

# HOUSE BILL REPORT

## SSB 6384

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### As Passed House - Amended:

February 29, 2012

**Title:** An act relating to ensuring that persons with developmental disabilities be given the opportunity to transition to a community access program after enrollment in an employment program.

**Brief Description:** Ensuring that persons with developmental disabilities be given the opportunity to transition to a community access program after enrollment in an employment program.

**Sponsors:** Senate Committee on Health & Long-Term Care (originally sponsored by Senators Parlette, Murray, Keiser, Fraser, Carrell, Kline, Pridemore, Frockt, Delvin, Harper, Fain, Honeyford, Benton, Hobbs, Hewitt, Shin, Regala, McAuliffe, Conway, Kohl-Welles, Roach, Haugen and Nelson).

### Brief History:

#### Committee Activity:

Early Learning & Human Services: 2/16/12, 2/21/12 [DPA].

#### Floor Activity:

Passed House - Amended: 2/29/12, 98-0.

### Brief Summary of Substitute Bill (As Amended by House)

- Requires the Department of Social and Health Services (DSHS) to offer clients of the Division of Developmental Disabilities who are age 21 or older the option to transfer to a community access program after nine months of enrollment in an employment program and to transfer from a community access program to an employment program.
- Requires the DSHS to consider options which allow for alternative service settings for community access services when developing ways to strengthen and expand the community access program.
- Requires the DSHS to develop rules to allow for an exception to the requirement that a client participate in an employment program for nine months before transferring receiving community access 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.*

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## HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

**Majority Report:** Do pass as amended. Signed by 9 members: Representatives Kagi, Chair; Roberts, Vice Chair; Walsh, Ranking Minority Member; Hope, Assistant Ranking Minority Member; Dickerson, Goodman, Johnson, Orwall and Overstreet.

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

### **Background:**

#### Division of Developmental Disabilities.

The Department of Social and Health Services' (DSHS) Division of Developmental Disabilities (DDD) assists individuals with developmental disabilities and their families to obtain services and support based on individual preference, capabilities, and needs.

While some clients of the DDD live in Residential Habilitation Centers, in an institutional setting, most clients live in the community.

Home and Community Based Services (HCBS) waivers are designed to allow clients who live in community settings to receive the same level of services that he or she would receive in an institutional setting. The DDD offers services under five Medicaid HCBS waivers. To be eligible for a HCBS waiver, the individual must be a client of the DDD; have a disability according to criteria established in the Social Security Act; have countable income that does not exceed 300 percent of the Social Security Income federal benefit standard and countable resources that do not exceed \$2,000 or be in the Health Care for Workers with Disabilities program; need the level of care provided in an Intermediate Care Facility for Individuals with Intellectual Disabilities; have an Individual Support Plan showing how the individual's health, safety, and habilitation needs can be met in the community with a monthly waiver service; and have agreed to accept home and community-based services as an alternative to institutional services.

The services provided to clients are designed to promote everyday activities, routines, and relationships common to most citizens, and they include employment services and community access services, which are contracted with counties.

#### Employment Services.

Employment services provide ongoing support services and training for eligible persons in a variety of settings and work sites. These include individual supported employment, group supported employment, prevocational services, and pre-employment services. Community access services assist individuals to participate in activities that promote individualized skill development, independent living, and community integration.

Since 2004 the DDD has had in place a policy that did not authorize services for clients age 21 through 61 if those services did not emphasize the pursuit or maintenance of employment in integrated settings. For an adult over age 21, but younger than age 62, no community access services were available unless the DSHS granted an exception to its policy. In

September 2011, the DDD modified its policy to allow services that do not emphasize the pursuit or maintenance of employment in integrated settings when the client has demonstrated that he or she has pursued employment for at least nine months through the DDD without satisfaction.

**Summary of Amended Bill:**

Under this bill, clients of the DDD age 21 and older who are receiving employment services must be allowed to transition to a community access program after the client has been enrolled in an employment program for nine months. A client is considered to be enrolled in an employment program at the time that he or she is authorized to receive employment services.

Clients must also be provided the option to transition from a community access program to an employment program at any time. The clients or their legal representatives must be informed of their service options, including the amount, scope, and duration of service for which the client would be eligible. They must also be informed of the option to request an exception from the requirement that they enroll in employment services for nine months before requesting community access services. Clients may only participate in one service option, either employment services or community access services.

The DSHS must work with counties and stakeholders to strengthen and expand the existing community access program, including the consideration of options that allow for alternative settings outside of the client's residence. The program should emphasize support for the client so that clients are able to participate in activities that integrate them into their community and support independent living and skills.

The DSHS is required to develop rules to allow an exception from the requirement that a client must participate in an employment program for nine months prior to requesting community access services.

**Appropriation:** None.

**Fiscal Note:** Available on original bill.

**Effective Date of Amended 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 options of employment services and community access in the bill already exist, so no infrastructure is required. The bill provides a compromise for those who think employment is important and for those who want another option. It avoids the need to go through the process that requires a client to request an exception to the policies of the DSHS. The members of households that are able to work do much better. Their mental and physical health is better. They are contributing. A job can be a miracle. Individuals can be a part of the community where they know people and they can visit on outings, such as going to the Saturday market. There are hundreds of people who have a developmental disability and

who are working, even those who need significant supports. Washington is a pioneer, and the bar here has been raised. The expectation is that people with developmental disabilities want to work and continue to work. The vast majority of individuals in adult day health spend their time doing coloring, arts and crafts, and listening to music. The main purpose of adult day health services is to provide respite for someone. This generation has an expectation of inclusion. Allowing adult day health services will cause a fiscal note because the DDD would have to open up the services statewide. This bill represents a good balance of policy. Giving the option of access is important if employment does not work out. This will allow the DSHS to work on strengthening and expanding community access. It has been very difficult to get community access services. If a client is receiving employment services, there was no way to get community access services. The number of people who receive community access services has increased over time, and those services are expanding.

(Opposed) It was the intent of the interim work group that there would be three options for services for clients of the DDD. Adult day health provides nursing and rehabilitation services. Those that are not as employable as others would still have the opportunity to receive services that they need, and families should have the choice of these services. Families did not want to have to choose between adult day health and supported living, but they had to. Adult day health is not compatible with inclusion. This bill either needs to be amended or set aside for further study. The DSHS never submitted a proposal for three choices. It would not cost a penny more for the DSHS to provide all three programs of adult day health, employment services, and community access. The DSHS knows that parents would choose the adult day health option in overwhelming numbers. It is an option that lets families stretch their resources. Having only two choices really means no choice. If clients do not have access to adult day health services, they will end up sitting in a room by themselves. Without these services, they are stuck in a box and cannot go anywhere unless it is on an access bus to a McDonald's for an hour a month. There is no place for people to go, and they have no community. Please do not take away adult day health.

**Persons Testifying:** (In support) Senator Parlette, prime sponsor; Lance Morehouse, The Arc of King County; Kari Cunningham-Rosvik; Gregg Osborne, The Arc of Spokane; Keith Adams; Kriss Gilman; Christopher Christian, Margaret-Lee Thompson, and Marcie Taylor, Community Employment Alliance; Sue Elliott, The Arc of Washington; Ed Holen, Developmental Disabilities Council; and Rashi Gupta, Washington Association of Counties.

(Opposed) Patti Dahlman and Kristin Ott, Full Life Care; Lance Richardson; Jeff Bradt, Elder and Adult Day Services; and Sheila Kinder.

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