under the Program, the Department identifies offenders who are in confinement or partial confinement, have a mental disorder, and are reasonably believed to be dangerous to themselves or others. Prior to the release of an identified person, a team is assembled to develop a plan for the delivery of treatment and support services to the person upon release. The team consists of representatives from the Department and the Health Care Authority and may also include representatives of the Indeterminate Sentence Review Board, the Department of Social and Health Services, a managed care organization, a behavioral health administrative services organization, and providers. For up to five years after release, persons in the Program receive coordinated case management services and community treatment planning such as mental health and chemical dependency treatment, housing, supervision, educational and vocational training, independent living skills, parenting education, anger management services, and expedited Medicaid eligibility.

The team may recommend that a Program participant be evaluated by a designated crisis responder. If the designated crisis responder determines that an emergency detention is necessary, the person may only be released to a state hospital or an evaluation and treatment facility, unless a less restrictive alternative treatment is appropriate.

The Washington State Institute for Public Policy conducted a literature review of the Program in April 2012 and updated its benefit-cost methods in December 2019.

Summary of Amended Bill:

Medical Assistance Coverage for Person in Confinement.

The requirement that the Health Care Authority (Authority) suspend, rather than terminate, medical assistance for persons who are incarcerated or committed to a state hospital is expanded to other settings in which federal financial participation is disallowed under medical assistance, including juvenile detention centers, facilities operated by the Department of Children, Youth, and Families, and other treatment facilities.

The requirement to reinstate medical assistance coverage for persons who were enrolled in Medicaid immediately prior to confinement is expanded to apply to all persons, not only those with a mental condition. The reinstatement requirement also applies to persons who became enrolled in medical assistance in suspense status during confinement. Medical assistance may be provided prior to release from confinement as long as no federal funds are spent for purposes not authorized by the federal government. The Authority must develop procedures to notify a person's managed care organization before the person's release from confinement, or as soon as practicable, of the person's release date, current location, and other appropriate information.

The Authority must apply for a waiver to allow the state to provide medical services to persons confined in a correctional institution, state hospital, or other treatment facility for up to 30 days prior to the person's release or discharge for the purpose of creating continuity of care and providing reentry services. The Authority is not required to provide those services unless final approval of a waiver is obtained from the federal Centers for Medicare and Medicaid Services.

Reentry Services.

The "Offender Reentry Community Safety" program is renamed the "Reentry Community Services" program (Program) and references to "offenders" are changed to "persons." The application of the Program to persons in confinement or partial confinement who are reasonably believed to be dangerous to themselves or others is changed to apply to those who present a danger to themselves or others if released to the community without supportive services. In addition to state hospitals and evaluation and treatment facilities, the Department of Corrections (Department) also may release a Program participant to a secure withdrawal management and stabilization facility if a designated crisis responder determines that an emergency detention is necessary for the Program participant. The Authority must ensure that there is coverage for Program services in every county. Peer services are added to the list of services available under the Program. The prohibition on the Department of Commerce designating additional full-time staff to the Washington Statewide Reentry Council is removed.

In addition to existing considerations, when determining whether discharging a person to a residence location that is not the person's county of origin is appropriate, the Department must consider factors that increase opportunities for successful reentry and long-term support, including the availability of appropriate programming or treatment and access to housing, employment, and prosocial influences on the person in the community. The Department must approve residence locations in a manner that will not cause any county to be disproportionately impacted.

The Authority must convene a reentry services work group to consider improvements to reentry services for persons with behavioral health needs. The Authority must invite participation from a list of more than 20 stakeholders groups, including advocacy organizations, behavioral health providers, state agencies, local governments and agencies, the Legislature, law enforcement, prosecutors, defense attorneys, managed care organizations, behavioral health administrative services organizations, employees of state mental health hospitals, the Public Safety Review Panel, the Washington Statewide Reentry Council, and the Washington State Institute for Public Policy (WSIPP).

The reentry services work group must:

- advise the Authority on its waiver request to provide Medicaid services to persons prior to their release from confinement to the community;
- develop a plan to notify a person's managed care organization prior to release from

- confinement;
- consider providing reentry services to new populations, such as other groups of incarcerated persons, state hospital patients, involuntarily committed patients, persons committed to juvenile rehabilitation, and persons confined in jail;
- consider whether modifications should be made to the Program;
- identify potential costs and savings from the use of telehealth technology for behavioral health services or the expansion or replication of the reentry community services or other programs;
- consider the sustainability of reentry or diversion services provided by pilot programs funded by the *Trueblood v. the Department of Social and Health Services* (2015) settlement;
- recommend funding for expanded reentry services; and
- consider the incorporation of peer services into the Program.

A subcommittee of the reentry services work group is established with representatives from the Authority, each managed care organization, the Washington State Association of Sheriffs and Police Chiefs, and jails, as well as other invited members. The subcommittee must determine a process for transmitting real-time location information regarding incarcerated individuals to managed care organizations, develop a process to transmit patient health information between jails and managed care organizations, and improve collaboration related to care coordination when individuals enter custody and upon release. The subcommittee must submit an initial report to the relevant committees of the Legislature by December 1, 2021, and a final report by December 1, 2022. The reports must evaluate the progress of managed care organizations regarding clinical coordination when an individual enters custody and care coordination and connection to reentry services upon release.

The reentry services work group must provide a progress report to the Governor and the appropriate committees of the Legislature by July 1, 2022, with a final report due by December 1, 2023.

The WSIPP must update its previous evaluations of the Program and broaden its cost-benefit analysis to consider impacts on the use of public services and other factors. The WSIPP must work with the reentry services work group to determine research parameters. The WSIPP must also help the reentry services work group with questions related to the costs, benefits, and risk of expanding the Program, as well as what modifications to the Program may be beneficial. The WSIPP must submit a preliminary report to the Governor and the relevant committees of the Legislature by July 1, 2022, with a final report due by November 1, 2023.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available. New fiscal note requested on March 26, 2021.

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

Staff Summary of Public Testimony (Health Care & Wellness):

(In support) Ninety-nine percent of individuals who are incarcerated will be released, so the goal needs to be successful reentry back into the community. This bill keeps communities safe and connects individuals to the resources and supports they need for a successful reentry. By ensuring that justice-involved populations have a stable network of health care services and supports when they are discharged from prison, this bill will result in a reduction in emergency department use, hospitalizations, and other medical expenses associated with relapse and recidivism, as well as an improvement in health outcomes. This bill is a simple way to dramatically improve the reentry process. Current law generally releases a person to the place where they had their first conviction and they might not have strong family ties, employment, or housing at that location, but they might have that in another county.

People who qualify for federal benefits should not have them terminated. The full reinstatement of Medicaid benefits at the moment of release from confinement helps individuals released from prison who cannot fill their prescriptions because the system says they are still incarcerated. Individuals in confinement regularly receive health care services, counseling services, and behavioral health services and these need to continue upon reentry. This bill will assure that a person's managed care organization is notified of release and facilitate a warm hand-off when they leave custody and rejoin the community. People who have access to health care and health insurance upon release from prison have a greater likelihood of success.

(Opposed) None.

(Other) The county of origin change will have the biggest impact because frequently people are forced to return to a county where they have bad influences that can hinder their success. Having Medicaid available immediately upon release is one less hurdle for a person to worry about.

Staff Summary of Public Testimony (Appropriations):

(In support) It is important to take care of those in custody, ensure successful community reentry, promote wellness, and reduce recidivism. The provision for the state to seek a waiver to reinstate federal benefits up to 30 days prior to release will help people get a head start to their wellness.

(Opposed) None.

Persons Testifying (Health Care & Wellness): (In support) Senator Claire Wilson, prime

sponsor; Sanjay Walvekar, Washington Association of Sheriffs and Police Chiefs; Christopher Poulos, Washington Statewide Reentry Council; and Nick Federici, Pioneer Human Services.

(Other) Victor Saucedo.

Persons Testifying (Appropriations): James McMahan, Washington Association of Sheriffs and Police Chiefs.

Persons Signed In To Testify But Not Testifying (Health Care & Wellness): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.