

# HOUSE BILL REPORT

## HB 2865

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**As Reported by House Committee On:**  
Human Services  
Health & Human Services Appropriations

**Title:** An act relating to offenders with developmental disabilities or traumatic brain injuries.

**Brief Description:** Concerning offenders with developmental disabilities or traumatic brain injuries.

**Sponsors:** Representatives Roberts, Dickerson, Walsh, O'Brien, White, Seaquist, Green, Williams, Moeller, Appleton and Orwall.

**Brief History:**

**Committee Activity:**

Human Services: 1/21/10, 1/28/10 [DPS];

Health & Human Services Appropriations: 2/4/10 [DPS(HS)].

**Brief Summary of Substitute Bill**

- Expands the jurisdiction of the mental health court to expressly include offenders who have intellectual or developmental disabilities or who have suffered a traumatic brain injury.
- Requires the Department of Social and Health Services to adopt rules and policies to allow, upon release from confinement, the reinstatement of medical assistance for a person with an intellectual or developmental disability or traumatic brain injury who had been enrolled in medical assistance immediately prior to confinement.
- Requires jail staff, upon transfer of a person to the Department of Corrections or another jail facility, to make every reasonable effort to inform the staff of the receiving entity of any necessary accommodations identified through screening by the transferring jail staff.

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**HOUSE COMMITTEE ON HUMAN SERVICES**

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*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.*

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Dickerson, Chair; Orwall, Vice Chair; Dammeier, Ranking Minority Member; Darneille, Green, Herrera, O'Brien and Walsh.

**Staff:** Linda Merelle (786-7092).

**Background:**

Mental Health Court.

The mental health court is a voluntary program for nonviolent offenders charged with felony and non-felony offenses. Some of the goals of the mental health court are to protect public safety, reduce the use of jail, and reduce the repeated interaction with the criminal justice system for mentally ill persons. Offenders involved in mental health court also get connected or reconnected with needed mental health services and improve their likelihood of ongoing success with treatment, access to housing, and to other critical support.

Medical Assistance Benefits.

Medical Assistance benefits allow for medical care as provided under Title XIX of the federal Social Security Act. If an eligible person is booked into a correctional facility, he or she does not receive state-funded services while in custody, and is no longer eligible for Medical Assistance. In 2005 the Department of Social and Health Services (DSHS) began to adopt rules to expedite the enrollment or re-enrollment in Medical Assistance of persons leaving correctional facilities who had a mental disorder. In January 2009, the DSHS released a report in which it proposed a five-phase model for promptly reinstating the eligibility for any person who was receiving medical assistance at the time of incarceration.

House Bill 2078 Work Group.

During the 2009 interim, a work group made up of representatives from the Department of Corrections, local jails, advocates for persons with developmental and intellectual disabilities and traumatic brain injuries, and others met to review and address the special needs of persons with developmental and intellectual disabilities and traumatic brain injuries when they come into contact with local and state correctional facilities. The group has produced an interim report with recommendations for potential next steps, and continues to meet regarding the potential for the development of effective screening tools for this population when they enter a correctional or detention facility.

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**Summary of Substitute Bill:**

Mental Health Court.

Offenders who have been charged with a nonviolent felony or non-felony and who have an intellectual or developmental disability or traumatic brain injury are eligible to participate in

mental health court if the offender would benefit from treatment related to his or her intellectual or developmental disability or traumatic brain injury.

#### Jails.

Jails must adopt rules and policies that provide that if jail personnel determine, through screening procedures, that a person in custody has or may have a developmental disability or traumatic brain injury, the jail must make every reasonable effort, when transferring that person to the custody of the Department of Corrections of another jail facility, to provide to the receiving facility any information regarding necessary accommodations that have been identified.

#### Re-enrollment in Medical Assistance.

The DSHS is required to adopt policies and rules to expedite the re-enrollment of persons with intellectual or developmental disabilities or traumatic brain injury prior to release from a state or local correctional facility. This must occur if such persons were enrolled in medical assistance immediately prior to being taken into custody. This requirement adds to the DSHS's existing requirement to expedite such re-enrollment for persons who have a mental disorder.

#### **Substitute Bill Compared to Original Bill:**

In the substitute bill, jail staff are no longer required to notify the local prosecutor's office and the public defender's office, if known, of a finding that a person may have an intellectual or developmental disability or traumatic brain injury found during jail screening procedures.

When transferring a person to the Department of Corrections or to another jail facility, jail staff are not required to make "every effort" to communicate any necessary accommodations for a person with an intellectual or developmental disability or traumatic brain injury identified by staff. Jail staff are only required to make every reasonable effort to communicate such information.

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**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) The substance of this bill came out of a work group that included law enforcement, jail staff, developmental disability advocates, and others. The bill makes use of existing resources. This bill helps to address a difficult and important problem to make sure that this population gets a proper response. The bill takes advantage of things that already

exist. The length of time that it can take to become re-eligible for Medicaid can cause people to slip through the cracks.

(Opposed) None.

**Persons Testifying:** Representative Roberts, prime sponsor; Jo Arlow, Washington Association of Sheriffs and Police Chiefs; David Lord, Disability Rights Washington; Ed Holen, Developmental Disabilities Council; and Diana Stadden, The Arc of Washington State and Autism Society of Washington.

**Persons Signed In To Testify But Not Testifying:** None.

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## HOUSE COMMITTEE ON HEALTH & HUMAN SERVICES APPROPRIATIONS

**Majority Report:** The substitute bill by Committee on Human Services be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Pettigrew, Chair; Seaquist, Vice Chair; Schmick, Ranking Minority Member; Alexander, Assistant Ranking Minority Member; Appleton, Cody, Dickerson, Fagan, Johnson, Miloscia, Morrell, O'Brien, Roberts, Walsh and Wood.

**Staff:** Trista Zugel (786-7157).

### **Summary of Recommendation of Committee On Health & Human Services Appropriations Compared to Recommendation of Committee On Human Services:**

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) This bill flows out of the recommendations of a work group that looked at ways to deal with issues surrounding people with developmental disabilities in jail. This bill will help systems work better for people with developmental disabilities when they are in jail.

(Opposed) None.

**Persons Testifying:** Ed Holden, Developmental Disabilities Council.

**Persons Signed In To Testify But Not Testifying:** None.