

# SENATE BILL REPORT

## 2SSB 5201

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As Amended by House, April 12, 2017

**Title:** An act relating to individuals receiving both employment and community access services.

**Brief Description:** Concerning individuals receiving both employment and community access services.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators O'Ban, Darneille and Zeiger).

**Brief History:**

**Committee Activity:** Human Services, Mental Health & Housing: 1/17/17, 2/14/17 [DPS-WM, w/oRec].

Ways & Means: 2/24/17, 2/24/17 [DP2S].

**Floor Activity:**

Passed Senate: 3/08/17, 47-2.

Passed House: 4/12/17, 97-1; 4/12/17, 98-0.

**Brief Summary of Second Substitute Bill**

- Requires the Developmental Disability Administration (DDA) to give clients aged 21 and older the option to select employment services or community access services at any point in the employment discovery process.
- Gives adult DDA clients the option to opt in or out of employment services, community access services, or both services at any time.
- Requires DDA to offer services based on the client's individual person-centered plan that are appropriate for the client's needs.

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**SENATE COMMITTEE ON HUMAN SERVICES, MENTAL HEALTH & HOUSING**

**Majority Report:** That Substitute Senate Bill No. 5201 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators O'Ban, Chair; Miloscia, Vice Chair; Darneille, Ranking Minority Member; Carlyle, Hunt and Walsh.

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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:** That it be referred without recommendation.  
Signed by Senator Padden.

**Staff:** Melissa Burke-Cain (786-7755)

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## SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Second Substitute Senate Bill No. 5201 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Braun, Chair; Brown, Vice Chair; Rossi, Vice Chair; Honeyford, Vice Chair, Capital Budget ; Ranker, Ranking Minority Member; Rolfes, Assistant Ranking Minority Member, Operating Budget; Frockt, Assistant Ranking Minority Member, Capital Budget; Bailey, Becker, Billig, Conway, Darneille, Fain, Hasegawa, Keiser, Miloscia, Pedersen, Rivers, Schoesler, Warnick and Zeiger.

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

**Background:** The Developmental Disabilities Administration (DDA) of the Department of Social and Health Services (Department) offers individual and group supported employment and community access program services for clients who are 21 years old or older. The client's case manager refers the client to participate in these programs. Under current law, an eligible client must choose between employment or community access program services, but must enroll in employment services for nine months before moving to community access program services. The employment and community access program services enable clients to participate in activities that help integrate them into their community and support client skills development. The Department contracts with the counties to administer the employment and community access programs at the local level. The counties contract with providers who serve the clients participating in employment and community access program services.

Based on information provided by the DDA in July 2016, 6065 clients receive individual employment services, 720 receive group supported employment services, and 191 clients receive pre-vocational services. However, DDA stopped enrolling clients in pre-vocational services as of September 1, 2015. According to the DDA, enrollment was stopped because services must be provided in an integrated setting to fully comply with federal rules. Community access program services served 1168 clients. The majority of clients authorized for individual and group supported employment services are authorized for less than six hours per week as are the majority of clients authorized for community access program services. A relatively small number of clients are authorized for more than ten hours per week of either supported employment or community access program services.

**Summary of Second Substitute Bill:** The state recognizes that employment is highly effective for many adult DDA clients and should be encouraged and offered. The state also recognizes that others have significant barriers to employment for whom community access services should be available instead of employment or as a complementary service to employment services. The Department's clients who are 21 years old or older must have the option to select employment services, community access services, or both at the outset and at any point during the discovery process. The services must be based on a client's person-

centered plan and must be appropriate to the needs of the client. Services may include a variety of supports and providers enabling the individual to have greater community involvement regardless of the degree of the individual's disability. A client and the client's legal representative must be informed of all available options for employment services and community access at the outset of the discovery process. The Department must work with stakeholders and counties to strengthen and expand employment and community access program services. Person-centered plan is defined as the individual support plan for each client prior to receiving services. The plan must be revised if it does not align with the person's needs.

**Appropriation:** None

**Fiscal Note:** Available.

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

**Effective Date:** Ninety days following the end of the session in which the bill is passed.

**Staff Summary of Public Testimony on Original Bill (Human Services, Mental Health & Housing):** *The committee recommended a different version of the bill than what was heard.*

PRO: Clients and families want engaged, full lives. We want a better life for our family members. Current policy exception to the rule is a wall. Effectively there must be 9 months of employment first. Looking at the data, the unemployment rate is 78 percent; less than 4 percent have 20 hours per week. No matter whether a client does community access or employment, very few have more than 4-5 hours per week. Often a family member must be unemployed in order to care for the adult client which has an economic impact on families and community. This is a particularly difficult situation for a single parent caring for an adult client. A better spectrum of services is needed for the client and the family. Baseline data is hard to find, but the trend is employment is flat. Average hours of employment has fallen. Both employment and community access services should be available. The client should have self-determination and the right to choose or not choose work. Reform of the system is needed. Clients go from regular school until age 21 and then, often very little is available, just home on the couch watching TV. Often personal care needs are not met during employment and if employment expands there will need to be a person to provide personal care on top of an employment coach. Even when the program exceeds, it doesn't meet the goal of reducing the need for services. The budget numbers do not add up.

Parents of adult DDA clients have to consider what will be available to our DDA client family member as we age. As the services continue to be reduced and options for prevocational services decline, the options for a full life are narrowing. Clients are being channeled—not into employment first, but into employment only. We are not here to beat up on the system, but this bill is a wonderful idea. There shouldn't be siloes of services. A cafeteria plan is needed to match the services to the individual's needs. The bill and the services it offers are way overdue. After high school, services have gone from 20 hours a week to 2-4 hours a week. The rest of the time the client is isolated at home. Clients shouldn't be saddled with minimal goals, only a few hours a week. The system as it is cannot implement the person-centered plan; inadequate community access services. Federal law requires the person-centered plan should be implemented.

OTHER: The Legislature put the requirement in that a DDA client could only get one service, not both employment and community access services at the same time. It might be that persons with the most challenges should be given both services at once. The bill will probably die of its own weight because of the fiscal note. The mandatory nine months should be retained for everyone. Employment providers support the intent of the bill. Washington is 41st in the nation for services to the developmental disability community. The 20 hour requirement is not person-centered. Dual services should be provided during phase 1 and phase 2 of employment. Employment first should not be employment only. Only Washington makes client choose only one service. When clients have to choose services, it leaves a gap.

Clients might meet potential employment while they are out in the community receiving community access services. If employment is taken away, you are saying that people with disabilities don't have the same obligation to contribute to the community. People need the opportunity to work and to have recreation and fun. The policy around the exception to rule needs to be looked at carefully. It does not seem to be working. Some cannot even find community access providers in the community. I want to have a job, but as a person without a disability, I may have a hard time finding employment outside the disability community.

Counties manage employment services at the local level for DDA clients. Many of the employed clients need considerable support. If employment services are not required, many may not ever find out that they could be employment. The 20 hour requirement needs clarification because it is not clear how it is intended to apply. Clients should have a life, be busy, happy, and be employed if that is possible. The employment discovery process, initial nine months, is very important and should be retained. Employment first process may lead to families and clients finding out that employment is possible even when they previously thought employment could never work for their family member. DDA has gone across the state, listening to stakeholders and finding out what is important to clients and their families. Special education services is a disability-based system; that focuses on what the individual's deficits are and provided with services around that. Employment can take significant family involvement. The nine month of employment this bill removes was not an arbitrary number. The data showed that clients who are employed within nine months of leaving school have the best chance of continued employment. Employment has value to families and clients. This bill might cause people who could work to be excluded and never find out that they could work.

**Persons Testifying (Human Services, Mental Health & Housing):** PRO: Loren Freeman, Freeman & Associates; Jo Simms, The Tacoma Parent Group; Francie Peltier, citizen; Kelley Nesbitt, citizen; Ryan Nesbitt, citizen; Dr. Alan Gill, citizen.

OTHER: Juliana Roe, Washington State Association of Counties; Lance Morehouse, Sherwood Community Services; Margaret Lee Thompson, citizen; Noah Seidel, Self Advocates in Leadership; Ivanova Smith, Member of People First of Washington; Marcie Taylor, Community Employment Alliance; Sue Elliott, The Arc of Washington State.

**Persons Signed In To Testify But Not Testifying (Human Services, Mental Health & Housing):** No one.

**Staff Summary of Public Testimony on First Substitute (Ways & Means):** *The committee recommended a different version of the bill than what was heard.* PRO: Supported employment alone is not sufficient to meet the needs of this population. It is regretful that in recent years Washington has fallen from 38th to 41st in the nation in terms of funding to serve this population. Currently, there are about 10,000 people on a waiting list to receive services, but those services are not available. We support the concept of making community access more available to this population. We recognize that the fiscal note is pretty high. If the bill needs to be scaled back, then the amendment should prioritize community access for high acuity clients. High acuity clients are the most in need of additional services. There are some policy issues related to presumptive employment. Legislators, advocates, and families will hopefully reach a consensus on the policy issues.

**Persons Testifying (Ways & Means):** PRO: Seth Dawson, Community Employment Alliance.

**Persons Signed In To Testify But Not Testifying (Ways & Means):** No one.

#### **EFFECT OF HOUSE AMENDMENT(S):**

- Permits clients to request an exception to the nine month employment services requirement before transitioning to community access services.
- Requires DSHS to inform clients of the exception process in writing and to grant or deny an exception within 60 days.
- Directs DSHS to waive the nine month employment services requirement if the client's health records show a condition or combination of conditions preventing the client from successfully participating and completing nine consecutive months of supported employment services; or the client did not receive employment services within 90 days of referral for employment services; or DSHS otherwise determines an exception should be granted.
- Permits high acuity clients to transition to community access services after 90 days of employment services beginning July 1, 2019, subject to federal waiver approval.
- Directs DSHS to waive the 90 day employment services requirement for high acuity clients when medical or behavioral health records show a condition or combination of conditions preventing the client from successfully participating and completing 90 consecutive days of the supported employment services; or the client did not receive employment services within 90 of referral for services; or DSHS otherwise determines an exception should be granted.
- Requires DSHS to adopt accountability and outcome measures for supported employment services, to report to the Legislature and the Governor on the measures by December 1, 2017, and include the measures in all new or renewed employment services contracts by July 1, 2019.
- Requires DSHS to consult with OSPI and to identify best practices for transition services to individuals with developmental disabilities and post the results to the DSHS website if appropriate.