

1 **SB 5705 - H AMD 0452 ADOPTED 4/18/03**
2 By Representative Dickerson

3 Strike everything after the enacting clause and insert the
4 following:

5 "NEW SECTION. **Sec. 1.** The legislature finds and declares the
6 following:

7 (1) Thousands of citizens in the state have disabilities,
8 including blindness or visual impairment, that prevent them from
9 using conventional print material.

10 (2) Governmental and nonprofit organizations provide access to
11 reading material by specialized means, including books and
12 magazines prepared in braille, audio, and large-type formats.

13 (3) Access to time-sensitive or local or regional publications,
14 or both, is not feasible to produce through these traditional means
15 and formats.

16 (4) Lack of direct and prompt access to information included in
17 newspapers, magazines, newsletters, schedules, announcements, and
18 other time-sensitive materials limits educational opportunities,
19 literacy, and full participation in society by people with print
20 disabilities.

21 (5) Creation and storage of information by computer results in
22 electronic files used for publishing and distribution.

23 (6) The use of high-speed computer and telecommunications
24 technology combined with customized software provides a practical
25 and cost-effective means to convert electronic text-based
26 information, including daily newspapers, into synthetic speech
27 suitable for statewide distribution by telephone.

28 (7) Telephonic distribution of time-sensitive information,
29 including daily newspapers, will enhance the state's current
30 efforts to meet the needs of blind and disabled citizens for access
31 to information which is otherwise available in print, thereby

1 reducing isolation and supporting full integration and equal access
2 for such individuals.

3 **Sec. 2.** RCW 74.18.010 and 1983 c 194 s 1 are each amended to
4 read as follows:

5 The purposes of this chapter are to promote (~~(the economic)~~)
6 employment and ((social welfare)) independence of blind persons in
7 the state of Washington(~~(, to relieve blind or visually handicapped~~
8 ~~persons from the distress of poverty))~~) through their complete
9 integration into society on the basis of equality, and to encourage
10 public acceptance of the abilities of blind persons(~~(, and to~~
11 ~~promote public awareness of the causes of blindness))~~).

12 **Sec. 3.** RCW 74.18.020 and 1983 c 194 s 2 are each amended to
13 read as follows:

14 Unless the context clearly requires otherwise, the definitions
15 in this section apply throughout this chapter.

16 (1) "Department" means an agency of state government called the
17 department of services for the blind.

18 (2) "Director" means the director of the (~~(state agency))~~)
19 department of services for the blind. The director is appointed by
20 the governor with the consent of the senate.

21 (3) (~~("Advisory council")~~) "Rehabilitation council for the
22 blind" means the body of members appointed by the governor in
23 accordance with the provisions of RCW 74.18.070 to advise the state
24 agency.

25 (4) "Blind person" means a person who: (a) Has no vision or
26 whose vision with corrective lenses is so ((defective as to prevent
27 the performance of ordinary activities for which eyesight is
28 essential, or who)) limited that the individual requires
29 alternative methods or skills to do efficiently those things that
30 are ordinarily done with sight by individuals with normal vision;
31 (b) has an eye condition of a progressive nature which may lead to
32 blindness; or (c) is blind for purposes of the business enterprise
33 program as set forth in RCW 74.18.200 through 74.18.230 in
34 accordance with requirements of the Randolph-Sheppard Act of 1936.

35 (5) "Telephonic reading service" means audio information
36 provided by telephone, including the acquisition and distribution

1 of daily newspapers and other information of local, state, or
2 national interest.

3 NEW SECTION. **Sec. 4.** A new section is added to chapter 74.18
4 RCW to read as follows:

5 (1)(a) The director shall provide access to a telephonic
6 reading service for blind and disabled persons.

7 (b) The director shall establish criteria for eligibility for
8 blind and disabled persons who may receive the telephonic reading
9 services. The criteria may be based upon the eligibility criteria
10 for persons who receive services established by the national
11 library service for the blind and physically handicapped of the
12 library of congress.

13 (2) The director may enter into contracts or other agreements
14 that he or she determines to be appropriate to provide telephonic
15 reading services pursuant to this section.

16 (3) The director may expand the type and scope of materials
17 available on the telephonic reading service in order to meet the
18 local, regional, or foreign language needs of blind or visually
19 impaired residents of this state. The director may also expand the
20 scope of services and availability of telephonic reading services
21 by current methods and technologies that may be developed. The
22 director may inform current and potential patrons of the
23 availability of telephonic reading services through appropriate
24 means, including, but not limited to, direct mailings, direct
25 telephonic contact, and public service announcements.

26 (4) The director may expend moneys from the business
27 enterprises revolving account accrued from vending machine sales in
28 state and local government buildings, as well as donations and
29 grants, for the purpose of supporting the cost of activities
30 described in this section.

31 **Sec. 5.** RCW 74.18.050 and 1983 c 194 s 5 are each amended to
32 read as follows:

33 The director may appoint such personnel as necessary, none of
34 whom shall be members of the (~~advisory~~) rehabilitation council
35 for the blind. The director and other personnel who are assigned
36 substantial responsibility for formulating agency policy or
37 directing and controlling a major administrative division, together

1 with their confidential secretaries, up to a maximum of six
2 persons, shall be exempt from the provisions of chapter 41.06 RCW.

3 **Sec. 6.** RCW 74.18.060 and 1983 c 194 s 6 are each amended to
4 read as follows:

5 The department shall:

6 (1) Serve as the sole agency of the state for contracting for
7 and disbursing all federal and state funds appropriated for
8 programs established by and within the jurisdiction of this
9 chapter, and make reports and render accounting as may be required;

10 (2) Adopt rules, in accordance with chapter 34.05 RCW,
11 necessary to carry out the purposes of this chapter;

12 (3) Negotiate agreements with other state agencies to provide
13 services (~~((for individuals who are both blind and otherwise
14 disabled))~~) so that (~~((multiply handicapped persons and the elderly
15 blind))~~) individuals of any age who are blind or are both blind and
16 otherwise disabled receive the most beneficial services.

17 **Sec. 7.** RCW 74.18.070 and 2000 c 57 s 1 are each amended to
18 read as follows:

19 (1) There is hereby created the rehabilitation council for the
20 blind. The rehabilitation council shall consist of the minimum
21 number of voting members to meet the requirements of the
22 rehabilitation council required under the federal rehabilitation
23 act of 1973 as now or hereafter amended. A majority of the voting
24 members shall be blind persons. Rehabilitation council members
25 shall be residents of the state of Washington, and shall
26 (~~((represent))~~) be appointed in accordance with the categories of
27 membership specified in the federal rehabilitation act of 1973 as
28 now or hereafter amended. The director of the department (~~((of
29 services for the blind))~~) shall be an ex officio, nonvoting member.

30 (2) The governor shall appoint members of the rehabilitation
31 council for terms of three years, except that the initial
32 appointments shall be as follows: (a) Three members for terms of
33 three years; (b) two members for terms of two years; and (c) other
34 members for terms of one year. Vacancies in the membership of the
35 rehabilitation council shall be filled by the governor for the
36 remainder of the unexpired term.

1 (3) The governor may remove members of the rehabilitation
2 council for cause.

3 **Sec. 8.** RCW 74.18.090 and 2000 c 57 s 3 are each amended to
4 read as follows:

5 The rehabilitation council for the blind may:

6 (1) Provide counsel to the director in developing, reviewing,
7 making recommendations, and agreeing on the department's state plan
8 for vocational rehabilitation, budget requests, permanent rules
9 concerning services to blind ~~((citizens))~~ persons, and other major
10 policies which impact the quality or quantity of services for
11 ~~((the))~~ blind persons;

12 (2) Undertake annual reviews with the director of the needs of
13 blind ~~((citizens))~~ persons, the effectiveness of the services and
14 priorities of the department to meet those needs, and the measures
15 that could be taken to improve the department's services;

16 (3) Annually make recommendations to the governor and the
17 legislature on issues related to the department ~~((of services for
18 the blind))~~, other state agencies, or state laws which have a
19 significant effect on the opportunities, services, or rights of
20 blind ~~((citizens))~~ persons;

21 (4) Advise and make recommendations to the governor on the
22 criteria and qualifications pertinent to the selection of the
23 director;

24 (5) Perform additional functions as required by the federal
25 rehabilitation act of 1973 as now or hereafter amended.

26 **Sec. 9.** RCW 74.18.110 and 1983 c 194 s 11 are each amended to
27 read as follows:

28 The department ~~((of services for the blind))~~ may receive,
29 accept, and disburse gifts, grants, conveyances, devises, and
30 bequests from public or private sources, in trust or otherwise, if
31 the terms and conditions thereof will provide services for ~~((the))~~
32 blind persons in a manner consistent with the purposes of this
33 chapter and with other provisions of law. Any money so received
34 shall be deposited in the state treasury for investment or
35 expenditure in accordance with the conditions of its receipt.

1 **Sec. 10.** RCW 74.18.120 and 1989 c 175 s 150 are each amended
2 to read as follows:

3 ~~(1) ((Any person aggrieved by a decision, action, or inaction~~
4 ~~of the department or its agents may request, and shall receive from~~
5 ~~the department, an administrative review and redetermination of~~
6 ~~that decision, action, or inaction.~~

7 ~~(2) After completion of an administrative review,))~~ An
8 applicant or ((client aggrieved by)) eligible person who is
9 dissatisfied with a decision, action, or inaction ((of)) made by
10 the department or its agents ((may request, and shall be granted,))
11 regarding that person's eligibility or department services provided
12 to that person is entitled to an administrative hearing. Such
13 administrative hearings shall be conducted pursuant to chapter
14 34.05 RCW by an administrative law judge.

15 ~~((+3))~~ (2) The applicant or eligible individual may appeal
16 final decisions ((of)) issued following administrative hearings
17 ((shall be the subject of appeal)) under RCW 34.05.510 through
18 34.05.598.

19 ~~((4) In the event of an appeal from the final decision of an~~
20 ~~administrative hearing in which the department has overruled the~~
21 ~~proposed decision by an administrative law judge, the following~~
22 ~~terms shall apply for an appeal under RCW 34.05.510 through~~
23 ~~34.05.598: (a) Upon request a copy of the transcript and evidence~~
24 ~~from the administrative hearing shall be made available without~~
25 ~~charge to the appellant; (b) the appellant shall not be required to~~
26 ~~post bond or pay any filing fee; and (c) an appellant receiving a~~
27 ~~favorable decision upon appeal shall be entitled to reasonable~~
28 ~~attorney's fees and costs.))~~

29 (3) The department shall develop rules governing other
30 processes for dispute resolution as required under the federal
31 rehabilitation act of 1973.

32 NEW SECTION. Sec. 11. A new section is added to chapter 74.18
33 RCW to read as follows:

34 (1) The department shall investigate the conviction records,
35 pending charges, and disciplinary board final decisions of
36 individuals acting on behalf of the department who will or may have
37 unsupervised access to persons with significant disabilities as
38 defined by the federal rehabilitation act of 1973. This includes:

1 (a) Current employees of the department;

2 (b) Applicants seeking or being considered for any position
3 with the department; and

4 (c) Any service provider, contractor, student intern,
5 volunteer, or other individual acting on behalf of the department.

6 (2) The investigation shall consist of a background check as
7 allowed through the Washington state criminal records privacy act
8 under RCW 10.97.050, the Washington state patrol criminal
9 identification system under RCW 43.43.832 through 43.43.834, and
10 the federal bureau of investigation. The background check shall
11 include a fingerprint check using a complete Washington state
12 criminal identification fingerprint card. If the applicant or
13 service provider has had a background check within the previous two
14 years, the department may waive the requirement.

15 (3) When necessary, applicants may be employed and service
16 providers may be engaged on a conditional basis pending completion
17 of the background check.

18 (4) The department shall use the information solely to
19 determine the character, suitability, and competence of employees,
20 applicants, service providers, contractors, student interns,
21 volunteers, and other individuals in accordance with RCW 41.06.475.

22 (5) The department shall adopt rules addressing procedures for
23 undertaking background checks which shall include, but not be
24 limited to, the following:

25 (a) The manner in which the individual will be provided access
26 to and review of information obtained based on the background check
27 required;

28 (b) Assurance that access to background check information shall
29 be limited to only those individuals processing the information at
30 the department;

31 (c) Action that shall be taken against a current employee,
32 service provider, contractor, student intern, or volunteer who is
33 disqualified from a position because of a background check not
34 previously performed.

35 (6) The department shall determine who will pay costs
36 associated with the background check.

37 NEW SECTION. **Sec. 12.** A new section is added to chapter 74.18
38 RCW to read as follows:

1 (1) Personal information and records obtained and retained by
2 the department concerning applicants and eligible individuals are
3 confidential, are not subject to public disclosure, and may be
4 released only in accordance with law or with this provision.

5 (2) The department shall adopt rules and develop contract
6 language to safeguard the confidentiality of all personal
7 information, including photographs and lists of names. Rules and
8 contract language shall ensure that:

9 (a) Specific safeguards are established to protect all current
10 and future stored personal information;

11 (b) Specific safeguards and procedures are established for the
12 release of personal health information in accordance with the
13 health insurance portability and accountability act of 1996, 45
14 C.F.R. 160 through 45 C.F.R. 164;

15 (c) All applicants and eligible individuals and, as
16 appropriate, those individuals' representatives, service providers,
17 cooperating agencies, and interested persons are informed upon
18 initial intake of the confidentiality of personal information and
19 the conditions for accessing and releasing this information;

20 (d) All applicants or their representatives are informed about
21 the department's need to collect personal information and the
22 policies governing its use, including: (i) Identification of the
23 authority under which information is collected; (ii) explanation of
24 the principal purposes for which the department intends to use or
25 release the information; (iii) explanation of whether providing
26 requested information to the department is mandatory or voluntary
27 and the effects of not providing requested information; (iv)
28 identification of those situations in which the department requires
29 or does not require informed written consent of the individual
30 before information may be released; and (v) identification of other
31 agencies to which information is routinely released; and

32 (e) An explanation of department policies and procedures
33 affecting personal information will be provided at intake or on
34 request to each individual in that individual's native language and
35 in an appropriate format including but not limited to braille,
36 audio recording, electronic media, or large print.

37 **Sec. 13.** RCW 74.18.130 and 1983 c 194 s 13 are each amended to
38 read as follows:

1 The department shall provide a program of vocational
2 rehabilitation to assist blind persons to overcome (~~vocational~~
3 ~~handicaps~~) barriers to employment and to develop skills necessary
4 for (~~self-support~~) employment and (~~self-care~~) independence.
5 Applicants eligible for vocational rehabilitation services shall be
6 blind persons (~~who are blind as defined in RCW 74.18.020 and~~) who
7 also (~~(1) have no vision or limited vision which constitutes or~~
8 ~~results in a substantial handicap to employment and (2) can~~
9 ~~reasonably be expected to benefit from vocational rehabilitation~~
10 ~~services in terms of employability~~) meet eligibility requirements
11 as specified in the federal rehabilitation act of 1973.

12 **Sec. 14.** RCW 74.18.140 and 1983 c 194 s 14 are each amended to
13 read as follows:

14 The department (~~may provide to eligible individuals~~) shall
15 ensure that vocational rehabilitation services (~~(, including medical~~
16 ~~and vocational diagnosis; vocational counseling, guidance,~~
17 ~~referral, and placement; rehabilitation training; physical and~~
18 ~~mental restoration; maintenance and transportation; reader~~
19 ~~services; interpreter services for the deaf; rehabilitation~~
20 ~~teaching services; orientation and mobility services; occupational~~
21 ~~licenses, tools, equipment, and initial stocks and supplies;~~
22 ~~telecommunications, sensory, and other technological aids and~~
23 ~~devices; and other goods and services which can be reasonably~~
24 ~~expected to benefit a client in terms of employability~~) in
25 accordance with requirements under the federal rehabilitation act
26 of 1973 are available to meet the identified requirements of each
27 eligible individual in preparing for, securing, retaining, or
28 regaining an employment outcome that is consistent with the
29 individual's strengths, resources, priorities, concerns, abilities,
30 capabilities, interests, and informed choice.

31 **Sec. 15.** RCW 74.18.150 and 1996 c 7 s 1 are each amended to
32 read as follows:

33 The department may grant to eligible participants in the
34 vocational rehabilitation (clients) program equipment and
35 materials (~~(not to exceed the amount allowed by state financial~~
36 ~~policies and regulations)~~) in accordance with the provisions
37 related to transfer of capital assets as set forth by the office of

1 financial management in the state administrative and accounting
2 manual, provided that the equipment or materials are required by
3 the ~~((client's))~~ individual's ~~((written rehabilitation program))~~
4 plan for employment and are used ~~((by the client or former client))~~
5 in a manner consistent therewith. The department shall adopt rules
6 to implement this section.

7 **Sec. 16.** RCW 74.18.170 and 1983 c 194 s 16 are each amended to
8 read as follows:

9 The department may establish, construct, and/or operate
10 rehabilitation or habilitation facilities to provide instruction in
11 alternative skills necessary to adjust to blindness or substantial
12 vision loss, to assist blind persons to develop increased
13 confidence and independence, or to provide other services
14 consistent with the purposes of this chapter. The department shall
15 adopt rules concerning selection criteria for participation,
16 services, and other matters necessary for efficient and effective
17 operation of such facilities.

18 **Sec. 17.** RCW 74.18.180 and 1983 c 194 s 18 are each amended to
19 read as follows:

20 (1) The department ~~((, to the extent appropriations are made~~
21 ~~available,))~~ may provide a program of independent living services
22 for ~~((independent living designed to meet the current and future~~
23 ~~needs of))~~ blind ~~((individuals))~~ persons who ~~((presently cannot~~
24 ~~function independently in their living environment, but who may~~
25 ~~benefit from services that will enable them to maintain contact~~
26 ~~with society and perform some tasks of daily living independently))~~
27 are not seeking vocational rehabilitation services.

28 (2) Independent living services may include, but are not
29 limited to, instruction in adaptive skills of blindness, counseling
30 regarding adjustment to vision loss, and provision of adaptive
31 devices that enable service recipients to participate in the
32 community and maintain or increase their independence.

33 **Sec. 18.** RCW 74.18.200 and 1985 c 97 s 1 are each amended to
34 read as follows:

35 Unless the context clearly requires otherwise, the definitions
36 in this section apply in RCW 74.18.200 through 74.18.230.

1 (1) "Business enterprises program" means a program operated by
2 the department under the federal Randolph-Sheppard Act, 20 U.S.C.
3 Sec. 107 et seq., and under this chapter in support of blind
4 persons operating vending businesses in public buildings.

5 (2) "Vending facility" means any stand, snack bar, cafeteria,
6 or business at which food, tobacco, sundries, or other retail
7 merchandise or service is sold or provided.

8 (3) "Vending machine" means any coin-operated machine that
9 sells or provides food, tobacco, sundries, or other retail
10 merchandise or service.

11 (4) "Blind person" means a person whose central visual acuity
12 does not exceed 20/200 in the better eye with correcting lenses or
13 whose visual acuity, if better than 20/200, is accompanied by a
14 limit to the field of vision in the better eye to such a degree
15 that its widest diameter subtends an angle of no greater than 20
16 degrees. In determining whether an individual is blind, there
17 shall be an examination by a physician skilled in diseases of the
18 eye, or by an optometrist, whichever the individual selects.

19 (5) "Licensee" means a blind person licensed by the state of
20 Washington under the Randolph-Sheppard Act, this chapter, and the
21 rules issued hereunder.

22 ~~((+5))~~ (6) "Public building" means any building and
23 immediately adjacent outdoor space associated therewith, such as a
24 patio or entryway, which is: (a) Owned by the state of Washington
25 or any political subdivision thereof or any space leased by the
26 state of Washington or any political subdivision thereof in any
27 privately-owned building; and (b) dedicated to the administrative
28 functions of the state or any political subdivision~~((:—PROVIDED,~~
29 ~~That any vending facility or vending machine))~~. However, this term
30 shall not include property under the jurisdiction and control of a
31 local board of education ~~((shall not be included))~~ without the
32 consent ~~((and approval))~~ of ~~((that local))~~ such board.

33 (7) "Priority" means the department has first and primary right
34 to operate the food service and vending facilities, including
35 vending machines, on federal, state, county, municipal, and other
36 local government property except those otherwise exempted by
37 statute. Such right may, at the sole discretion of the department,
38 be waived in the event that the department is temporarily unable to
39 assert the priority.

1 **Sec. 19.** RCW 74.18.210 and 1983 c 194 s 21 are each amended to
2 read as follows:

3 The department shall maintain or cause to be maintained a
4 business enterprises program for blind persons to operate vending
5 facilities in public buildings. The purposes of the business
6 enterprises program are to implement the Randolph-Sheppard Act and
7 thereby give priority to qualified blind persons in operating
8 vending facilities on federal property, to make similar provisions
9 for vending facilities in public buildings in the state of
10 Washington and thereby increase employment opportunities for blind
11 persons, and to encourage ~~((the))~~ blind persons to become
12 successful, independent business persons.

13 **Sec. 20.** RCW 74.18.230 and 2002 c 71 s 2 are each amended to
14 read as follows:

15 (1) There is established in the state treasury an account known
16 as the business enterprises revolving account.

17 (2) The net proceeds from any vending machine operation in a
18 public building, other than an operation managed by a licensee,
19 shall be made payable to the business enterprises program, which
20 will pay only the blind vendors' portion, at the subscriber's rate,
21 for the purpose of funding a plan of health insurance for blind
22 vendors, as provided in RCW 41.05.225. Net proceeds, for purposes
23 of this section, means ~~((the))~~ gross ~~((amount received))~~ sales less
24 ~~((the costs of the operation, including))~~ state sales tax and a
25 fair minimum return to the vending machine owner or service
26 provider, which return shall ~~((not exceed))~~ be a reasonable amount
27 to be determined by the department.

28 (3) All federal moneys in the business enterprises revolving
29 account shall be expended only for development and expansion of
30 locations, equipment, management services, and payments to
31 licensees in the business enterprises program.

32 (4) The business enterprises program shall be supported by the
33 business enterprises revolving account and by income which may
34 accrue to the department pursuant to the federal Randolph-Sheppard
35 Act.

36 NEW SECTION. **Sec. 21.** The following acts or parts of acts are
37 each repealed:

1 (1) RCW 74.18.160 (Vocational rehabilitation--Orientation and
2 training center) and 1983 c 194 s 17; and
3 (2) RCW 74.18.250 (Specialized medical eye care--Prevention of
4 blindness) and 1983 c 194 s 24."

5 Correct the Title.

EFFECT: Requires the Director of the Department of Services for the Blind (DSB) to provide access to a telephonic reading service for blind and disabled persons. The Director may contract for the service and establish criteria for the eligibility of the program. The Director must also inform persons who may be eligible for the service of the availability of the service.

Authorizes the Director to expand the type and scope of materials available for the service to meet the varying needs of blind and disabled persons and development of new technology for the delivery of the service.

Authorizes the Director to expend funds from the business enterprise program account as well as donation and grant money, for the purpose of supporting the telephonic reading service.

Clarifies the meaning of "public building" to specify that the outdoor space included in the definition of "public building" only extends to immediately adjacent outdoor space associated directly with the building rather than "adjacent outdoor property."