

**ESSB 5536** - H COMM AMD

By Committee on Human Services & Early Learning

**NOT CONSIDERED 12/23/2019**

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that:

4 (1) Individuals with developmental disabilities should have  
5 access to a broad array of health, social, and supportive services  
6 that are designed to meet their individual preferences and needs.

7 (2) Intermediate care facilities play a critical role in the  
8 array of services for individuals with developmental disabilities by  
9 actively and continuously working with individuals to develop the  
10 skills they need to live in the least restrictive setting possible.

11 (3) As soon as an individual with developmental disabilities  
12 develops the skills that the individual needs to live in a community  
13 setting or the individual's health changes such that he or she can no  
14 longer benefit from the treatment provided by the intermediate care  
15 facility, the individual should be afforded the opportunity to  
16 transition to a community-based setting or nursing facility that more  
17 appropriately meets his or her individual preferences and needs.

18 (4) As the individual with developmental disabilities transitions  
19 from an intermediate care facility to a more appropriate service  
20 setting, there should be strong communication between all parties  
21 involved in the transition to mitigate stress and ensure a smooth  
22 transition.

23 **Sec. 2.** RCW 71A.10.020 and 2014 c 139 s 2 are each reenacted and  
24 amended to read as follows:

25 As used in this title, the following terms have the meanings  
26 indicated unless the context clearly requires otherwise.

27 (1) "Assessment" means an evaluation is provided by the  
28 department to determine:

29 (a) If the individual meets functional and financial criteria for  
30 medicaid services; and

1 (b) The individual's support needs for service determination.

2 (2) "Community residential support services," or "community  
3 support services," and "in-home services" means one or more of the  
4 services listed in RCW 71A.12.040.

5 (3) "Crisis stabilization services" means services provided to  
6 persons with developmental disabilities who are experiencing  
7 behaviors that jeopardize the safety and stability of their current  
8 living situation. Crisis stabilization services include:

9 (a) Temporary intensive services and supports, typically not to  
10 exceed sixty days, to prevent psychiatric hospitalization,  
11 institutional placement, or other out-of-home placement; and

12 (b) Services designed to stabilize the person and strengthen  
13 their current living situation so the person may continue to safely  
14 reside in the community during and beyond the crisis period.

15 (4) "Department" means the department of social and health  
16 services.

17 (5) "Developmental disability" means a disability attributable to  
18 intellectual disability, cerebral palsy, epilepsy, autism, or another  
19 neurological or other condition of an individual found by the  
20 secretary to be closely related to an intellectual disability or to  
21 require treatment similar to that required for individuals with  
22 intellectual disabilities, which disability originates before the  
23 individual attains age eighteen, which has continued or can be  
24 expected to continue indefinitely, and which constitutes a  
25 substantial limitation to the individual. By January 1, 1989, the  
26 department shall promulgate rules which define neurological or other  
27 conditions in a way that is not limited to intelligence quotient  
28 scores as the sole determinant of these conditions, and notify the  
29 legislature of this action.

30 (6) "Eligible person" means a person who has been found by the  
31 secretary under RCW 71A.16.040 to be eligible for services.

32 (7) "Habilitative services" means those services provided by  
33 program personnel to assist persons in acquiring and maintaining life  
34 skills and to raise their levels of physical, mental, social, and  
35 vocational functioning. Habilitative services include education,  
36 training for employment, and therapy.

37 (8) "Legal representative" means a parent of a person who is  
38 under eighteen years of age, a person's legal guardian, a person's  
39 limited guardian when the subject matter is within the scope of the  
40 limited guardianship, a person's attorney-at-law, a person's

1 attorney-in-fact, or any other person who is authorized by law to act  
2 for another person.

3 (9) "Notice" or "notification" of an action of the secretary  
4 means notice in compliance with RCW 71A.10.060.

5 (10) "Residential habilitation center" means a state-operated  
6 facility for persons with developmental disabilities governed by  
7 chapter 71A.20 RCW and may be certified as an intermediate care  
8 facility for individuals with intellectual disability or licensed as  
9 a nursing home.

10 (11) "Respite services" means relief for families and other  
11 caregivers of people with disabilities, typically not to exceed  
12 ninety days, to include both in-home and out-of-home respite care on  
13 an hourly and daily basis, including twenty-four hour care for  
14 several consecutive days. Respite care workers provide supervision,  
15 companionship, and personal care services temporarily replacing those  
16 provided by the primary caregiver of the person with disabilities.  
17 Respite care may include other services needed by the client,  
18 including medical care which must be provided by a licensed health  
19 care practitioner.

20 (12) "Secretary" means the secretary of social and health  
21 services or the secretary's designee.

22 (13) "Service" or "services" means services provided by state or  
23 local government to carry out this title.

24 (14) "Service request list" means a list of eligible persons who  
25 have received an assessment for service determination and their  
26 assessment shows that they meet the eligibility requirements for the  
27 requested service but were denied access due to funding limits.

28 (15) "State-operated living alternative" means programs for  
29 community residential services which may include assistance with  
30 activities of daily living, behavioral, habilitative, interpersonal,  
31 protective, medical, nursing, and mobility supports to individuals  
32 who have been assessed by the department as meeting state and federal  
33 requirements for eligibility in home and community-based waiver  
34 programs for individuals with developmental disabilities. State-  
35 operated living alternatives are operated and staffed with state  
36 employees.

37 (16) "Supported living" means community residential services and  
38 housing which may include assistance with activities of daily living,  
39 behavioral, habilitative, interpersonal, protective, medical,  
40 nursing, and mobility supports provided to individuals with

1 disabilities who have been assessed by the department as meeting  
2 state and federal requirements for eligibility in home and community-  
3 based waiver programs for individuals with developmental  
4 disabilities. Supported living services are provided under contracts  
5 with private agencies or with individuals who are not state  
6 employees.

7 (17) "Vacancy" means an opening at a residential habilitation  
8 center, which when filled, would not require the center to exceed its  
9 biennially budgeted capacity.

10 (18) "Active treatment" means a continuous, aggressive, and  
11 consistently implemented program of specialized and generic training,  
12 treatment, and health or related services directed toward helping the  
13 client function with as much self-determination and independence as  
14 possible.

15 (19) "Intermediate care facility for individuals with  
16 intellectual disability" means an intermediate care facility for  
17 individuals with intellectual disability certified by Title XIX of  
18 the federal social security act to provide active treatment services  
19 for persons with developmental disabilities.

20 (20) "Nursing home" has the same meaning as defined in RCW  
21 18.51.010.

22 NEW SECTION. Sec. 3. A new section is added to chapter 71A.20  
23 RCW to read as follows:

24 (1) By January 1, 2020, or sooner, the department shall assess  
25 all residents receiving services from an intermediate care facility  
26 for individuals with intellectual disability to determine if the  
27 resident is benefiting from the active treatment.

28 (2) The department shall partner with stakeholders to identify  
29 the appropriate frequency for reassessing residents receiving  
30 services from an intermediate care facility for individuals with  
31 intellectual disability to determine if the resident is still  
32 benefiting from the active treatment and reassess residents according  
33 to the frequency identified.

34 (3) If the assessment determines that the resident is no longer  
35 benefiting from the active treatment provided by the intermediate  
36 care facility for individuals with intellectual disability, then the  
37 department shall work with the resident on transitioning the resident  
38 to an alternative setting that more appropriately meets the  
39 resident's needs.

1           (4) The assessments required in this section are subject to the  
2 availability of amounts appropriated for this specific purpose.  
3           (5) The department shall develop a plan to expand supported  
4 living and state-operated living alternatives to ensure residents of  
5 residential habilitation centers can transition to these settings  
6 when necessary."

EFFECT: Makes the following changes to the underlying bill:

(1) Replaces the requirement that the Department of Social and Health Services (DSHS) reassess residents receiving services from an intermediate care facility for individuals with intellectual disability to determine if the resident is benefiting from the active treatment on a quarterly basis with a requirement that the DSHS partner with stakeholders to identify the appropriate frequency for reassessments and implement that frequency.

(2) States that the assessments required are subject to the availability of amounts appropriated for that purpose.

(3) Requires that the place required by the DSHS include expansion of supported living and state-operated living alternatives, not just expansion of state-operated living alternatives.

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