

# HOUSE BILL REPORT

## SB 5359

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### As Reported by House Committee On: Appropriations

**Title:** An act relating to funding investigations to protect individuals with disabilities in the supported living program.

**Brief Description:** Funding investigations to protect individuals with disabilities in the supported living program.

**Sponsors:** Senators Cleveland, Rivers, Darneille, Keiser, Van De Wege, Nguyen, Saldaña and Wilson, C.; by request of Department of Social and Health Services.

**Brief History:**

**Committee Activity:**

Appropriations: 4/3/19, 4/6/19 [DP].

**Brief Summary of Bill**

- Requires providers of residential services and supports to the Department of Social and Health Services (DSHS) Developmental Disabilities Administration clients to pay an annual certification fee beginning July 1, 2019.
- Requires the DSHS to use revenues from the fees to conduct complaint investigations on behalf of clients served by residential services and supports providers.

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### HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** Do pass. Signed by 32 members: Representatives Ormsby, Chair; Bergquist, 2nd Vice Chair; Robinson, 1st Vice Chair; Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier, Chandler, Cody, Dolan, Dye, Fitzgibbon, Hansen, Hoff, Hudgins, Jinkins, Kraft, Macri, Mosbrucker, Pollet, Ryu, Schmick, Senn, Springer, Stanford, Steele, Sullivan, Sutherland, Tarleton, Tharinger, Volz and Ybarra.

**Staff:** Mary Mulholland (786-7391).

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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.*

## **Background:**

### Residential Services and Supports.

The Department of Social and Health Services (DSHS) Developmental Disabilities Administration (DDA) 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 the DSHS 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 the DSHS Aging and Long-Term Support Administration is responsible for licensing adult family homes, assisted living facilities, nursing homes, enhanced services facilities (ESFs), and intermediate care facilities for individuals with intellectual disabilities, and for certifying community residential services businesses. The 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 the ESFs pay per-bed fees at initial licensure and renewal that 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.

The DSHS reports that the number of RCS investigations among supported living providers increased from 806 in fiscal year (FY) 2013 to a peak of 2,198 investigations in FY 2016, and declined to 1,402 investigations in FY 2018.

### 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 the 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:**

After initial certification, 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 or court-appointed receivers.

The DSHS must use the resources from certification fees to conduct complaint investigations in certified residential services and supports programs. Complaint investigations include investigations of complaints about provider practice and allegations that clients have been abused, neglected, abandoned, or financially exploited.

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, the 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.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill contains an emergency clause and takes effect on July 1, 2019.

**Staff Summary of Public Testimony:**

(In support) Over 4,000 individuals are served by supported living providers. The number of complaints about supported living providers increased by over 50 percent from 2014 to 2018 without any corresponding increase in the DSHS budget for increased workload. The DSHS shifted resources from other core work areas, but this is not sustainable. The proposal leverages federal dollars, and like for other providers, invests the federal matching funds back into the daily rate for providers. Almost 100 percent of clients served by supported living providers are Medicaid clients. The additional 5.4 investigators will help make sure that clients receive quality care, and state savings will be achieved.

(Opposed) None.

(Other) Supported living facilities provide 21 million hours of care per year. Safety of clients is a top priority. The proposed funding mechanism will allow providers to be held harmless. There is a correlation between the 50 percent turnover rate among supported living direct care employees and the increase in complaints made to DSHS. The high turnover rate

is related to low wages, and it is appreciated that the House of Representatives budget fully funds the requested rate increase.

**Persons Testifying:** (In support) Candace Goehring, Residential Care Services, Aging and Long-Term Services Administration.

(Other) Melissa Johnson, Community Residential Services Association.

**Persons Signed In To Testify But Not Testifying:** None.