
SUBSTITUTE SENATE BILL 5200

State of Washington

69th Legislature

2025 Regular Session

By Senate Health & Long-Term Care (originally sponsored by Senators Wagoner, Christian, and Fortunato)

READ FIRST TIME 02/14/25.

1 AN ACT Relating to veterans' medical foster homes; and amending
2 RCW 70.128.030, 74.39A.009, 74.34.020, and 74.39A.056.

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

4 **Sec. 1.** RCW 70.128.030 and 2012 c 10 s 55 are each amended to
5 read as follows:

6 The following residential facilities shall be exempt from the
7 operation of this chapter:

8 (1) Nursing homes licensed under chapter 18.51 RCW;

9 (2) Assisted living facilities licensed under chapter 18.20 RCW;

10 (3) Facilities approved and certified under chapter 71A.22 RCW;

11 (4) Residential treatment centers for individuals with mental
12 illness licensed under chapter 71.24 RCW;

13 (5) Hospitals licensed under chapter 70.41 RCW;

14 (6) Homes for individuals with developmental disabilities
15 licensed under chapter 74.15 RCW; and

16 (7) A medical foster home, as defined in 38 C.F.R. 17.73, that is
17 under the oversight and annually reviewed by the United States
18 department of veterans affairs in which care is provided exclusively
19 to three or fewer veterans, and the operator and its caregivers are
20 in compliance with applicable state laws including any required
21 training, certification, and background checks.

1 **Sec. 2.** RCW 74.39A.009 and 2024 c 224 s 3 are each amended to
2 read as follows:

3 The definitions in this section apply throughout this chapter
4 unless the context clearly requires otherwise.

5 (1) "Adult family home" means a home licensed under chapter
6 70.128 RCW.

7 (2) "Adult residential care" means services provided by an
8 assisted living facility that is licensed under chapter 18.20 RCW and
9 that has a contract with the department under RCW 74.39A.020 to
10 provide personal care services.

11 (3) "Assisted living facility" means a facility licensed under
12 chapter 18.20 RCW.

13 (4) "Assisted living services" means services provided by an
14 assisted living facility that has a contract with the department
15 under RCW 74.39A.010 to provide personal care services, intermittent
16 nursing services, and medication administration services; and the
17 facility provides these services to residents who are living in
18 private apartment-like units.

19 (5) "Community residential service business" means a business
20 that:

21 (a) Is certified by the department of social and health services
22 to provide to individuals who have a developmental disability as
23 defined in RCW 71A.10.020(6):

24 (i) Group home services;

25 (ii) Group training home services;

26 (iii) Supported living services; or

27 (iv) Voluntary placement services provided in a licensed staff
28 residential facility for children;

29 (b) Has a contract with the developmental disabilities
30 administration to provide the services identified in (a) of this
31 subsection; and

32 (c) All of the business's long-term care workers are subject to
33 statutory or regulatory training requirements that are required to
34 provide the services identified in (a) of this subsection.

35 (6) "Consumer" or "client" means a person who is receiving or has
36 applied for services under this chapter, including a person who is
37 receiving services from an individual provider.

38 (7) "Consumer directed employer" is a private entity that
39 contracts with the department to be the legal employer of individual
40 providers. The consumer directed employer is patterned after the

1 agency with choice model, recognized by the federal centers for
2 medicare and medicaid services for financial management in consumer
3 directed programs. The entity's responsibilities are described in RCW
4 74.39A.515 and throughout this chapter and include: (a) Coordination
5 with the consumer, who is the individual provider's managing
6 employer; (b) withholding, filing, and paying income and employment
7 taxes, including workers' compensation premiums and unemployment
8 taxes, for individual providers; (c) verifying an individual
9 provider's qualifications; and (d) providing other administrative and
10 employment-related supports. The consumer directed employer is a
11 social service agency and its employees are mandated reporters as
12 defined in RCW 74.34.020.

13 (8) "Core competencies" means basic training topics, including
14 but not limited to, communication skills, worker self-care, problem
15 solving, maintaining dignity, consumer directed care, cultural
16 sensitivity, body mechanics, fall prevention, skin and body care,
17 long-term care worker roles and boundaries, supporting activities of
18 daily living, and food preparation and handling.

19 (9) "Cost-effective care" means care provided in a setting of an
20 individual's choice that is necessary to promote the most appropriate
21 level of physical, mental, and psychosocial well-being consistent
22 with client choice, in an environment that is appropriate to the care
23 and safety needs of the individual, and such care cannot be provided
24 at a lower cost in any other setting. But this in no way precludes an
25 individual from choosing a different residential setting to achieve
26 his or her desired quality of life.

27 (10) "Department" means the department of social and health
28 services.

29 (11) "Developmental disability" has the same meaning as defined
30 in RCW 71A.10.020.

31 (12) "Direct care worker" means a paid caregiver who provides
32 direct, hands-on personal care services to persons with disabilities
33 or the elderly requiring long-term care.

34 (13) "Enhanced adult residential care" means services provided by
35 an assisted living facility that is licensed under chapter 18.20 RCW
36 and that has a contract with the department under RCW 74.39A.010 to
37 provide personal care services, intermittent nursing services, and
38 medication administration services.

39 (14) "Facility" means an adult family home, an assisted living
40 facility, a nursing home, an enhanced services facility licensed

1 under chapter 70.97 RCW, or a facility certified to provide medicare
2 or medicaid services in nursing facilities or intermediate care
3 facilities for individuals with intellectual disabilities under 42
4 C.F.R. Part 483.

5 (15) "Home and community-based services" means services provided
6 in adult family homes, in-home services, and other services
7 administered or provided by contract by the department directly or
8 through contract with area agencies on aging or federally recognized
9 Indian tribes, or similar services provided by facilities and
10 agencies licensed or certified by the department.

11 (16) "Home care aide" means a long-term care worker who is
12 certified as a home care aide by the department of health under
13 chapter 18.88B RCW.

14 (17) "Individual provider" is defined according to RCW
15 74.39A.240.

16 (18) "Legal employer" means the consumer directed employer, which
17 along with the consumer, coemploys individual providers. The legal
18 employer is responsible for setting wages and benefits for individual
19 providers and must comply with applicable laws including, but not
20 limited to, state minimum wage laws, workers compensation, and
21 unemployment insurance laws.

22 (19) "Long-term care" means care and supports delivered
23 indefinitely, intermittently, or over a sustained time to persons of
24 any age who are functionally disabled due to chronic mental or
25 physical illness, disease, chemical dependency, or a medical
26 condition that is permanent, not curable, or is long-lasting and
27 severely limits their mental or physical capacity for self-care. The
28 use of this definition is not intended to expand the scope of
29 services, care, or assistance provided by any individuals, groups,
30 residential care settings, or professions unless otherwise required
31 by law.

32 (20) (a) "Long-term care workers" include all persons who provide
33 paid, hands-on personal care services for the elderly or persons with
34 disabilities, including but not limited to individual providers of
35 home care services, direct care workers employed by home care
36 agencies or a consumer directed employer, providers of home care
37 services to persons with developmental disabilities under Title 71A
38 RCW, all direct care workers in state-licensed assisted living
39 facilities, enhanced services facilities, and adult family homes,
40 respite care providers, direct care workers employed by community

1 residential service businesses, medical foster home providers as
2 defined in 38 C.F.R. 17.73, and any other direct care worker
3 providing home or community-based services to the elderly or persons
4 with functional disabilities or developmental disabilities.

5 (b) "Long-term care workers" do not include: (i) Persons employed
6 by the following facilities or agencies: Nursing homes licensed under
7 chapter 18.51 RCW, hospitals or other acute care settings,
8 residential habilitation centers under chapter 71A.20 RCW, facilities
9 certified under 42 C.F.R., Part 483, hospice agencies subject to
10 chapter 70.127 RCW, adult day care centers, and adult day health care
11 centers; or (ii) persons who are not paid by the state or by a
12 private agency or facility licensed or certified by the state to
13 provide personal care services.

14 (21) "Managing employer" means a consumer who coemploys one or
15 more individual providers and whose responsibilities include (a)
16 choosing potential individual providers and referring them to the
17 consumer directed employer; (b) overseeing the day-to-day management
18 and scheduling of the individual provider's tasks consistent with the
19 plan of care; and (c) dismissing the individual provider when
20 desired.

21 (22) "Nursing home" or "nursing facility" means a facility
22 licensed under chapter 18.51 RCW or certified as a medicaid nursing
23 facility under 42 C.F.R. Part 483, or both.

24 (23) "Person who is functionally disabled" means a person who
25 because of a recognized chronic physical or mental condition or
26 disease, including chemical dependency or developmental disability,
27 is dependent upon others for direct care, support, supervision, or
28 monitoring to perform activities of daily living. "Activities of
29 daily living," in this context, means self-care abilities related to
30 personal care such as bathing, eating, using the toilet, dressing,
31 and transfer. Instrumental activities of daily living such as
32 cooking, shopping, house cleaning, doing laundry, working, and
33 managing personal finances may also be considered when assessing a
34 person's functional ability to perform activities in the home and the
35 community.

36 (24) "Personal care services" means physical or verbal assistance
37 with activities of daily living and instrumental activities of daily
38 living provided because of a person's functional disability.

39 (25) "Population specific competencies" means basic training
40 topics unique to the care needs of the population the long-term care

1 worker is serving, including but not limited to, mental health,
2 dementia, developmental disabilities, young adults with physical
3 disabilities, and older adults.

4 (26) "Qualified instructor" means a registered nurse or other
5 person with specific knowledge, training, and work experience in the
6 provision of direct, hands-on personal care and other assistance
7 services to the elderly or persons with disabilities requiring
8 long-term care.

9 (27) "Secretary" means the secretary of social and health
10 services.

11 (28) "Training partnership" means a joint partnership or trust
12 that includes the office of the governor and the exclusive bargaining
13 representative of individual providers under RCW 74.39A.270 with the
14 capacity to provide training, peer mentoring, and workforce
15 development, or other services to individual providers.

16 (29) "Tribally licensed assisted living facility" means an
17 assisted living facility licensed by a federally recognized Indian
18 tribe in which a facility provides services similar to services
19 provided by assisted living facilities licensed under chapter 18.20
20 RCW.

21 **Sec. 3.** RCW 74.34.020 and 2023 c 44 s 1 are each amended to read
22 as follows:

23 The definitions in this section apply throughout this chapter
24 unless the context clearly requires otherwise.

25 (1) "Abandonment" means action or inaction by a person or entity
26 with a duty of care for a vulnerable adult that leaves the vulnerable
27 person without the means or ability to obtain necessary food,
28 clothing, shelter, or health care.

29 (2) "Abuse" means the intentional, willful, or reckless action or
30 inaction that inflicts injury, unreasonable confinement,
31 intimidation, or punishment on a vulnerable adult. In instances of
32 abuse of a vulnerable adult who is unable to express or demonstrate
33 physical harm, pain, or mental anguish, the abuse is presumed to
34 cause physical harm, pain, or mental anguish. Abuse includes sexual
35 abuse, mental abuse, physical abuse, and personal exploitation of a
36 vulnerable adult, and improper use of restraint against a vulnerable
37 adult which have the following meanings:

38 (a) "Sexual abuse" means any form of nonconsensual sexual
39 conduct, including but not limited to unwanted or inappropriate

1 touching, rape, molestation, indecent liberties, sexual coercion,
2 sexually explicit photographing or recording, voyeurism, indecent
3 exposure, and sexual harassment. Sexual abuse also includes any
4 sexual conduct between a staff person, who is not also a resident or
5 client, of a facility or a staff person of a program authorized under
6 chapter 71A.12 RCW, and a vulnerable adult living in that facility or
7 receiving service from a program authorized under chapter 71A.12 RCW,
8 whether or not it is consensual.

9 (b) "Physical abuse" means the intentional, willful, or reckless
10 action of inflicting bodily injury or physical mistreatment. Physical
11 abuse includes, but is not limited to, striking with or without an
12 object, slapping, pinching, choking, kicking, shoving, or prodding.

13 (c) "Mental abuse" means an intentional, willful, or reckless
14 verbal or nonverbal action that threatens, humiliates, harasses,
15 coerces, intimidates, isolates, unreasonably confines, or punishes a
16 vulnerable adult. Mental abuse may include ridiculing, yelling, or
17 swearing.

18 (d) "Personal exploitation" means an act of forcing, compelling,
19 or exerting undue influence over a vulnerable adult causing the
20 vulnerable adult to act in a way that is inconsistent with relevant
21 past behavior, or causing the vulnerable adult to perform services
22 for the benefit of another.

23 (e) "Improper use of restraint" means the inappropriate use of
24 chemical, physical, or mechanical restraints for convenience or
25 discipline or in a manner that: (i) Is inconsistent with federal or
26 state licensing or certification requirements for facilities,
27 hospitals, or programs authorized under chapter 71A.12 RCW; (ii) is
28 not medically authorized; or (iii) otherwise constitutes abuse under
29 this section.

30 (3) "Chemical restraint" means the administration of any drug to
31 manage a vulnerable adult's behavior in a way that reduces the safety
32 risk to the vulnerable adult or others, has the temporary effect of
33 restricting the vulnerable adult's freedom of movement, and is not
34 standard treatment for the vulnerable adult's medical or psychiatric
35 condition.

36 (4) "Consent" means express written consent granted after the
37 vulnerable adult or his or her legal representative has been fully
38 informed of the nature of the services to be offered and that the
39 receipt of services is voluntary.

1 (5) "Department" means the department of social and health
2 services.

3 (6) "Facility" means a residence licensed or required to be
4 licensed under chapter 18.20 RCW, assisted living facilities; chapter
5 18.51 RCW, nursing homes; chapter 70.128 RCW, adult family homes;
6 chapter 72.36 RCW, soldiers' homes; chapter 71A.20 RCW, residential
7 habilitation centers; (~~or~~) any other facility licensed or certified
8 by the department; or a medical foster home as defined in 38 C.F.R.
9 17.73.

10 (7) "Financial exploitation" means the illegal or improper use,
11 control over, or withholding of the property, income, resources, or
12 trust funds of the vulnerable adult by any person or entity for any
13 person's or entity's profit or advantage other than for the
14 vulnerable adult's profit or advantage. "Financial exploitation"
15 includes, but is not limited to:

16 (a) The use of deception, intimidation, or undue influence by a
17 person or entity in a position of trust and confidence with a
18 vulnerable adult to obtain or use the property, income, resources, or
19 trust funds of the vulnerable adult for the benefit of a person or
20 entity other than the vulnerable adult;

21 (b) The breach of a fiduciary duty, including, but not limited
22 to, the misuse of a power of attorney, trust, or a guardianship
23 appointment, that results in the unauthorized appropriation, sale, or
24 transfer of the property, income, resources, or trust funds of the
25 vulnerable adult for the benefit of a person or entity other than the
26 vulnerable adult; or

27 (c) Obtaining or using a vulnerable adult's property, income,
28 resources, or trust funds without lawful authority, by a person or
29 entity who knows or clearly should know that the vulnerable adult
30 lacks the capacity to consent to the release or use of his or her
31 property, income, resources, or trust funds.

32 (8) "Financial institution" has the same meaning as in RCW
33 30A.22.040 and 30A.22.041. For purposes of this chapter only,
34 "financial institution" also means a "broker-dealer" or "investment
35 adviser" as defined in RCW 21.20.005.

36 (9) "Hospital" means a facility licensed under chapter 70.41 or
37 71.12 RCW or a state hospital defined in chapter 72.23 RCW and any
38 employee, agent, officer, director, or independent contractor
39 thereof.

1 (10) "Individual provider" has the same meaning as in RCW
2 74.39A.240.

3 (11) "Interested person" means a person who demonstrates to the
4 court's satisfaction that the person is interested in the welfare of
5 the vulnerable adult, that the person has a good faith belief that
6 the court's intervention is necessary, and that the vulnerable adult
7 is unable, due to incapacity, undue influence, or duress at the time
8 the petition is filed, to protect his or her own interests.

9 (12)(a) "Isolate" or "isolation" means to restrict a vulnerable
10 adult's ability to communicate, visit, interact, or otherwise
11 associate with persons of his or her choosing. Isolation may be
12 evidenced by acts including but not limited to:

13 (i) Acts that prevent a vulnerable adult from sending, making, or
14 receiving his or her personal mail, electronic communications, or
15 telephone calls; or

16 (ii) Acts that prevent or obstruct the vulnerable adult from
17 meeting with others, such as telling a prospective visitor or caller
18 that a vulnerable adult is not present, or does not wish contact,
19 where the statement is contrary to the express wishes of the
20 vulnerable adult.

21 (b) The term "isolate" or "isolation" may not be construed in a
22 manner that prevents a guardian or limited guardian from performing
23 his or her fiduciary obligations under chapter 11.130 RCW or prevents
24 a hospital or facility from providing treatment consistent with the
25 standard of care for delivery of health services.

26 (13) "Mandated reporter" is an employee of the department or the
27 department of children, youth, and families; law enforcement officer;
28 social worker; professional school personnel; individual provider; an
29 operator of a facility or a certified residential services and
30 supports agency under chapter 71A.12 RCW; an employee of a facility;
31 an employee of a social service, welfare, mental health, adult day
32 health, adult day care, home health, home care, hospice, or certified
33 residential services and supports agency; county coroner or medical
34 examiner; Christian Science practitioner; or health care provider
35 subject to chapter 18.130 RCW.

36 (14) "Mechanical restraint" means any device attached or adjacent
37 to the vulnerable adult's body that he or she cannot easily remove
38 that restricts freedom of movement or normal access to his or her
39 body. "Mechanical restraint" does not include the use of devices,
40 materials, or equipment that are (a) medically authorized, as

1 required, and (b) used in a manner that is consistent with federal or
2 state licensing or certification requirements for facilities,
3 hospitals, or programs authorized under chapter 71A.12 RCW.

4 (15) "Neglect" means (a) a pattern of conduct or inaction by a
5 person or entity with a duty of care that fails to provide the goods
6 and services that maintain physical or mental health of a vulnerable
7 adult, or that fails to avoid or prevent physical or mental harm or
8 pain to a vulnerable adult; or (b) an act or omission by a person or
9 entity with a duty of care that demonstrates a serious disregard of
10 consequences of such a magnitude as to constitute a clear and present
11 danger to the vulnerable adult's health, welfare, or safety,
12 including but not limited to conduct prohibited under RCW 9A.42.100.

13 (16) "Permissive reporter" means any person, including, but not
14 limited to, an employee of a financial institution, attorney, or
15 volunteer in a facility or program providing services for vulnerable
16 adults.

17 (17) "Physical restraint" means the application of physical force
18 without the use of any device, for the purpose of restraining the
19 free movement of a vulnerable adult's body. "Physical restraint" does
20 not include (a) briefly holding without undue force a vulnerable
21 adult in order to calm or comfort him or her, or (b) holding a
22 vulnerable adult's hand to safely escort him or her from one area to
23 another.

24 (18) "Protective services" means any services provided by the
25 department to a vulnerable adult with the consent of the vulnerable
26 adult, or the legal representative of the vulnerable adult, who has
27 been abandoned, abused, financially exploited, neglected, or in a
28 state of self-neglect. These services may include, but are not
29 limited to case management, social casework, home care, placement,
30 arranging for medical evaluations, psychological evaluations, day
31 care, or referral for legal assistance.

32 (19) "Self-neglect" means the failure of a vulnerable adult, not
33 living in a facility, to provide for himself or herself the goods and
34 services necessary for the vulnerable adult's physical or mental
35 health, and the absence of which impairs or threatens the vulnerable
36 adult's well-being. This definition may include a vulnerable adult
37 who is receiving services through home health, hospice, or a home
38 care agency, or an individual provider when the neglect is not a
39 result of inaction by that agency or individual provider.

40 (20) "Social worker" means:

1 (a) A social worker as defined in RCW 18.320.010(2); or
2 (b) Anyone engaged in a professional capacity during the regular
3 course of employment in encouraging or promoting the health, welfare,
4 support, or education of vulnerable adults, or providing social
5 services to vulnerable adults, whether in an individual capacity or
6 as an employee or agent of any public or private organization or
7 institution.

8 (21) "Vulnerable adult" includes a person:

- 9 (a) Sixty years of age or older who has the functional, mental,
10 or physical inability to care for himself or herself; or
11 (b) Subject to a guardianship under RCW 11.130.265 or adult
12 subject to conservatorship under RCW 11.130.360; or
13 (c) Who has a developmental disability as defined under RCW
14 71A.10.020; or
15 (d) Admitted to any facility; or
16 (e) Receiving services from home health, hospice, or home care
17 agencies licensed or required to be licensed under chapter 70.127
18 RCW; or
19 (f) Receiving services from an individual provider; or
20 (g) Who self-directs his or her own care and receives services
21 from a personal aide under chapter 74.39 RCW.

22 (22) "Vulnerable adult advocacy team" means a team of three or
23 more persons who coordinate a multidisciplinary process, in
24 compliance with chapter 266, Laws of 2017 and the protocol governed
25 by RCW 74.34.320, for preventing, identifying, investigating,
26 prosecuting, and providing services related to abuse, neglect, or
27 financial exploitation of vulnerable adults.

28 **Sec. 4.** RCW 74.39A.056 and 2023 c 223 s 4 are each amended to
29 read as follows:

30 (1)(a) All long-term care workers shall be screened through state
31 and federal background checks in a uniform and timely manner to
32 verify that they do not have a history that would disqualify them
33 from working with vulnerable persons. The department must process
34 background checks for long-term care workers and, based on this
35 screening, inform employers, prospective employers, and others as
36 authorized by law, whether screened applicants are ineligible for
37 employment.

38 (b)(i) For long-term care workers hired on or after January 7,
39 2012, the background checks required under this section shall include

1 checking against the federal bureau of investigation fingerprint
2 identification records system or its successor program. The
3 department shall require these long-term care workers to submit
4 fingerprints for the purpose of investigating conviction records
5 through both the Washington state patrol and the federal bureau of
6 investigation. The department shall not pass on the cost of these
7 criminal background checks to the workers or their employers.

8 (ii) A long-term care worker who is not disqualified by the state
9 background check can work and have unsupervised access pending the
10 results of the federal bureau of investigation fingerprint background
11 check as allowed by rules adopted by the department.

12 (2) A provider may not be employed in the care of and have
13 unsupervised access to vulnerable adults if:

14 (a) The provider is on the vulnerable adult abuse registry or on
15 any other registry based upon a finding of abuse, abandonment,
16 neglect, or financial exploitation of a vulnerable adult;

17 (b) On or after October 1, 1998, the department of children,
18 youth, and families, or its predecessor agency, has made a founded
19 finding of abuse or neglect of a child against the provider. If the
20 provider has received a certificate of parental improvement under
21 chapter 74.13 RCW pertaining to the finding, the provider is not
22 disqualified under this section;

23 (c) A disciplining authority, including the department of health,
24 has made a finding of abuse, abandonment, neglect, or financial
25 exploitation of a minor or a vulnerable adult against the provider;
26 or

27 (d) A court has issued an order that includes a finding of fact
28 or conclusion of law that the provider has committed abuse,
29 abandonment, neglect, or financial exploitation of a minor or
30 vulnerable adult. If the provider has received a certificate of
31 parental improvement under chapter 74.13 RCW pertaining to the
32 finding of fact or conclusion of law, the provider is not
33 disqualified under this section.

34 (3) The department shall establish, by rule, a state registry
35 which contains identifying information about long-term care workers
36 identified under this chapter who have final substantiated findings
37 of abuse, neglect, financial exploitation, or abandonment of a
38 vulnerable adult as defined in RCW 74.34.020. The rule must include
39 disclosure, disposition of findings, notification, findings of fact,
40 appeal rights, and fair hearing requirements. The department shall

1 disclose, upon request, final substantiated findings of abuse,
2 neglect, financial exploitation, or abandonment to any person so
3 requesting this information. This information must also be shared
4 with the department of health to advance the purposes of chapter
5 18.88B RCW.

6 (4) For the purposes of this section, "provider" means:

7 (a) An individual provider as defined in RCW 74.39A.240;

8 (b) An employee, licensee, or contractor of any of the following:
9 A home care agency licensed under chapter 70.127 RCW; a nursing home
10 under chapter 18.51 RCW; an assisted living facility under chapter
11 18.20 RCW; an enhanced services facility under chapter 70.97 RCW; a
12 certified resident services and supports agency licensed or certified
13 under chapter 71A.12 RCW; an adult family home under chapter 70.128
14 RCW; or any long-term care facility certified to provide medicaid or
15 medicare services; (~~and~~)

16 (c) Any contractor of the department who may have unsupervised
17 access to vulnerable adults; and

18 (d) The operator and caregivers of a medical foster home, as
19 defined in 38 C.F.R. 17.73.

20 (5) The department shall adopt rules to implement this section.

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