

# SENATE BILL REPORT

## ESHB 1792

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As Reported by Senate Committee On:  
Ways & Means, March 7, 2018

**Title:** An act relating to investigative costs for residential services and supports programs.

**Brief Description:** Establishing a fee for certification for the residential services and supports program to cover investigative costs.

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives Kagi and Ormsby; by request of Department of Social and Health Services).

**Brief History:** Passed House: 3/06/18, 50-48.

**Committee Activity:** Ways & Means: 3/07/18, 3/07/18 [DP, DNP, w/oRec].

### Brief Summary of Bill

- Requires providers of residential services and supports to Department of Social and Health Services (DSHS) Developmental Disabilities Administration clients to pay an annual certification fee beginning July 1, 2018.
- Establishes that the fee amount may not exceed the DSHS costs to investigate complaints about provider practice issues and individuals alleged to have been abused or neglected, and that it must include the DSHS costs to reimburse providers for fees attributable to Medicaid clients.
- Requires DSHS to use additional resources from the fees to address growth in their complaint workload and to intervene in a timely manner when abuse or neglect has occurred.
- Renders the fee unenforceable if federal reimbursement is not available for fees paid by providers on behalf of Medicaid clients.

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### SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** Do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair; Billig, Carlyle, Conway, Darneille, Fain, Hunt, Keiser, Mullet, Palumbo, Pedersen, Ranker and Van De Wege.

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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.*

**Minority Report:** Do not pass.

Signed by Senators Braun, Ranking Member; Honeyford, Assistant Ranking Member; Brown, Schoesler, Wagoner and Warnick.

**Minority Report:** That it be referred without recommendation.

Signed by Senators Bailey and Becker.

**Staff:** James Kettel (786-7459)

**Background:** Residential Services and Supports. The Developmental Disabilities Administration (DDA) within DSHS provides residential services and supports for clients who meet Medicaid functional and financial eligibility requirements. A community residential service business means a business that is certified by, and contracted with, DDA to provide instruction and support to DDA clients. Residential services and supports may include assistance with activities of daily living such as bathing, dressing, and eating; instrumental activities of daily living such as meal preparation and ordinary housework; and habilitation services.

Supported living is one type of certified community residential service business. Supported living providers serve up to four clients living in homes that are owned, rented, or leased by the clients or their legal representatives.

Residential Care Services. The Residential Care Services (RCS) unit within DSHS's Aging and Long-Term Support Administration is responsible for licensing adult family homes, assisted living facilities, nursing facilities, enhanced services facilities (ESFs), and intermediate care facilities for individuals with intellectual disabilities, and for certifying community residential services businesses. RCS is also responsible for investigating potential provider practice issues and taking enforcement action when provider practice issues are found.

Adult family homes, assisted living facilities, nursing homes, and ESFs pay fees per-bed at initial licensure and renewal. These fees are used to support RCS activities. The fee levels are established in the omnibus operating appropriations act and may not exceed the DSHS costs for licensing and oversight. Providers are reimbursed using federal matching funds for fees paid on Medicaid client beds.

The RCS costs that are not funded by provider fee revenue are funded with state General Fund and federal Medicaid funds.

DSHS reports that the number of RCS investigations among supported living providers has increased from 806 in FY 2013 to 2212 investigations in FY 2016.

Certification for Community Residential Services and Supports. A certification means that the provider has complied with certain administrative requirements such as staffing, liability insurance, and the practices used by the provider to deliver services, as outlined in provisions in the Washington Administrative Code. The certification provided by RCS allows a provider to continue to receive referrals and to provide services under a contract with the DDA. Certification may be granted to providers for up to two years. There is no fee for

certification. Supported living is the only type of certified residential services and support that does not require licensure as an adult family home or assisted living facility.

**Summary of Bill:** Beginning July 1, 2018, providers of DDA community residential services and supports must pay an annual certification fee. The fee amount must be established in the omnibus operating appropriations act and may not exceed the DSHS costs to investigate complaints about provider practice and individuals alleged to have been abused, neglected, abandoned, or exploited.

No certification fee will be required for government-operated programs, court-appointed receivers, or the portion of certified residential services and supports in which providers pay adult family home or assisted living facility licensing fees.

DSHS must use the additional resources from certification fees to address growth in the complaint workload and to intervene for clients in a timely manner when there is possible abuse or neglect.

If the federal Centers for Medicare and Medicaid Services determines that federal reimbursement is not available for fees paid by providers on behalf of Medicaid clients, DSHS must cease collecting the fee and notify the Office of Financial Management and the appropriate legislative committees. Rules adopted under the act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** The bill contains an emergency clause and takes effect on July 1, 2018.

**Staff Summary of Public Testimony:** PRO: This bill does not change credentialing requirements. The department will continue to provide oversight of community residential providers under the same requirements outlined in the Washington Administrative Code. Several years ago, the department redirected staff to reduce a backlog of investigations. The backlog has decreased, but the staff need to return to their previous jobs. Each year, the department investigates about 2500 complaints. The workload is even higher, however, because desk reviews are performed on about 4000 reports of abuse, neglect, and exploitation before an investigation ever takes place. Low reimbursement rates lead to significant worker turnover, which is one of the reasons for problems with client care. The department's first priority is to maintain a safe environment for clients. If there are not enough staff to investigate complaints in a timely manner, then client safety is at risk. Half of the revenue from the fee, combined with the federal match, will allow the department to hire additional staff and fully reimburse most providers for the fees that they pay.

**Persons Testifying:** PRO: Bill Moss, Aging and Long-Term Support Administration, DSHS; Evelkyn Perez, Developmental Disabilities Administration, DSHS; Melissa Johnson, Community Residential Services Association.

**Persons Signed In To Testify But Not Testifying:** No one.