

SENATE BILL REPORT

SHB 2448

As Reported by Senate Committee On:
Behavioral Health Subcommittee to Health & Long Term Care, February 27, 2020

Title: An act relating to enhanced services facilities.

Brief Description: Concerning enhanced services facilities.

Sponsors: House Committee on Health Care & Wellness (originally sponsored by Representatives Schmick, Chambers and Cody).

Brief History: Passed House: 2/14/20, 98-0.

Committee Activity: Behavioral Health Subcommittee to Health & Long Term Care: 2/21/20, 2/27/20 [DP, w/oRec].

Brief Summary of Bill

- Modifies admission, eligibility, resident rights, and scope of care requirements for enhanced services facilities.

SENATE COMMITTEE ON BEHAVIORAL HEALTH SUBCOMMITTEE TO HEALTH & LONG TERM CARE

Majority Report: Do pass.

Signed by Senators Dhingra, Chair; Wagoner, Ranking Member; Darneille and Frockt.

Minority Report: That it be referred without recommendation.

Signed by Senator O'Ban.

Staff: LeighBeth Merrick (786-7445)

Background: Enhanced Services Facilities. In 2005, the Legislature established enhanced services facilities to provide treatment and services to persons who do not have a medical need for acute inpatient treatment and have been determined by the Department of Social and Health Services (DSHS) to be inappropriate for placement in other licensed facilities because of complex needs that result in behavioral and security issues. Enhanced services facilities are licensed by DSHS. Currently, there are four licensed enhanced services facilities with 52 beds.

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.

Enhanced services facilities may only provide services to residents who are at least 18 years old. If an enhanced services facility serves any resident under 65 years old, the facility may not have more than 16 residents. A person may be admitted to an enhanced services facility if the person:

- requires either daily care or the supervision of a mental health professional, substance use disorder professional, or nurse; or assistance with three or more activities of daily living;
- has a mental disorder or substance use disorder; an organic or traumatic brain injury; or a cognitive impairment that results in symptoms or behaviors requiring supervision and facility services; and
- has at least two of the following: (1) self-endangering behaviors that are frequent or difficult to manage; (2) aggressive, threatening, or assaultive behaviors that are frequent or difficult to manage and create a risk to the health or safety of residents or staff or a significant risk to property; (3) intrusive behaviors that put residents or staff at risk; (4) complex medication needs that include psychotropic medications; (5) a history or likelihood of unsuccessful placements in other facilities or a history of rejected applications to other facilities based on the person's behaviors, history, or security needs; (6) a history of frequent or protracted mental health hospitalizations; or (7) a history of offenses against a person or felony offenses creating substantial property damage.

An enhanced services facility may only admit residents whose needs can be safely and appropriately met through its staff, services, equipment, security, and building design.

Enhanced services facilities must assure that residents have several specified rights available to them. These rights include:

- adequate care and individualized treatment;
- the allowance of treatment by spiritual means through prayer;
- a reasonable choice of qualified health care providers for evaluation and treatment;
- the waiving of physician-patient privilege and psychologist-client privilege in proceedings regarding the administration of antipsychotic medications;
- personal rights related to clothing, personal purchases, storage space, visitors, telephone access, letter writing materials, decision making authority over the administration of antipsychotic medications, participation in treatment plans, authority to not have psychosurgery, contracts, and complaints to advocacy organizations;
- refusal of placement in an enhanced services facility; and
- appeals of decisions regarding eligibility for placement in an enhanced services facility.

Long-Term Care Resident Rights. Residents of assisted living facilities, adult family homes, veterans' homes, and nursing homes have specific rights that are common across settings. The rights cover a broad range of topics, including self-determination, communication, access to clinical records, availability of services, management of financial affairs, privacy and confidentiality of personal and clinical records, expression of grievances, visitation, and personal possessions. The Long-Term Care Ombuds is authorized to monitor long-term care facilities to determine the extent to which their residents are able to exercise their rights.

Summary of Bill: Eligibility and Admission. An individual must only be admitted into an enhanced services facility if they have been assessed by DSHS as needing the facility's services. The individual must be assessed as medically and psychiatrically stable and meet at least two of the following criteria:

- ready to discharge from a state mental hospital or psychiatric unit of a hospital;
- a history of an inability to remain medically or psychiatrically stable for more than six months;
- has exhibited serious challenging behaviors within the last year;
- unable to manage their complex medication needs which has affected their ability to live in the community;
- a history of or likelihood of unsuccessful placements in other long-term care facilities or a history of rejected applications for admission to other licensed facilities based on the person's behaviors, history or needs;
- has a history of frequent or prolonged behavioral health disorder-related hospitalizations; or
- requires caregiving staff with training in providing behavioral supports to adults with challenging behaviors.

References to an individual's mental disorder and substance use disorder are changed to behavioral health disorder.

Scope of Care. Enhanced services facilities must provide support or services rather than treatment. Each resident must receive an individualized behavior support plan, rather than treatment plan. Enhanced services facilities must have sufficient staff who are trained to provide the residents with appropriate care and support. The care and support includes behavioral health support, rather than mental health treatment, supervision, rather than security, and skilled nursing and support to acquire medical and behavioral health disorder services from local community providers, rather than have staff to provide medical or habilitative treatment at the facility. Enhanced services facilities are no longer required to provide chemical dependency treatment.

Resident Rights. The specific rights for residents of enhanced services facilities are removed and replaced with the same rights that are applicable to other long-term care settings. The LongTerm Care Ombuds is authorized to monitor enhanced service facilities to determine the extent to which their residents are able to exercise their rights. In addition to the long-term care resident rights, residents of enhanced services facilities have the right to refuse antipsychotic medications.

Appropriation: None.

Fiscal Note: Available.

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: PRO: This is a rewrite of the statute to currently reflect what is happening these facilities. There is a growing number of people with serious

mental illness within the population receiving long-term services and supports. ESFs provide long-term care with additional behavioral supports and staffing that includes mental health and skilled nursing professionals. One hundred additional ESF beds were funded in the budget but providers are unable to get additional facilities established due to the statute creating confusion and fear. Providers have been working with multiple municipalities in trying to develop these facilities but have been denied because the municipalities are freaked out by the existing statute's language. LTC Ombuds appreciate the codification of resident rights since the LTC Ombuds are already serving these individuals.

Persons Testifying: PRO: Representative Joe Schmick, Prime Sponsor; Melanie Smith, Washington State Long Term Care Ombuds; Zachary Wester, Noble Healthcare; Bea Rector, DSHS.

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