

# HOUSE BILL REPORT

## HB 1527

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**As Reported by House Committee On:**  
Early Learning & Human Services

**Title:** An act relating to services for people with developmental disabilities.

**Brief Description:** Concerning residential habilitation center residents' transition to the community.

**Sponsors:** Representatives Appleton, Green and Johnson.

**Brief History:**

**Committee Activity:**

Early Learning & Human Services: 2/14/13, 2/22/13 [DPS].

**Brief Summary of Substitute Bill**

- Requires the Department of Social and Health Services (DSHS) to, within 30 days of admission, prepare a discharge plan for a client who resides in a Residential Habilitation Center (RHC); the plan must be person-centered and include specific services related to a client's transition into the community.
- Requires the DSHS to maximize federal funding for transitioning clients from the RHCs into residential community settings.
- Requires the DSHS to use any savings achieved through efficiencies to extend services for crisis stabilization and respite for persons with developmental disabilities who receive no services or only limited services.
- Requires the DSHS to use its Quality Assurance process to monitor the adjustment of each resident who leaves an RHC.
- Requires the DSHS to report to the Legislature annually regarding persons who have transitioned from RHCs to community settings; the requirement ends November 1, 2018.

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**HOUSE COMMITTEE ON EARLY LEARNING & 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 10 members: Representatives Kagi, Chair; Freeman, Vice Chair; Walsh, Ranking Minority Member; Farrell, Goodman, MacEwen, Overstreet, Roberts, Sawyer and Zeiger.

**Minority Report:** Do not pass. Signed by 1 member: Representative Scott, Assistant Ranking Minority Member.

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

**Background:**

In 2011 the Legislature passed Second Substitute Senate Bill 5459 (2SSB 5459). That legislation addressed many aspects of services provided to clients of the Division of Developmental Disabilities (DDD). One of provisions of the bill required the closure of one of the Residential Habilitation Centers (RHC), the Frances Haddon Morgan Center, by December 2011. An RHC is a state-operated intermediate care facility for individuals with disabilities. Intermediate care facilities can also be private.

The legislation also required that the Department of Social and Health Services (DSHS) to use any savings achieved by the closure of Frances Haddon Morgan for additional community resources, including crisis and respite services. Admissions to the Yakima Valley School, another RHC, were frozen, except for limited, short-term admissions for crisis and respite. The provisions of 2SSB 5459 required the DSHS to offer the RHC employees opportunities to work in State-Operated Living Alternatives (SOLAs) as those were established.

The Governor vetoed two provisions of 2SSB 5459. The first vetoed provision required the DSHS, among other things, to use a person-centered approach in developing a discharge plan from an RHC. As part of the person-centered plan, a resident was offered a "right-of-return" within one year after leaving an RHC facility and was required to be assessed for transportation support necessary to maintain regular contact with family members. The vetoed section also provided that the DSHS was to convene a work group to review findings regarding quality assurance for clients who moved from one setting to another. The second vetoed provision required the DSHS to submit an annual report to the Legislature regarding clients who have transitioned from an RHC to a community setting for the first two years in the client's new setting.

Home and Community-Based Waivers.

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 four Medicaid HCBS waivers. To be eligible for an HCBS waiver, the individual must be a client of the DDD; have a disability according to criteria established in the Social Security Act; meet the Medicaid financial eligibility requirements 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 on HCBS waivers 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.

#### State-Operated Living Alternative.

A State-Operated Living Alternative is a community residential setting, operated by the DDD. State employees provide instructions and support for clients with developmental disabilities.

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### **Summary of Substitute Bill:**

#### Discharge Plans.

The DSHS must ensure that the Individual Habilitation Plan (IHP) of a resident of an RHC includes a discharge plan within 30 days of the resident's admission to the facility. When developing a discharge plan, the DSHS must use a person-centered approach to assess the resident's needs and identify services that the resident requires to successfully transition to the community. These services must include:

- a choice of community living options and providers and offering to place the resident, with his or her consent, on the appropriate home and community-based waiver;
- opportunities of residents and their families to visit SOLAs and supported living options in the community, with the consent of the residents of these community facilities;
- a right-to-return to an intermediate care facility for persons with developmental disabilities within two years following the resident's move from an RHC; and
- addressing the services beyond those provided by residential services providers that are necessary to address the resident's needs; these may include medical or nursing services, dental care, employment or other day support, and others.

The DSHS must assure that prior to discharge from an RHC, clients of the DDD will continue to receive services for which they have an assessed need.

#### Funding and Savings.

The DSHS must maximize federal funding for transitioning clients through options such as the Roads to Community Living Grant which assists persons with long-term and complex needs to live in a community setting.

The DSHS must use any savings achieved through efficiencies to extend services for crisis stabilization and respite for persons with developmental disabilities who receive no services or only limited services.

### Quality Assurance.

The DSHS must use its existing Quality Assurance process to monitor the adjustment of each resident who leaves an RHC.

### Reports.

Beginning November 1, 2013, and annually thereafter, the DSHS must submit information to the Legislature regarding persons who have transitioned from the RHCs to the community. The report must cover the first two years following the person's new placement, and it must include:

- progress toward meeting the requirements of the act;
- types of services received and client and guardian satisfaction with those services;
- stability of the placement and provider turnover, including the rate of returns to the RHC facilities;
- safety and health outcomes; and
- continued accessibility to family by former RHC residents.

This reporting requirement expires on November 1, 2018.

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

The DSHS must ensure that a client's IHP includes a plan for discharge to the community within 30 days of the client's admission to an RHC. The DSHS is not required to provide opportunities for the RHC employees to obtain employment in SOLAs. Visits to SOLAs and supported living options must be conducted with the consent of the residents of those community facilities. The "right of "return" allows residents who leave an RHC to have a right of return to an "intermediate care facility for individuals and disabilities."

The DSHS must, prior to discharge from an RHC, assure that clients who leave an RHC will continue to receive services for which they have been assessed. The DSHS may use the Roads to Community Living Grant to maximize federal funding for transitioning clients, but it is not the only option.

The DSHS is not required to limit the ability of SOLAs to reject clients, and it is not required to ensure that no paid caregiver is acting as a guardian for someone they care for, as part of their occupation. The requirement that the DSHS convene a work group to review the Quality Assurance findings for the process of transitioning residents from one setting to another has been removed. The DSHS is not prohibited from re-determining the eligibility of a currently eligible adult person.

An expiration date of November 1, 2018, is added to DSHS's reporting requirement to the legislature regarding residents who have moved from an RHC into a community setting.

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**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on February 24, 2013.

**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 Frances Haddon Morgan Center (FHMC) was closed in 2011. Some residents had resided there for 60 years. Parents were assured that the residents would be taken care of at the same level when they moved to another setting. Some residents had a very difficult time adjusting to the new settings. This bill may right some of the wrongs that occurred after the FHMC closed. There is a place in this state for both institutional living and living in the community. There are some individuals who cannot make the transition from an RHC into the community, and this was not properly evaluated when residents were moved from the FHMC. The most profoundly autistic adults were at the FHMC because parents could not keep them safely in the community. Parents no longer have that sense of security. This bill will save a lot of people a lot of grief. It will allow residents of the RHCs to safely transition into the community when that is appropriate and to get the support that they need. This bill is very important because it gives families a chance to make sure that the transition into the community is smooth and that their children have the proper care and allows them to follow up on how their children are doing. There should be no limit on the right of return. What many refer to as an institution is someone's home. This is a safety net bill. The Governor vetoed a similar provision in an earlier bill because the costs of transportation would have been significant. The transportation costs have been removed from this bill. The discharge plan should be mandatory and not permissive. It is important that clients are assessed and placed in an appropriate setting of their choice. The DSHS re-determines eligibility when there is a break in a client's service, and the DSHS's view of what makes someone eligible changes over time. Clients who have a break in service and have their eligibility re-determined under new, stricter standards may lose their eligibility.

(In support with concerns) Parents are able to save the state a lot of money by continuing to care for their children at home and not placing them into an RHC or other setting. Parents are guardians, but they are not paid guardians. This bill might affect the parent providers who are taking care of children at home and getting a small reimbursement for providing Medicaid personal care. This would be particularly difficult for parents who have had to leave their jobs to stay home and take care of their children.

(Opposed) None

**Persons Testifying:** (In support) Representative Appleton, prime sponsor; Paul Strand, Jan Cosser, and Rick Jensen, Action DD; Ed Holen, Developmental Disabilities Council; Marcy Johnson, Services Employees International Union 1199 Northwest; David Lord, Disabilities Rights Washington; and Don Clintzman, Department of Social and Health Services, Division of Developmental Disabilities.

(In support with concerns) Diana Stadden, The Arc of Washington State.

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