

**ESSB 5268** - H COMM AMD

By Committee on Housing, Human Services & Veterans

**NOT ADOPTED 03/04/2022**

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

3 **"Part 1: Increase the Capabilities of Community Residential Settings**  
4 **and Services**

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that the  
6 recommendations in the December 2019 report, "Rethinking Intellectual  
7 and Developmental Disability Policy to Empower Clients, Develop  
8 Providers, and Improve Services" and recommendations in the 2021  
9 preliminary report of the joint executive and legislative task force  
10 established in chapter 317, Laws of 2020 are the product of  
11 deliberations among a diverse and dedicated group of stakeholders and  
12 are critical to advancing the continuum of care for individuals with  
13 developmental disabilities.

14 (2) The legislature intends to continue efforts to expand  
15 community residential settings and supports with the goals of  
16 reducing the risk of federal divestment from Washington's  
17 intermediate care facilities and delivering appropriate care to  
18 clients of the developmental disabilities administration. To that  
19 end, the legislature finds that a reliable network of community  
20 providers is critical to meeting these goals and that community  
21 residential rates must be established at appropriate levels to ensure  
22 that individuals with intellectual and developmental disabilities  
23 have community residential options that appropriately address their  
24 needs and ensure stable, permanent outcomes.

25 (3) The legislature also finds that it is imperative that  
26 internal processes within the department of social and health  
27 services, including those that guide eligibility determinations,  
28 assess hours of service delivery, and measure quality of providers,  
29 be examined to ensure that these systems function in the most  
30 streamlined and efficient manner with the goal of achieving a system

1 that has greater consistency with regard to expectations and  
2 requirements of providers and that is structured to be more person-  
3 centered and user-friendly at interface.

4 **Sec. 2.** RCW 43.88C.010 and 2021 c 334 s 975 are each amended to  
5 read as follows:

6 (1) The caseload forecast council is hereby created. The council  
7 shall consist of two individuals appointed by the governor and four  
8 individuals, one of whom is appointed by the chairperson of each of  
9 the two largest political caucuses in the senate and house of  
10 representatives. The chair of the council shall be selected from  
11 among the four caucus appointees. The council may select such other  
12 officers as the members deem necessary.

13 (2) The council shall employ a caseload forecast supervisor to  
14 supervise the preparation of all caseload forecasts. As used in this  
15 chapter, "supervisor" means the caseload forecast supervisor.

16 (3) Approval by an affirmative vote of at least five members of  
17 the council is required for any decisions regarding employment of the  
18 supervisor. Employment of the supervisor shall terminate after each  
19 term of three years. At the end of the first year of each three-year  
20 term the council shall consider extension of the supervisor's term by  
21 one year. The council may fix the compensation of the supervisor. The  
22 supervisor shall employ staff sufficient to accomplish the purposes  
23 of this section.

24 (4) The caseload forecast council shall oversee the preparation  
25 of and approve, by an affirmative vote of at least four members, the  
26 official state caseload forecasts prepared under RCW 43.88C.020. If  
27 the council is unable to approve a forecast before a date required in  
28 RCW 43.88C.020, the supervisor shall submit the forecast without  
29 approval and the forecast shall have the same effect as if approved  
30 by the council.

31 (5) A councilmember who does not cast an affirmative vote for  
32 approval of the official caseload forecast may request, and the  
33 supervisor shall provide, an alternative forecast based on  
34 assumptions specified by the member.

35 (6) Members of the caseload forecast council shall serve without  
36 additional compensation but shall be reimbursed for travel expenses  
37 in accordance with RCW 44.04.120 while attending sessions of the  
38 council or on official business authorized by the council.

1 Nonlegislative members of the council shall be reimbursed for travel  
2 expenses in accordance with RCW 43.03.050 and 43.03.060.

3 (7) "Caseload," as used in this chapter, means:

4 (a) The number of persons expected to meet entitlement  
5 requirements and require the services of public assistance programs,  
6 state correctional institutions, state correctional noninstitutional  
7 supervision, state institutions for juvenile offenders, the common  
8 school system, long-term care, medical assistance, foster care, and  
9 adoption support;

10 (b) The number of students who are eligible for the Washington  
11 college bound scholarship program and are expected to attend an  
12 institution of higher education as defined in RCW 28B.92.030;

13 (c) The number of students who are eligible for the Washington  
14 college grant program under RCW 28B.92.200 and 28B.92.205 and are  
15 expected to attend an institution of higher education as defined in  
16 RCW 28B.92.030; and

17 (d) The number of children who are eligible, as defined in RCW  
18 43.216.505, to participate in, and the number of children actually  
19 served by, the early childhood education and assistance program.

20 (8) The caseload forecast council shall forecast the temporary  
21 assistance for needy families and the working connections child care  
22 programs as a courtesy.

23 (9) (~~The~~) By January 1, 2023, the caseload forecast council  
24 shall present the number of individuals who are assessed as eligible  
25 for and have requested a service through the individual and family  
26 services waiver and the basic plus waiver administered by the  
27 developmental disabilities administration as a courtesy. The caseload  
28 forecast council shall be presented with the service request list as  
29 defined in RCW 71A.10.020 to aid in development of this information.

30 (10) Beginning with the official forecast submitted in November  
31 2022 and subject to the availability of amounts appropriated for this  
32 specific purpose, the caseload forecast council shall forecast the  
33 number of individuals who are assessed as eligible for and have  
34 requested supported living services, a service through the core  
35 wavier, an individual and family services waiver, and the basic plus  
36 wavier administered by the developmental disabilities administration.  
37 The caseload forecast council shall be presented with the service  
38 request list as defined in RCW 71A.10.020 to aid in development of  
39 this information.

1 (11) Beginning with the official forecast submitted in November  
2 2022, the caseload forecast council shall forecast the number of  
3 individuals who are expected to reside in state-operated living  
4 alternatives administered by the developmental disabilities  
5 administration.

6 (12) The caseload forecast council shall forecast youth  
7 participating in the extended foster care program pursuant to RCW  
8 74.13.031 separately from other children who are residing in foster  
9 care and who are under eighteen years of age.

10 ~~((11))~~ (13) The caseload forecast council shall forecast the  
11 number of youth expected to receive behavioral rehabilitation  
12 services while involved in the foster care system and the number of  
13 screened in reports of child abuse or neglect.

14 ~~((12))~~ (14) Unless the context clearly requires otherwise, the  
15 definitions provided in RCW 43.88.020 apply to this chapter.

16 ~~((13))~~ (15) During the 2021-2023 fiscal biennium, and beginning  
17 with the November 2021 forecast, the caseload forecast council shall  
18 produce an unofficial forecast of the long-term caseload for juvenile  
19 rehabilitation as a courtesy.

20 NEW SECTION. Sec. 3. A new section is added to chapter 71A.18  
21 RCW to read as follows:

22 (1) Expenditures for the individual and family services waiver  
23 and the basic plus waiver as referenced in RCW 43.88C.010 must be  
24 considered by the governor and the legislature for inclusion in  
25 maintenance level budgets beginning with the governor's budget  
26 proposal submitted in December 2022 and funding for these  
27 expenditures are subject to amounts appropriated for this specific  
28 purpose. The department of social and health services must annually  
29 submit a budget request for these expenditures.

30 (2) Beginning with the governor's budget proposal submitted in  
31 December 2022 and within the department's existing appropriations,  
32 the department of social and health services must annually submit a  
33 budget request for expenditures for the number of individuals who are  
34 expected to reside in state-operated living alternatives administered  
35 by the developmental disabilities administration as referenced in RCW  
36 43.88C.010.

37 NEW SECTION. Sec. 4. (1) With consideration to legislative  
38 intent to expand community residential settings, and within the

1 department's existing appropriations, the department of social and  
2 health services shall examine the need for community respite beds to  
3 serve eligible individuals and stabilization, assessment, and  
4 intervention beds to provide crisis stabilization services for  
5 individuals with complex behavioral needs. No later than October 1,  
6 2022, the department of social and health services must submit a  
7 preliminary report to the governor and the legislature that estimates  
8 the number of beds needed in fiscal years 2023 through 2025,  
9 recommends geographic locations of these beds, provides options for  
10 contracting with community providers for these beds, provides options  
11 for utilizing existing intermediate care facilities to meet these  
12 needs, includes the average length of stay for clients residing in  
13 state-operated intermediate care facilities, and recommends whether  
14 or not an increase to respite hours is needed. A progress report is  
15 due on October 1, 2023, and a final report of this information shall  
16 be submitted no later than October 1, 2024.

17 (2) This section expires January 1, 2025.

18 NEW SECTION. **Sec. 5.** (1) The department of social and health  
19 services must contract with a private vendor for a study of medicaid  
20 rates for contracted community residential service providers. The  
21 study must be submitted to the governor and the appropriate  
22 committees of the legislature no later than December 1, 2023, and  
23 must include:

24 (a) A recommendation of rates needed for facilities to cover  
25 their costs and adequately recruit, train, and retain direct care  
26 professionals;

27 (b) Recommendations for an enhanced rate structure, including  
28 when and for whom this rate structure would be appropriate; and

29 (c) An assessment of options for an alternative, opt-in rate  
30 structure for contracted supported living providers who voluntarily  
31 serve individuals with complex behaviors, complete additional  
32 training, and submit to additional monitoring.

33 (2) This section expires January 31, 2024.

34 NEW SECTION. **Sec. 6.** (1) With consideration to legislative  
35 intent to expand community residential settings and within the  
36 department's existing appropriations, the department of social and  
37 health services shall submit by October 1, 2022, a five-year plan to  
38 phase-in the appropriate level of funding and staffing to achieve

1 case management ratios of one case manager to no more than 35  
2 clients. The five-year plan must include:

3 (a) An analysis of current procedures to hire and train new staff  
4 within the developmental disabilities administration of the  
5 department of social and health services;

6 (b) Identification of any necessary changes to these procedures  
7 to ensure a more efficient and timely process for hiring and training  
8 staff; and

9 (c) Identification of the number of new hires needed on an annual  
10 basis to achieve the phased implementation included in the five-year  
11 plan.

12 (2) This section expires January 31, 2024.

13 NEW SECTION. **Sec. 7.** (1) Within the department's existing  
14 appropriations, and no later than June 30, 2023, the department of  
15 social and health services in collaboration with appropriate  
16 stakeholders shall develop uniform quality assurance metrics that are  
17 applied across community residential settings, intermediate care  
18 facilities, and state-operated nursing facilities. The department of  
19 social and health services must submit a report of these activities  
20 to the governor and the legislature no later than June 30, 2023.

21 (2) This section expires July 31, 2023.

22 NEW SECTION. **Sec. 8.** (1) The joint legislative audit and review  
23 committee shall:

24 (a) Review the developmental disabilities administration's  
25 existing processes and staffing methodology used for determining  
26 eligibility, assessing for eligibility, delivering services, and  
27 managing individuals who are waiting for services;

28 (b) Review best practices from other states regarding eligibility  
29 determination, eligibility assessment, service delivery, management  
30 of individuals who are waiting for services, and staffing models; and

31 (c) Identify options for streamlining the eligibility,  
32 assessment, service delivery, and management of individuals who are  
33 waiting for services processes and the potential staffing impacts.

34 (2) The joint legislative audit and review committee shall report  
35 its findings and recommendations to the governor and the appropriate  
36 committees of the legislature by December 1, 2024.

37 (3) This section expires January 31, 2025.

1 **Part 2: Improve Cross-System Coordination**

2 NEW SECTION. **Sec. 9.** An individual's disability will often  
3 overshadow other medical or functional needs which can result in  
4 missed connections and poor outcomes. It is the intent of the  
5 legislature that cross-system coordination involving individuals with  
6 intellectual and developmental disabilities be improved to ensure  
7 that these individuals receive the appropriate types of services and  
8 supports when they are needed to adequately address mental health  
9 conditions, medical conditions, individual preferences, and the  
10 natural aging process.

11 NEW SECTION. **Sec. 10.** (1) Within the department's existing  
12 appropriations, the department of social and health services shall  
13 work with the developmental disabilities council to:

14 (a) Coordinate collaboration efforts among relevant stakeholders  
15 to develop and disseminate best practices related to serving  
16 individuals with co-occurring intellectual and developmental  
17 disabilities and mental health conditions;

18 (b) Work with Washington state's apprenticeship and training  
19 council, colleges, and universities to establish medical, dental,  
20 nursing, and direct care apprenticeship programs that would address  
21 gaps in provider training and overall competence;

22 (c) Devise options for consideration by the governor and the  
23 legislature to prioritize funding for housing for individuals with  
24 intellectual and developmental disabilities when a lack of affordable  
25 housing is the barrier preventing an individual from moving to a  
26 least restrictive community setting; and

27 (d) Coordinate collaboration efforts among relevant stakeholders  
28 to examine existing law with regard to guardianship and protective  
29 proceedings and make any necessary recommendations for changes to  
30 existing law to ensure that guardianship or other protective  
31 proceedings are designed to provide individuals with intellectual and  
32 developmental disabilities with the decision-making support they  
33 require to live as independently as possible in the least restrictive  
34 environment, including consideration of mechanisms that enable  
35 regular payment for services rendered by these legal representatives  
36 when appropriate.

37 (2) Within the department's existing appropriations, the  
38 department of social and health services shall work with the health

1 care authority and Washington state's managed care organizations to  
2 establish the necessary agreements for intellectual and developmental  
3 disabilities clients who live in the community to access intermediate  
4 care facility-based professionals to receive care covered under the  
5 state plan. The department of social and health services must  
6 consider methods to deliver these services at mobile or brick-and-  
7 mortar clinical settings in the community.

8 (3) No later than December 1, 2022, the department of social and  
9 health services shall submit a report describing the efforts outlined  
10 in subsections (1) and (2) of this section and any recommendations  
11 for policy or fiscal changes to the governor and the legislature for  
12 consideration in the 2023 legislative session.

13 (4) This section expires January 31, 2023.

14 **Part 3: Redesign State-Operated Intermediate Care Facilities to**  
15 **Function as Short-Term Crisis Stabilization and Intervention**

16 NEW SECTION. **Sec. 11.** It is the intent of the legislature that  
17 intermediate care facilities be redesigned from long-term care  
18 settings to settings that support short-term crisis stabilization and  
19 intervention and that, in order to achieve stable, permanent  
20 placements in the least restrictive settings possible, an  
21 infrastructure of procedures be developed to ensure that individuals  
22 placed in intermediate care settings remain in that setting no longer  
23 than is absolutely necessary.

24 NEW SECTION. **Sec. 12.** (1) Within the department of social and  
25 health services' existing appropriations, the developmental  
26 disabilities administration must develop procedures that ensure that:

27 (a) Clear, written, and verbal information is provided to the  
28 individual and their family member that explains:

29 (i) That placement in the intermediate care facility is  
30 temporary; and

31 (ii) What constitutes continuous aggressive active treatment and  
32 its eligibility implications;

33 (b) Discharge planning begins immediately upon placement of an  
34 individual within the intermediate care facility and that the  
35 individual and their family member is provided clear descriptions of  
36 all placement options and their requirements;



1 (c) When stabilization services are available in the community,  
2 the individual is presented with the option to receive those services  
3 in the community prior to being offered services in a state-operated  
4 intermediate care facility; and

5 (d) When the individual has not achieved crisis stabilization  
6 after 60 consecutive days in the state-operated intermediate care  
7 facility, the department of social and health services must convene  
8 the individual's team of care providers including, but not limited  
9 to, the individual's case manager, the individual's community-based  
10 providers, and, if applicable, the individual's managed care  
11 organization to review and make any necessary changes to the  
12 individual's care plan.

13 (2) Subject to funding appropriated specifically for this  
14 purpose, the department of social and health services must expand the  
15 number of family mentors and establish peer mentors to connect each  
16 client in an intermediate care facility with a mentor to assist in  
17 their transition planning.

18 (3) Subject to funding appropriated specifically for this  
19 purpose, the department of social and health services must make every  
20 effort to ensure the individual does not lose their community  
21 residential services while the individual is receiving stabilization  
22 services in a state-operated intermediate care facility. The  
23 department of social and health services must:

24 (a) Work with community residential service providers to provide  
25 a 90-day vacancy payment for individuals who are transferred from the  
26 community residential service provider to a state-operated  
27 intermediate care facility for stabilization services; and

28 (b) Utilize client resources or other resources to pay the rent  
29 for individuals who are facing eviction due to failure to pay the  
30 rent caused by the transfer to a state-operated intermediate care  
31 facility for stabilization services.

32 (4) No later than November 1, 2022, the department of social and  
33 health services must submit a report describing the efforts outlined  
34 in subsections (1) through (3) of this section and make any necessary  
35 recommendations for policy or fiscal changes to the governor and the  
36 legislature for consideration in the 2023 legislative session.

37 (5) This section expires January 31, 2023."

38 Correct the title.

EFFECT: Removes language specifying the caseload forecasting is to be done only as a courtesy.

Requires the Department of Social and Health Services to report in years 2022 through 2024 to the Governor and the Legislature on the average length of stay for clients residing in state-operated intermediate care facilities.

Modifies dates by which various activities and reports are due.

Makes other technical and clarifying language changes.

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