

# SENATE BILL REPORT

## ESSB 6040

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As Amended by House, March 6, 2020

**Title:** An act relating to the budgeting process for certain state waiver services for individuals with developmental disabilities.

**Brief Description:** Concerning the budgeting process for certain state waiver services for individuals with developmental disabilities.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Braun, Becker and Kuderer).

**Brief History:**

**Committee Activity:** Ways & Means: 1/30/20, 2/06/20 [DPS].

**Floor Activity:**

Passed Senate: 2/17/20, 47-0.

Passed House: 3/06/20, 97-0.

### Brief Summary of Engrossed First Substitute Bill

- Requires the Caseload Forecast Council to present the number of individuals who are assessed as eligible for, and have requested a service through, the Basic Plus and Individual and Family Services (IFS) waivers.
- Requires expenditures for the Basic Plus and IFS waivers be budgeted as maintenance level costs.
- Requires DSHS, subject to appropriation, to update the no-paid services caseload to reflect a current headcount of eligible persons and the number of individuals who are currently interested in receiving a paid service by December 1, 2021.
- Establishes the Joint Select Committee on Streamlining Service Delivery for Individuals with Developmental Disabilities to review existing processes and staffing methodology for determining and assessing eligibility and delivering services and to submit recommendations for streamlining these processes and staffing methodologies to the Governor and the Legislature by December 31, 2020.

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### SENATE 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.*

**Majority Report:** That Substitute Senate Bill No. 6040 be substituted therefor, and the substitute bill do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Operating, Capital Lead; Mullet, Capital Budget Cabinet; Braun, Ranking Member; Brown, Assistant Ranking Member, Operating; Honeyford, Assistant Ranking Member, Capital; Becker, Billig, Carlyle, Conway, Darneille, Dhingra, Hasegawa, Hunt, Keiser, Liias, Muzzall, Pedersen, Rivers, Schoesler, Van De Wege, Wagoner, Warnick and Wilson, L..

**Staff:** Maria Hovde (786-7474)

**Background:** Department of Social and Health Services and the Developmental Disabilities Administration. The Developmental Disabilities Administration (DDA) is a subdivision of the Department of Social and Health Services (DSHS) and administers a broad range of programs and Medicaid services for eligible individuals with developmental disabilities in Washington State. These services and programs may include case management, personal care, respite, employment, community engagement, crisis stabilization services, and residential supports. The level of support needed by DDA clients to assist them in their daily lives and help them participate in the community varies greatly by individual.

There are two avenues for which functionally and financially eligible individuals may obtain Medicaid paid services in community settings through DDA (1) the Community First Choice Option (CFCO) of the Medicaid State Plan, and (2) Home and Community Based Services (HCBS) waivers. The CFCO is an uncapped entitlement and is provided to those who qualify for institutional care, but would rather be served in their homes or communities. There are five capped HCBS waivers that provide an array of services tailored to the specific populations they serve. Approximately 70 percent of the HCBS waiver caseload receives services through either the Basic Plus or IFS waivers. Basic Plus provides services to clients who are functionally eligible for an institutional level of care but who choose to remain in a community setting. The IFS waiver serves families caring for an eligible person three years of age or older by providing an annual allocation based on assessed need.

According to information provided by DDA in January 2020, there are 14,128 individuals with a disability that makes them eligible to receive DDA services, but are not receiving paid DDA services. This group of individuals is often referred to as the no-paid services (NPS) caseload. There are 378 individuals, or 3 percent, of the NPS caseload who have requested a paid DDA service, but were denied due to lack of capacity. Of those, 299 individuals requested a service through either the Basic Plus or IFS waivers.

Caseload Forecast Council. The Caseload Forecast Council (CFC) is a state agency charged with preparing official state forecasts of the number of persons expected to meet entitlement requirements and to require the services of certain public assistance programs, including foster care, adoption support, the prison population, K-12 students, Medicaid, and other specified programs. The CFC itself consists of two individuals appointed by the Governor, and four individuals, one of whom is appointed by the chairperson of each of the two largest political caucuses in the Senate and the House of Representatives.

Operating Budget. A two-year biennial operating budget appropriates funding for the operation of state government and is adopted every odd-numbered year. Supplemental

budgets frequently are enacted in each of the following two years after adoption of the biennial budget.

Budget decisions are often categorized as being either a maintenance level or a policy level decision. For the purpose of the four-year outlook, maintenance level has been defined to mean the estimated appropriations necessary to maintain the continuing costs of program and service levels either funded in the prior biennium or otherwise mandated by other state or federal law. Maintenance level items typically include adjustments for the forecasted changes in entitlement caseloads or enrollments and other mandatory expenses.

All other budget decisions are typically categorized as policy items. Examples include creating a new program; eliminating a current program; increasing or decreasing vendor or employee payment rates; expanding or contracting program eligibility; and expanding or contracting the value of services provided by a program.

Funding for DDA personal care and respite care services are adjusted annually in maintenance level of the budget on the basis of actual and forecasted caseloads and per-capita costs.

**Summary of Engrossed First Substitute Bill:** The CFC must present the number of individuals who are assessed as eligible for, and have requested a service through, the Basic Plus and IFS waivers. CFC shall be presented with the service request list as defined in RCW 71A.10.020 to aid in development of this information.

Expenditures for the Basic Plus and IFS waivers must be budgeted as maintenance level costs.

Subject to appropriation, and by December 1, 2021, DSHS must review the no-paid services caseload and update it to accurately reflect a current headcount of eligible persons and the number of individuals who are currently interested in receiving a paid service.

The Joint Select Committee on Streamlining Service Delivery for Individuals with Developmental Disabilities (Committee) is established. Membership of the Committee include:

- the chairs of the fiscal committees in the Senate and the House of Representatives, or their designees;
- two additional members of the Senate, one each appointed by the leadership of the two largest caucuses in the Senate; and
- two additional members of the House of Representatives, one from each of the two largest caucuses in the House of Representatives appointed by the speaker of the House of Representatives.

The duties of the Committee include, but are not limited to:

- reviewing DDA's existing processes and staffing methodology used for determining eligibility, assessing for eligibility, and delivering services;
- reviewing best practices from other states regarding eligibility determination, eligibility assessment, and service delivery processes and staffing models; and

- making recommendations regarding legislative policy options for streamlining the eligibility, assessment, and service delivery processes and the level of staffing required.

The Committee must report its findings and recommendations to the Governor and the appropriate committees of the Legislature by December 31, 2020.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** Yes.

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

**Staff Summary of Public Testimony on Original Bill:** *The committee recommended a different version of the bill than what was heard.* PRO: Since passage of the VIP act, the list of unserved, qualified individuals has grown. This bill does not make these waivers an entitlement but is trying to continue to focus on the unserved and drive funding to meet this important need while still allowing some amount of flexibility for budget writers as they weigh competing demands. Developmental disabilities programs are not forecasted. Although some of these individuals may be able to access services through the Aging and Long-Term Services Administration of DSHS, which is forecasted, we need to figure out a way to serve individuals with developmental disabilities when they qualify for services. Those who are receiving services are not any different than those who are waiting for services. It is essential for everyone to receive the services they need to live in the community successfully; which requires the supports and services they need to be in place. These services need to be forecasted. This bill represents a critical step forward to effectively plan for and provide services for developmentally disabled individuals. The no-paid services caseload is over 13,000, of which 300 have requested and been denied funding. This bill would add two important waiver programs to the purview of the CFC to allow for creating more opportunities for folks who are already eligible to receive services.

**Persons Testifying:** PRO: Senator John Braun, Prime Sponsor; Seth Dawson, Community Employment Alliance; Jeremy Norden-Paul, Executive Director, Developmental Disabilities Council; Diana Stadden, The Arc of Washington State; Emily Rogers, citizen.

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

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

- Removes the requirement that Basic Plus and IFS waivers be funded as maintenance level costs.
- Eliminates establishment of the Joint Select Committee on Streamlining Service Delivery for Individuals with Developmental Disabilities.