

HOUSE BILL REPORT

E2SHB 2453

As Passed House:
March 3, 2016

Title: An act relating to improving oversight of the state hospitals.

Brief Description: Improving oversight of the state hospitals.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Jinkins, Rodne, Cody, Schmick, Chandler, Dunshee, Muri, Kilduff and Ormsby).

Brief History:

Committee Activity:

Judiciary: 1/26/16, 2/24/16 [DPS];

Appropriations: 2/27/16, 2/29/16 [DP2S(w/o sub JUDI)].

Floor Activity:

Passed House: 3/3/16, 96-0.

Brief Summary of Engrossed Second Substitute Bill

- Establishes the Select Committee on Quality Improvement in State Hospitals (select committee), which receives updates, monitors, and makes recommendations regarding the state hospitals.
- Requires the Department of Social and Health Services (DSHS) and the Office of Financial Management (OFM) to contract for the services of external consultants in specified focus areas related to the state hospitals, who must make recommendations to the Legislature, the Governor, and the select committee.
- Creates the Governor's Behavioral Health Innovation Fund, with funds dedicated to improving quality of care, patient outcomes, patient and staff safety, and the efficiency of operations at the state hospitals, and allows disbursements from the fund to the DSHS upon the approval of the OFM and input by the select committee.
- Requires the DSHS to assure that the state hospitals have adopted certain best practice policies related to: staffing models; utilization of state hospital beds; staff safety training; and the discharge process.

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.

- Requires the DSHS to submit quarterly implementation and progress reports to the select committee and the OFM regarding completion of key activities, performance data, and the adoption and implementation of required best practice policies.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Jinkins, Chair; Kilduff, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Goodman, Haler, Hansen, Kirby, Klippert, Kuderer, Muri, Orwall and Stokesbary.

Staff: Omeara Harrington (786-7136).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Judiciary. Signed by 33 members: Representatives Dunshee, Chair; Ormsby, Vice Chair; Chandler, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys, Cody, Condotta, Dent, Fitzgibbon, Haler, Hansen, Harris, Hudgins, S. Hunt, Jinkins, Kagi, Lytton, MacEwen, Magendanz, Manweller, Pettigrew, Robinson, Sawyer, Schmick, Senn, Springer, Stokesbary, Sullivan, Taylor, Tharinger, Van Werven and Walkinshaw.

Staff: Andy Toulon (786-7178).

Background:

The Department of Social and Health Services (DSHS) operates two state-owned psychiatric hospitals for the care of adults with mental illnesses: Western State Hospital, located in Lakewood, and Eastern State Hospital, located in Medical Lake. Western State Hospital provides services to individuals in western Washington counties and has over 800 beds. Eastern State Hospital is a 287-bed facility serving counties in eastern Washington. Funding was provided for additional inpatient capacity at Western State Hospital and Eastern State Hospital in the 2015-17 budget. The DSHS also operates the Child Study and Treatment Center in Lakewood, a 47-bed facility that provides psychiatric services for children 5-18 years old throughout the state.

The state hospitals provide inpatient mental health treatment to persons involuntarily committed under a variety of circumstances. A person may be committed to a state hospital through a civil process under the Involuntary Treatment Act if, due to a mental disorder, he or she poses a likelihood of serious harm or is gravely disabled. The state hospitals also provide services to persons involuntarily committed through the forensic system. A forensic commitment may be for the purpose of competency to stand trial evaluation or restoration services, or may be the result of an insanity acquittal. Due to recent litigation regarding the

timeliness of competency to stand trial services, the DSHS is currently under the observation of a court-appointed monitor with respect to its provision of competency-related services.

Summary of Engrossed Second Substitute Bill:

The Select Committee on Quality Improvement in State Hospitals (select committee) is established, consisting of: eight legislative members; the Secretary of the Department of Social and Health Services (DSHS); the Secretary of the Department of Health; the Director of the Department of Labor and Industries; the Director of the Health Care Authority; a representative of the Office of Financial Management (OFM); and a representative of the Office of the Governor. The Governor or a designee must choose one executive branch select committee member to serve as a cochair and the select committee must choose the other cochair from among the legislative members.

The select committee must meet, at a minimum, on a quarterly basis beginning in April, 2016. Meetings must be open to the public and provide an opportunity for public comment.

The select committee must receive updates, monitor, and make recommendations to the Governor, the OFM, and the Legislature regarding the state hospitals in specified areas, including:

- long-term planning related to the appropriate role of the state hospitals in the state's mental health system, as well as state hospital structure, financing, staff composition, and workforce development needs to improve the overall function of the state hospitals;
- recommendations for the use of funds from the Governor's Behavioral Health Innovation Fund that is created in the bill; and
- process and outcome measures regarding the implementation of policies and appropriations passed by the Legislature.

The select committee's recommendations regarding the state hospitals must be informed by external consultants in three focus areas:

- The DSHS must contract for the services of an expert consultant to examine issues related to improving state hospital performance.
- The DSHS must also contract for the services of an academic or independent state hospitals clinical care model consultant, who will examine the clinical role of staffing at the state hospitals.
- The Office of Financial Management must contract for the services of a consultant to examine the current configuration and financing of the state hospital system, and work with the state hospitals, local governments, community providers and behavioral health organizations to identify options and make recommendations in specified areas related to admissions, discharge, and interactions between the state hospital system and community provider systems, among other matters.

The consultants must report recommendations to the Governor, the Legislature, and the select committee by October 1, 2016.

The Governor's Behavioral Health Innovation Fund (Innovation Fund) is created, with funds dedicated solely to improving quality of care, patient outcomes, patient and staff safety, and

the efficiency of operations at the state hospitals. The DSHS may receive disbursements from the Innovation Fund upon the approval of the OFM following an application and input from the select committee. The application must include proposals to increase the overall function of the state hospital system in one or more specified categories. Application proposals must be based on the use of evidenced-based or promising practices, or approaches that otherwise demonstrate quantifiable, positive results. Moneys from the Innovation Fund cannot be used to increase compensation within the state hospitals.

Subject to the availability of appropriated funding, the DSHS must assure that the state hospitals have adopted and implemented certain best practice policies, including:

- a standardized, acuity-based staffing model that takes into account varying staffing level needs based on the type of patients served and the physical plant constraints, and incorporates all credentialed health care providers practicing to the maximum extent of their credential in interdisciplinary teams;
- a strategy for reducing unnecessary utilization of state hospital beds and minimizing readmissions;
- a program of appropriate safety training for state hospital staff;
- a plan to fully use appropriated funding for enhanced service facilities and other specialized community resources for placement of state hospital patients with dementia, traumatic brain injuries, or complex medical needs. By July 1, 2016, enough patients must be diverted from Western State Hospital to reduce the demand for 30 beds currently being used for this population; and
- a process for appeal to the Secretary of the DSHS when a behavioral health organization or other entity responsible for community care and the state hospital treatment team are unable to agree on a discharge plan for a patient either party believes is ready for discharge.

The DSHS must submit quarterly implementation progress reports to the select committee and the OFM. Reports must include, at a minimum, the status of completing key activities, strategies to overcome identified barriers, and the most recent quarterly data on all performance measures and outcomes for which data is currently being collected, as well as any additional data requested by the select committee. The DSHS must also report on the status of the adoption and implementation of required best practice policies at the state hospitals.

All provisions of the bill expire July 1, 2019.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect immediately, except for section 8, relating to adoption and implementation of best-practice policies, which takes effect July 1, 2016.

Staff Summary of Public Testimony (Judiciary):

(In support) The Legislature has a shared responsibility with the executive branch to make sure people in the state have access to the mental health care they need. The Legislature should be an active participant in addressing significant and long-standing challenges. Things are moving in the right direction, but not with enough urgency. There should be flexibility so that when circumstances change, there can be responsive shifts in funding. There may be more authority granted in the bill than is constitutionally permitted; however, through working with the Governor's Office and the Senate, the bill can be amended to be as strong and effective as possible for the people of Washington. This bill has broad bipartisan support, and there is a lot of interest in this issue.

This is an important step to solve the dire problems with the state hospitals, and the Legislature is doing the right thing in stepping forward. The bill could be improved with the inclusion of a consumer and family voice in the underlying responsibilities of the Legislative State Hospital Authority, which would add perspective on the care being provided. The DSHS management has ignored virtually all recommendations from medical staff at the state hospitals, so input from medical and psychiatric staff should be added as well.

(Opposed) None.

(Other) The Governor's Office has had a good partnership with the Legislature in the last few years, and a conversation about this is welcome. The Governor's Office has heard from staff at the state hospitals and is meeting with legislative members to continue work on this. There are issues with the notion that the Legislative State Hospital Authority could reprioritize funding and policy decisions, which are functions that lie within the agency's authority. A better approach may be to pursue a legislative executive task force.

Nurses have not signed in to support the bill due to some concerns over the authority granted in the bill, but it would be a positive solution to continue collaboration between the legislative and executive branches. Issues at the state hospitals regarding funding and policy are a decade in the making, and will take work to overcome.

Staff Summary of Public Testimony (Appropriations):

(In support) This bill is seeking to engage the executive and legislative branches in moving forward with more urgency to address issues at the state hospitals. The House budget places a fair amount of funds for the state hospitals requested by the DSHS and the Governor in the Governor's Behavioral Health Innovation Fund. This approach will provide flexibility and allow for the DSHS to move with more urgency when things do not turn out as expected. The bill will help in getting a grip on fiscal and other issues at the state hospitals.

(Opposed) None.

(Other) The problems that exist today are a result of reductions to the mental health system. These reductions have resulted in consequences including intervention by a federal court and sanctions from the Center for Medicaid and Medicare Services (CMS). Any solutions to fix these problems or restore the cuts needs to start with more staff and more capacity, consistent with the federal court and CMS rulings. While the bill gets at some of these aims, the methods included in the bill may slow down rather than speed up the process

for addressing these issues. While there are several sections in the bill that are good ideas, the solutions must involve more safety and more staff and that will improve treatment at the state hospitals.

Persons Testifying (Judiciary): (In support) Representative Jinkins, prime sponsor; Cassandra Ando, National Alliance on Mental Illness Washington; and Gordon Baxter, Union of Physicians of Washington.

(Other) Andi Smith, Office of the Governor; and Lindsey Grad, Service Employees International Union Healthcare 1199NW.

Persons Testifying (Appropriations): (In support) Representative Jinkins, prime sponsor; and Seth Dawson, National Alliance on Mental Illness-Washington.

(Other) Matt Zuvich, Washington Federation of State Employees.

Persons Signed In To Testify But Not Testifying (Judiciary): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.