
SENATE BILL 5268

State of Washington

67th Legislature

2021 Regular Session

By Senators Keiser, Braun, and Nguyen

Read first time 01/19/21. Referred to Committee on Health & Long Term Care.

1 AN ACT Relating to transforming services for individuals with
2 intellectual and developmental disabilities by increasing the
3 capabilities of community residential settings and redesigning the
4 long-term nature of intermediate care facilities; amending RCW
5 43.88C.010; adding a new section to chapter 71A.18 RCW; creating new
6 sections; and providing expiration dates.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 **Part 1: Increase the Capabilities of Community Residential Settings**
9 **and Services**

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

19 (2) The legislature intends to continue efforts to expand
20 community residential settings and supports with the goals of

1 reducing the risk of federal divestment from Washington's
2 intermediate care facilities and delivering appropriate care to
3 clients of the developmental disabilities administration. To that
4 end, the legislature finds that a reliable network of community
5 providers is critical to meeting these goals and that community
6 residential rates must be established at appropriate levels to ensure
7 that individuals with intellectual and developmental disabilities
8 have community residential options that appropriately address their
9 needs and ensure stable, permanent outcomes.

10 (3) The legislature also finds that it is imperative that
11 internal processes within the department of social and health
12 services, including those that guide eligibility determinations,
13 assess hours of service delivery, and measure quality of providers,
14 be examined to ensure that these systems function in the most
15 streamlined and efficient manner with the goal of achieving a system
16 that has greater consistency with regard to expectations and
17 requirements of providers and that is structured to be more person-
18 centered and user-friendly at interface.

19 **Sec. 2.** RCW 43.88C.010 and 2020 c 352 s 1 are each amended to
20 read as follows:

21 (1) The caseload forecast council is hereby created. The council
22 shall consist of two individuals appointed by the governor and four
23 individuals, one of whom is appointed by the chairperson of each of
24 the two largest political caucuses in the senate and house of
25 representatives. The chair of the council shall be selected from
26 among the four caucus appointees. The council may select such other
27 officers as the members deem necessary.

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

31 (3) Approval by an affirmative vote of at least five members of
32 the council is required for any decisions regarding employment of the
33 supervisor. Employment of the supervisor shall terminate after each
34 term of three years. At the end of the first year of each three-year
35 term the council shall consider extension of the supervisor's term by
36 one year. The council may fix the compensation of the supervisor. The
37 supervisor shall employ staff sufficient to accomplish the purposes
38 of this section.

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

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

12 (6) Members of the caseload forecast council shall serve without
13 additional compensation but shall be reimbursed for travel expenses
14 in accordance with RCW 44.04.120 while attending sessions of the
15 council or on official business authorized by the council.
16 Nonlegislative members of the council shall be reimbursed for travel
17 expenses in accordance with RCW 43.03.050 and 43.03.060.

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

19 (a) The number of persons expected to meet entitlement
20 requirements and require the services of public assistance programs,
21 state correctional institutions, state correctional noninstitutional
22 supervision, state institutions for juvenile offenders, the common
23 school system, long-term care, medical assistance, foster care, and
24 adoption support;

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

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

32 (d) The number of children who are eligible, as defined in RCW
33 43.216.505, to participate in, and the number of children actually
34 served by, the early childhood education and assistance program.

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

38 (9) ~~((The))~~ By January 1, 2023, the caseload forecast council
39 shall present the number of individuals who are assessed as eligible
40 for and have requested a service through the individual and family

1 services waiver and the basic plus waiver administered by the
2 developmental disabilities administration as a courtesy. The caseload
3 forecast council shall be presented with the service request list as
4 defined in RCW 71A.10.020 to aid in development of this information.

5 (10) Beginning with the official forecast submitted in November
6 2022 and subject to the availability of amounts appropriated for this
7 specific purpose, the caseload forecast council shall forecast the
8 number of individuals who are assessed as eligible for and have
9 requested a service through the individual and family services waiver
10 and the basic plus waiver administered by the developmental
11 disabilities administration as a courtesy. The caseload forecast
12 council shall be presented with the service request list as defined
13 in RCW 71A.10.020 to aid in development of this information.

14 (11) As a courtesy and for planning purposes only, beginning with
15 the official forecast submitted in November 2022, the caseload
16 forecast council shall forecast the number of individuals who are
17 expected to reside in state-operated living alternatives administered
18 by the developmental disabilities administration.

19 (12) The caseload forecast council shall forecast youth
20 participating in the extended foster care program pursuant to RCW
21 74.13.031 separately from other children who are residing in foster
22 care and who are under eighteen years of age.

23 ~~((11))~~ (13) The caseload forecast council shall forecast the
24 number of youth expected to receive behavioral rehabilitation
25 services while involved in the foster care system and the number of
26 screened in reports of child abuse or neglect.

27 ~~((12))~~ (14) Unless the context clearly requires otherwise, the
28 definitions provided in RCW 43.88.020 apply to this chapter.

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

31 (1) Expenditures for the individual and family services waiver
32 and the basic plus waiver as referenced in RCW 43.88C.010 must be
33 considered by the governor and the legislature for inclusion in
34 maintenance level budgets beginning with the governor's budget
35 proposal submitted in December 2022 and funding for these
36 expenditures are subject to amounts appropriated for this specific
37 purpose. The department of social and health services must annually
38 submit a budget request for these expenditures.

1 (2) Beginning with the governor's budget proposal submitted in
2 December 2022 and within the department's existing appropriations,
3 the department of social and health services must annually submit a
4 budget request for expenditures for the number of individuals who are
5 expected to reside in state-operated living alternatives administered
6 by the developmental disabilities administration as referenced in RCW
7 43.88C.010.

8 NEW SECTION. **Sec. 4.** (1) With consideration to legislative
9 intent to expand community residential settings, and within the
10 department's existing appropriations, the department of social and
11 health services shall examine the need for community respite beds to
12 serve eligible individuals and stabilization, assessment, and
13 intervention beds to provide crisis stabilization services for
14 individuals with complex behavioral needs. No later than October 1,
15 2022, the department of social and health services must submit a
16 preliminary report to the governor and the legislature that estimates
17 the number of beds needed in fiscal years 2023 through 2025,
18 recommends geographic locations of these beds, provides options for
19 contracting with community providers for these beds, provides options
20 for utilizing existing intermediate care facilities to meet these
21 needs, and recommends whether or not an increase to respite hours is
22 needed. A final report of this information shall be submitted no
23 later than October 1, 2023.

24 (2) This section expires January 1, 2024.

25 NEW SECTION. **Sec. 5.** (1) The department of social and health
26 services must contract with a private vendor for a study of medicaid
27 rates for contracted community residential service providers. The
28 study must be submitted to the governor and the appropriate
29 committees of the legislature no later than December 1, 2023, and
30 must include:

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

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

36 (c) An assessment of options for an alternative, opt-in rate
37 structure for contracted supported living providers who voluntarily

1 serve individuals with complex behaviors, complete additional
2 training, and submit to additional monitoring.

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

4 NEW SECTION. **Sec. 6.** (1) With consideration to legislative
5 intent to expand community residential settings and within the
6 department's existing appropriations, the department of social and
7 health services shall submit by October 1, 2022, a five-year plan to
8 phase-in the appropriate level of funding and staffing to achieve
9 case management ratios of one case manager to no more than 35
10 clients. The five-year plan must include:

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

14 (b) Identification of any necessary changes to these procedures
15 to ensure a more efficient and timely process for hiring and training
16 staff; and

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

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

21 NEW SECTION. **Sec. 7.** (1) Within the department's existing
22 appropriations, and no later than June 30, 2023, the department of
23 social and health services in collaboration with appropriate
24 stakeholders shall develop uniform quality assurance metrics that are
25 applied across community residential settings, intermediate care
26 facilities, and state-operated nursing facilities. The department of
27 social and health services must submit a report of these activities
28 to the governor and the legislature no later than June 30, 2023.

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

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

32 (a) Review the developmental disabilities administration's
33 existing processes and staffing methodology used for determining
34 eligibility, assessing for eligibility, delivering services, and
35 managing individuals who are waiting for services;

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

4 (c) Make recommendations regarding legislative policy options for
5 streamlining the eligibility, assessment, service delivery, and
6 management of individuals who are waiting for services processes and
7 the level of staffing required.

8 (2) The joint legislative audit and review committee shall report
9 its findings and recommendations to the governor and the appropriate
10 committees of the legislature by December 1, 2021.

11 (3) This section expires January 31, 2022.

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

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

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

25 (a) Coordinate collaboration efforts among relevant stakeholders
26 to develop and disseminate best practices related to serving
27 individuals with co-occurring intellectual and developmental
28 disabilities and mental health conditions;

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

33 (c) Devise options for consideration by the governor and the
34 legislature to prioritize funding for housing for individuals with
35 intellectual and developmental disabilities when a lack of affordable
36 housing is the barrier preventing an individual from moving to a
37 least restrictive community setting; and

1 (d) Coordinate collaboration efforts among relevant stakeholders
2 to examine existing law with regard to guardianship and protective
3 proceedings and make any necessary recommendations for changes to
4 existing law to ensure that guardianship or other protective
5 proceedings are designed to provide individuals with intellectual and
6 developmental disabilities with the decision-making support they
7 require to live as independently as possible in the least restrictive
8 environment, including consideration of mechanisms that enable
9 regular payment for services rendered by these legal representatives
10 when appropriate.

11 (2) Within the department's existing appropriations, the
12 department of social and health services shall work with the health
13 care authority and Washington state's managed care organizations to
14 establish the necessary agreements for intellectual and developmental
15 disabilities clients who live in the community to access intermediate
16 care facility-based professionals to receive care covered under the
17 state plan. The department of social and health services must
18 consider methods to deliver these services at mobile or brick-and-
19 mortar clinical settings in the community.

20 (3) No later than October 1, 2022, the department of social and
21 health services shall submit a report describing the efforts outlined
22 in subsections (1) and (2) of this section and any recommendations
23 for policy or fiscal changes to the governor and the legislature for
24 consideration in the 2023 legislative session.

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

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

28 NEW SECTION. **Sec. 11.** It is the intent of the legislature that
29 intermediate care facilities be redesigned from long-term care
30 settings to settings that support short-term crisis stabilization and
31 intervention and that, in order to achieve stable, permanent
32 placements in the least restrictive settings possible, an
33 infrastructure of procedures be developed to ensure that individuals
34 placed in intermediate care settings remain in that setting no longer
35 than is absolutely necessary.

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

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

6 (i) That placement in the intermediate care facility is
7 temporary; and

8 (ii) What constitutes continuous aggressive active treatment and
9 its eligibility implications; and

10 (b) Discharge planning begins immediately upon placement of an
11 individual within the intermediate care facility and that the
12 individual and their family member is provided clear descriptions of
13 all placement options and their requirements.

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

19 (3) No later than November 1, 2021, the department of social and
20 health services must submit a report describing the efforts outlined
21 in subsections (1) and (2) of this section and make any necessary
22 recommendations for policy or fiscal changes to the governor and the
23 legislature for consideration in the 2022 legislative session.

24 (4) This section expires January 31, 2022.

25 NEW SECTION. **Sec. 13.** (1) A joint executive and legislative
26 task force is created to make recommendations for the redesign of
27 state-operated intermediate care facilities from a long-term care
28 model to a short-term crisis intervention model and for establishing
29 a network of smaller, skilled nursing facilities in community
30 settings throughout the state designed to serve individuals with
31 intellectual and developmental disabilities. The members of the task
32 force must include:

33 (a) The governor or his or her designee;

34 (b) One member from each of the two largest caucuses in the
35 senate, appointed by the president of the senate;

36 (c) One member from each of the two largest caucuses in the house
37 of representatives, appointed by the speaker of the house of
38 representatives; and

1 (d) The secretary of the department of social and health services
2 or his or her designee.

3 (2) Within existing appropriations, the governor or his or her
4 designee must convene and chair the task force. Within existing
5 appropriations, the department of social and health services must
6 staff the task force.

7 (3) The task force must periodically meet with, provide updates
8 to, and solicit feedback from stakeholders. The task force may meet
9 with stakeholders collectively or individually, at the task force's
10 discretion. The task force must make funds available to reimburse
11 travel expenses for stakeholders who are not participating on behalf
12 of an employer, governmental agency, or other organization and allow
13 for telephonic or other means of remote participation. The
14 stakeholders must include but are not limited to:

15 (a) The developmental disabilities council;

16 (b) The arc of Washington;

17 (c) A representative of the organization designated to implement
18 the protection and advocacy program pursuant to RCW 71A.10.080;

19 (d) Family members or guardians of current residential
20 habilitation center residents, including members of the friends of
21 residential habilitation centers groups;

22 (e) Individuals with developmental disabilities, which may
23 include residents of the residential habilitation centers;

24 (f) The Washington federation of state employees;

25 (g) Developmental disability self-advocacy organizations; and

26 (h) The service employees international union 1199.

27 (4) At a minimum, the task force must:

28 (a) Establish a clear vision and timeline for the future redesign
29 of intermediate care facilities;

30 (b) Review existing admission, care, and treatment procedures and
31 consider any necessary changes to these procedures to ensure that
32 individuals remain in intermediate care facilities for only as long
33 as is absolutely necessary;

34 (c) Review the existing structures of intermediate care
35 facilities and make recommendations for any necessary modifications
36 to ensure that these structures are adequate to support residents
37 needing short-term, crisis stabilization services; and

38 (d) Identify the number of skilled nursing facility beds needed
39 to serve individuals with intellectual and developmental disabilities
40 into the future in a manner that supports increased integration into

1 the community, the recommended geographic locations of these beds,
2 and options for contracting with community providers for these beds.

3 (5) A preliminary report of the work of the task force, and any
4 relevant recommendations, must be submitted to the governor and the
5 appropriate committees of the legislature no later than November 1,
6 2021, with a final report submitted no later than November 1, 2022.

7 (6) This section expires January 31, 2023.

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