

SENATE BILL REPORT

SB 6360

As of February 6, 2018

Title: An act relating to improving transition planning for students in special education who meet criteria for services from the developmental disabilities administration.

Brief Description: Improving transition planning for students in special education who meet criteria for services from the developmental disabilities administration.

Sponsors: Senators O'Ban, Darneille, Zeiger, Walsh, Brown, Keiser and Hasegawa.

Brief History:

Committee Activity: Human Services & Corrections: 1/15/18, 1/30/18 [DPS-WM].
Ways & Means: 2/05/18.

Brief Summary of First Substitute Bill

- Requires expansion of interagency agreements to involve the Developmental Disabilities Administration (DDA) and Division of Vocational Rehabilitation (DVR) in postsecondary transition planning for students in special education.
- Allows eligible students who participate in special education to enroll in DDA community inclusion services without first enrolling in nine months of employment services after January 1, 2021, or if they have participated in a school-to-work program.
- Requires special education transition planning to include information for students and families about available DDA services and requires schools to coordinate with DDA to facilitate the application and assessment process.
- Requires DDA to collaborate with the Office of the Superintendent of Public Instruction (OSPI) to provide training for schools related to DDA services and eligibility criteria.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 6360 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

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.

Signed by Senators Darneille, Chair; Dhingra, Vice Chair; O'Ban, Ranking Member; Carlyle, Frockt and Miloscia.

Staff: Kevin Black (786-7747)

SENATE COMMITTEE ON WAYS & MEANS

Staff: James Kettel (786-7459)

Background: Special education is public education provided to children who through an evaluation process are determined eligible due to a disability. Special education serves approximately 130,000 students in Washington. The federal Individuals with Disabilities Education Act (IDEA) provides that schools must guarantee that all children with disabilities between the ages of three and 21 must receive a free, appropriate public education. State law requires the OSPI to establish interagency agreements to foster effective collaboration among agencies providing transition services to students through age 21 or high school graduation, whichever occurs first. The transition plans must address activities and courses of study needed to reach postsecondary goals. Transition activities may include instruction, services, community experience, employment and other adult living objectives, daily living skills, and functional vocational evaluation.

An Individualized Education Program (IEP) is a document which must be developed for every public school child in special education. Federal regulations require IEPs to define the individualized objectives of the child in a manner tailored to the student's needs. An IEP is formed by an IEP team, consisting of the student's parents, at least one teacher, a school or school district representative, an individual with expertise in interpreting instructional implications of student evaluations, and, once the student has turned 14 or earlier if appropriate, the student. One of the many required components of an IEP is a statement of the student's post-secondary goals and a plan for a successful transition out of school. This statement and plan of transition must be in place by the time the student turns 16, and may be created at an earlier age if desired.

DVR and DDA are separate subdivisions of the Department of Social and Health Services. DVR assists individuals with disabilities to obtain and maintain employment by providing individualized employment services and counseling to individuals and training and technical assistance to employers. DDA administers programs designed to assist individuals with disabilities and their families to obtain services and supports based on individual assessments, needs, and preferences, including residential services and home and community based waiver services.

Employment services are services funded by Home and Community Based Services waivers administered by DDA which provide ongoing support services and training to eligible adults with developmental disabilities in a variety of settings and work sites. These include supported employment, group supported employment, prevocational services, and pre-employment services.

Community Access services are services funded similarly to employment services, which help adults with developmental disabilities participate in activities that promote

individualized skill development, independent living, and community integration. Both employment services and community access services are provided through contracts with counties, which may in turn contract with service vendors. 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, unless the client requests and receives an exception from enrollment in an employment program from DDA. 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.

Summary of Bill (First Substitute): OSPI must establish interagency agreements with DDA and DVR to provide transition services for special education students. Interagency agreements must coordinate efforts to efficiently arrive on a meaningful transition plan for students aged 16 to 21 into adult services which both minimizes both disruption at the time of graduation and the risk of isolation and loss of acquired skills. Coordination of transition services for students potentially eligible for services from DDA must begin at least two years before the student will exit school. Agencies who will potentially provide transition services must be invited to participate in IEP meetings with annual consent from the parent or adult student with disabilities. The list of improved outcomes expected from the use of interagency agreements is expanded to include independent living, community engagement, employment, self-determination, and economic self-sufficiency.

The IEP program team must document interagency responsibilities and linkages related to transition services. The IEP transition plan must include activities needed to assist the student in reaching postsecondary goals. For students who are potentially eligible for DDA services, with annual parental written consent, these activities must include skill development, job interest sampling, job exploration, and may include other activities explored by students and young adults prior to job development. DDA, DVR, and the school must collaborate to provide these services. A school-to-work program that includes a partnership between schools, DVR, and employment support providers may be used to meet this requirement.

IEP transition planning for students who are potentially eligible for DDA services must include providing information to the student and the student's family regarding service options that may be available upon graduation, including the process to obtain these services. Information may be provided by webinar or other means. This information must support informed decision making so that the student and family may make an informed choice to pursue employment services or community inclusion services upon graduation.

DDA must coordinate with OSPI to provide training, by webinar or other means, to schools regarding curriculum, eligibility criteria, and application processes for services from DDA and best practices for facilitating transition planning for students who are potentially eligible for services. The school must coordinate with DDA to help facilitate the application and assessment process for the student.

Changes in the transition plan must be noted in the annual IEP update and, for students receiving DDA services, in the student's DDA annual assessment and person-centered plan.

The requirement that a DDA client must participate in nine months of employment services before enrolling in community inclusion services is lifted for students who participate in at least nine months of a special education transition program after January 1, 2021, or who participated in a school to work program involving a partnership between the school, DVR, an employment support providers.

DDA must work with counties and stakeholders to strengthen and expand all existing home and community-based waiver services.

DDA, DVR, and OSPI must develop a plan of implementation to build statewide capacity among school districts to meet the requirements of this act by January 1, 2021. This plan must be reported to the Governor and Legislature by November 1, 2018, with a final report provided by November 1, 2020.

EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS COMMITTEE (First Substitute):

- Delays automatic waiver of the requirement for nine months participation in employment services before accessing community inclusion services until January 1, 2021, unless the student participated in a school-to-work program meeting specified requirements.
- Requires DDA, DVR, and OSPI to develop a statewide plan of implementation and report to the Governor and Legislature by November 1, 2018, and November 1, 2020.
- Makes pervasive changes to language and adjustments to allocation of responsibility and increases specificity relating to required transition services.

Appropriation: None.

Fiscal Note: Requested on January 12, 2018.

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

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill (Human Services & Corrections):
The committee recommended a different version of the bill than what was heard. PRO: I started working on this topic out of concern for the DDA clients who do not succeed in employment services. We are looking for a compromise that will allow the analysis of the appropriate services to take place in school before the individual is 21 years of age. There should be a warm handoff at 21 to whatever services are most appropriate to the individual.

CON: This bill is well-intentioned and thoughtful but will not work. The system is rigged towards employment only. Community inclusion does not seem to be really valued. The solution is to allow choice for clients. The rates for community inclusion are insufficient to provide the services.

OTHER: We respect the amount of work that has gone into this and there are some aspects we very much like. We should build on the school-to-work model, support the efforts of DVR and others to intervene early, and build capacity for training and technical assistance. There is a gap where we are not well-serving people with more serious disabilities. Please change language requiring services to begin when educationally and developmentally appropriate, which may limit services to people who are not viewed as ready, but can still succeed. Please do not specify that a person has to be DDA-eligible to receive services, because many students have not applied or eligibility is not known. I value the employment first policy; students should get as much exposure to work as possible. We are committed to quality transition services in public schools and positive outcomes for students with developmental disabilities. This bill provides an opportunity to address this. We strongly support the collaboration between government entities. We would like to work with you on language. Students who receive quality transition services are better equipped to join the workforce when they graduate. Activities similar to Phase I discovery activities must be provided before nine months can be waived. We recommend a phase-in period of perhaps two years, to allow schools to develop the services described in the bill. Our main issue is making sure transition services start at age 16 and include job exploration, discovery, and a person-centered planning process. We need training and professional development for school personnel so that they can see the potential and ability of students and not just label them based on the severity of their disabilities. You must find a way to work within the K-12 system and start by at least age 16, if not age 14. Transition is a really important time. My daughter graduated from the school-to-work program, which brings employment vendors into the school before graduation. Most schools are not equipped to do job exploration and work with employers to customize a job for individuals. Schools cannot do it alone. When schools collaborate with DDA, DVR, and job vendors the outcomes are better. What is needed is an investment by the Legislature to figure out how to have school-to-work across the state. My daughter works for six hours a week and loves it. People should be eligible for both employment and community inclusion to fill up all the hours in the week. We preferred the previous draft of this bill. The most important component is skill development, job exploration, and an assessment process within the school which involves DDA, school districts, and DVR. It is premature to address the nine months issue without a good transition process in place. We need a good transition in every school throughout the state. Thank you for considering this complicated issue. The language requiring students to be eligible for DDA services would leave out autistic children who cannot qualify for DDA services but have an 80 percent unemployment rate. Only about 800 of the 7000 students who exit special education each year are eligible for DDA services. We have already begun the work of increasing collaboration between state agencies and we are excited about developing informational materials for families and staff. We need clarification whether references to transition plans are intended to go beyond the requirements of IDEA. Referring students to DDA is not a competency or function of the IEP team. Even with training, school staff will not be able to make this determination. Please use the term "potentially eligible."

Persons Testifying (Human Services & Corrections): PRO: Senator Steve O'Ban, Prime Sponsor.

CON: Linda Hyatt; Families Building Better Lives.

OTHER: Seth Dawson, Community Employment Alliance; Karen Williams, Community

Employment Alliance; Ivonova Smith, Community Employment Alliance; Lance Morehouse, Community Employment Alliance; Ramona Hattendorf, The Arc of King County; Cathy Murahashi, The Arc of King County; Becky Bisbee, The Arc of King County; Holly Murahashi, citizen; Diana Stadden, The Arc of Washington; Brittany Stadden, Self Advocates in Leadership; Cheryl Monk, Self Advocates in Leadership; Zack Siddeek, Square Pegs Adult Autistics; Tania May, Office of the Superintendent of Public Instruction.

Persons Signed In To Testify But Not Testifying (Human Services & Corrections): No one.

Staff Summary of Public Testimony on First Substitute (Ways & Means): PRO: For a long time there has been insufficient funding for employment services and day activities. A number of topics were explored during the prior session, but none of the bills were passed. Those conversations led to a discussion about training and job exploration that should be happening before an individual turns 21. This bill brought a lot of people together to figure out how to enrich that time in high school, through better coordination, and to have a better handoff when a student leaves high school. This is good policy that will really pay off in the long-run. All of the stakeholders had input into this bill. Many students do not make it through a transition program into employment. It is important to focus on the skills that students should gain during a transition program. This bill will help families connect with the appropriate agencies on the day that their student leaves school.

OTHER: There is a hesitation to fully support the bill, because the fiscal note has not been received. The activities outlined in the proposal must be identified and funded. All students across the state, in all school districts, must have access to these services. There is a need to build upon employment, as well as community inclusion, throughout the state. This investment would ensure that adults have access to these services when they are needed.

Persons Testifying (Ways & Means): PRO: Donna Patrick, Developmental Disabilities Council; Diana Stadden, The Arc Of WA.

OTHER: Seth Dawson, Community Employment Alliance.

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