
SENATE BILL 5132

State of Washington 62nd Legislature 2011 Regular Session

By Senators Prentice, Tom, and Kline; by request of Governor Gregoire

Read first time 01/14/11. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to residential habilitation centers; amending RCW
2 71A.10.020, 71A.10.030, 71A.10.050, 71A.12.020, 71A.20.010, 71A.20.020,
3 71A.20.080, 71A.20.150, 71A.20.170, 72.01.050, 72.05.010, and
4 28A.190.020; repealing RCW 71A.20.070 and 28B.30.810; and declaring an
5 emergency.

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

7 **Sec. 1.** RCW 71A.10.020 and 2010 c 94 s 21 are each amended to read
8 as follows:

9 As used in this title, the following terms have the meanings
10 indicated unless the context clearly requires otherwise.

11 (1) "Community residential support services," or "community support
12 services," and "in-home services" means one or more of the services
13 listed in RCW 71A.12.040.

14 (2) "Department" means the department of social and health
15 services.

16 (3) "Developmental disability" means a disability attributable to
17 intellectual disability, cerebral palsy, epilepsy, autism, or another
18 neurological or other condition of an individual found by the secretary
19 to be closely related to an intellectual disability or to require

1 treatment similar to that required for individuals with intellectual
2 disabilities, which disability originates before the individual attains
3 age eighteen, which has continued or can be expected to continue
4 indefinitely, and which constitutes a substantial limitation to the
5 individual. By January 1, 1989, the department shall promulgate rules
6 which define neurological or other conditions in a way that is not
7 limited to intelligence quotient scores as the sole determinant of
8 these conditions, and notify the legislature of this action.

9 (4) "Eligible person" means a person who has been found by the
10 secretary under RCW 71A.16.040 to be eligible for services.

11 (5) "Habilitative services" means those services provided by
12 program personnel to assist persons in acquiring and maintaining life
13 skills and to raise their levels of physical, mental, social, and
14 vocational functioning. Habilitative services include education,
15 training for employment, and therapy.

16 (6) "Legal representative" means a parent of a person who is under
17 eighteen years of age, a person's legal guardian, a person's limited
18 guardian when the subject matter is within the scope of the limited
19 guardianship, a person's attorney-at-law, a person's attorney-in-fact,
20 or any other person who is authorized by law to act for another person.

21 (7) "Notice" or "notification" of an action of the secretary means
22 notice in compliance with RCW 71A.10.060.

23 (8) "Residential habilitation center" means a state-operated
24 facility for persons twenty-one years of age and older with
25 developmental disabilities governed by chapter 71A.20 RCW.

26 (9) "Secretary" means the secretary of social and health services
27 or the secretary's designee.

28 (10) "Service" or "services" means services provided by state or
29 local government to carry out this title.

30 (11) "Vacancy" means an opening at a residential habilitation
31 center, which when filled, would not require the center to exceed its
32 biennially budgeted capacity.

33 **Sec. 2.** RCW 71A.10.030 and 1988 c 176 s 103 are each amended to
34 read as follows:

35 (1) The existence of developmental disabilities does not affect the
36 civil rights of the person with the developmental disability except as
37 otherwise provided by law.

1 (2) The secretary's determination under RCW 71A.16.040 that a
2 person is eligible for services under this title shall not deprive the
3 person of any civil rights or privileges. The secretary's
4 determination alone shall not constitute cause to declare the person to
5 be legally incompetent.

6 ~~((3) This title shall not be construed to deprive the parent or
7 parents of any parental rights with relation to a child residing in a
8 residential habilitation center, except as provided in this title for
9 the orderly operation of such residential habilitation centers.))~~

10 **Sec. 3.** RCW 71A.10.050 and 1989 c 175 s 138 are each amended to
11 read as follows:

12 (1) An applicant or recipient or former recipient of a
13 developmental disabilities service under this title from the department
14 of social and health services has the right to appeal the following
15 department actions:

16 (a) A denial of an application for eligibility under RCW
17 71A.16.040;

18 (b) An unreasonable delay in acting on an application for
19 eligibility, for a service, or for an alternative service under RCW
20 71A.18.040;

21 (c) A denial, reduction, or termination of a service;

22 (d) A claim that the person owes a debt to the state for an
23 overpayment;

24 (e) A disagreement with an action of the secretary under RCW
25 71A.10.060 or 71A.10.070;

26 (f) A decision to return a resident of ~~((an-[a]))~~ a residential
27 habilitation center to the community; and

28 (g) A decision to change a person's placement from one category of
29 residential services to a different category of residential services.

30 The adjudicative proceeding is governed by the Administrative
31 Procedure Act, chapter 34.05 RCW.

32 (2) This subsection applies only to an adjudicative proceeding in
33 which the department action appealed is a decision to return a resident
34 of a residential habilitation center to the community. The resident or
35 his or her representative may appeal on the basis of whether the
36 specific placement decision is in the best interests of the resident.
37 When the resident or his or her representative files an application for

1 an adjudicative proceeding under this section the department has the
2 burden of proving that the specific placement decision is in the best
3 interests of the resident.

4 (3) When the department takes any action described in subsection
5 (1) of this section it shall give notice as provided by RCW 71A.10.060.
6 The notice must include a statement advising the recipient of the right
7 to an adjudicative proceeding and the time limits for filing an
8 application for an adjudicative proceeding. Notice of a decision to
9 return a resident of a residential habilitation center to the community
10 under RCW 71A.20.080 must also include a statement advising the
11 recipient of the right to file a petition for judicial review of an
12 adverse adjudicative order as provided in chapter 34.05 RCW.

13 **Sec. 4.** RCW 71A.12.020 and 1988 c 176 s 202 are each amended to
14 read as follows:

15 (1) To the extent that state, federal, or other funds designated
16 for services to persons with developmental disabilities are available,
17 and consistent with this title, the secretary shall provide every
18 eligible person with habilitative services suited to the person's
19 needs, regardless of age or degree of developmental disability.

20 (2) The secretary shall provide persons who receive services with
21 the opportunity for integration with nonhandicapped and less
22 handicapped persons to the greatest extent possible.

23 (3) The secretary shall establish minimum standards for
24 habilitative services. Consumers, advocates, service providers,
25 appropriate professionals, and local government agencies shall be
26 involved in the development of the standards.

27 **Sec. 5.** RCW 71A.20.010 and 1988 c 176 s 701 are each amended to
28 read as follows:

29 This chapter covers the operation of residential habilitation
30 centers. The selection of persons twenty-one years of age and older to
31 be served at the centers is governed by chapters 71A.16 and 71A.18 RCW.
32 The purposes of this chapter are: To provide for those (~~children and~~
33 ~~adults~~) individuals who are exceptional in their needs for care,
34 treatment, and education by reason of developmental disabilities,
35 residential care designed to develop their individual capacities to
36 their optimum; to provide for admittance, withdrawal and discharge from

1 state residential habilitation centers upon application; and to insure
2 a comprehensive program for the education, guidance, care, treatment,
3 and rehabilitation of all persons admitted to residential habilitation
4 centers.

5 **Sec. 6.** RCW 71A.20.020 and 1994 c 215 s 1 are each amended to read
6 as follows:

7 ((~~The following~~)) Subject to the availability of funds appropriated
8 by the legislature, residential habilitation centers are ((~~permanently~~
9 ~~established~~)) authorized to provide services to persons with
10 developmental disabilities(~~(:—Lakeland Village, located at Medical~~
11 ~~Lake, Spokane county; Rainier School, located at Buckley, Pierce~~
12 ~~county; Yakima Valley School, located at Selah, Yakima county; Fircrest~~
13 ~~School, located at Seattle, King county; and Frances Haddon Morgan~~
14 ~~Children's Center, located at Bremerton, Kitsap county)) based upon
15 admissions criteria established by the department.~~

16 **Sec. 7.** RCW 71A.20.080 and 1989 c 175 s 143 are each amended to
17 read as follows:

18 Whenever in the judgment of the secretary, the treatment and
19 training of any resident of a residential habilitation center has
20 progressed to the point that it is deemed advisable to return such
21 resident to the community, the secretary may grant placement on such
22 terms and conditions as the secretary may deem advisable after
23 consultation in the manner provided in RCW 71A.10.070. The secretary
24 shall give written notice of the decision to return a resident to the
25 community as provided in RCW 71A.10.060. The notice must include a
26 statement advising the recipient of the right to an adjudicative
27 proceeding under RCW 71A.10.050 and the time limits for filing an
28 application for an adjudicative proceeding. The notice must also
29 include a statement advising the recipient of the right to judicial
30 review of an adverse adjudicative order as provided in chapter 34.05
31 RCW.

32 For persons twenty-one years of age and older, a placement decision
33 shall not be implemented at any level during any period during which an
34 appeal can be taken or while an appeal is pending and undecided, unless
35 authorized by court order so long as the appeal is being diligently
36 pursued.

1 The department of social and health services shall periodically
2 evaluate at reasonable intervals the adjustment of the resident to the
3 specific placement to determine whether the resident should be
4 continued in the placement or returned to the institution or given a
5 different placement.

6 **Sec. 8.** RCW 71A.20.150 and 1988 c 176 s 715 are each amended to
7 read as follows:

8 Without committing the department to continued provision of
9 service, the secretary may admit ((a)) persons twenty-one years of age
10 and older who are eligible for services under this chapter to a
11 residential habilitation center for a period not to exceed thirty days
12 for observation prior to determination of needed services, where such
13 observation is necessary to determine the extent and necessity of
14 services to be provided.

15 **Sec. 9.** RCW 71A.20.170 and 2008 c 265 s 1 are each amended to read
16 as follows:

17 (1) The developmental disabilities community trust account is
18 created in the state treasury. All net proceeds from the use of excess
19 property identified in the 2002 joint legislative audit and review
20 committee capital study or other studies of ((the)) division of
21 developmental disabilities residential habilitation centers ((at
22 ~~Lakeland Village, Yakima Valley school, Francis Haddon Morgan Center,~~
23 ~~and Rainier school~~)) that would not impact current residential
24 habilitation center operations must be deposited into the account.

25 (2) Proceeds may come from the lease of the land, conservation
26 easements, sale of timber, or other activities short of sale of the
27 property.

28 (3) "Excess property" includes that portion of the property at
29 Rainier school previously under the cognizance and control of
30 Washington State University for use as a dairy/forage research
31 facility.

32 (4) Only investment income from the principal of the proceeds
33 deposited into the trust account may be spent from the account. For
34 purposes of this section, "investment income" includes lease payments,
35 rent payments, or other periodic payments deposited into the trust

1 account. For purposes of this section, "principal" is the actual
2 excess land from which proceeds are assigned to the trust account.

3 (5) Moneys in the account may be spent only after appropriation.
4 Expenditures from the account shall be used exclusively to provide
5 family support and/or employment/day services to eligible persons with
6 developmental disabilities who can be served by community-based
7 developmental disability services. It is the intent of the legislature
8 that the account should not be used to replace, supplant, or reduce
9 existing appropriations.

10 (6) The account shall be known as the Dan Thompson memorial
11 developmental disabilities community trust account.

12 **Sec. 10.** RCW 72.01.050 and 1992 c 7 s 51 are each amended to read
13 as follows:

14 (1) The secretary of social and health services shall have full
15 power to manage and govern ((~~the following~~)) public institutions((~~+~~
16 ~~The western state hospital, the eastern state hospital, the northern~~
17 ~~state hospital, the state training school, the state school for girls,~~
18 ~~Lakeland Village, the Rainier school, and such other institutions~~)) as
19 authorized by law, subject only to the limitations contained in laws
20 relating to the management of such institutions.

21 (2) The secretary of corrections shall have full power to manage,
22 govern, and name all state correctional facilities, subject only to the
23 limitations contained in laws relating to the management of such
24 institutions.

25 (3) If any state correctional facility is fully or partially
26 destroyed by natural causes or otherwise, the secretary of corrections
27 may, with the approval of the governor, provide for the establishment
28 and operation of additional residential correctional facilities to
29 place those inmates displaced by such destruction. However, such
30 additional facilities may not be established if there are existing
31 residential correctional facilities to which all of the displaced
32 inmates can be appropriately placed. The establishment and operation
33 of any additional facility shall be on a temporary basis, and the
34 facility may not be operated beyond July 1 of the year following the
35 year in which it was partially or fully destroyed.

1 **Sec. 11.** RCW 72.05.010 and 1985 c 378 s 9 are each amended to read
2 as follows:

3 The purposes of RCW 72.05.010 through 72.05.210 are: To provide
4 ((for every child)) individuals with behavior problems, ((mentally and
5 physically handicapped persons)) mental and physical disabilities, and
6 hearing and ((visually impaired children)) visual impairments, within
7 the purview of RCW 72.05.010 through 72.05.210, as now or hereafter
8 amended, such care, guidance and instruction, control and treatment as
9 will best serve the welfare of the ((child or person)) individual and
10 society; to insure nonpolitical and qualified operation, supervision,
11 management, and control of ((the Green Hill school, the Maple Lane
12 school, the Naselle Youth Camp, the Mission Creek Youth Camp, Echo
13 Glen, the Cascadia Diagnostic Center, Lakeland Village, Rainier school,
14 the Yakima Valley school, Interlake school, Fircrest school, the
15 Francis Haddon Morgan Center, the Child Study and Treatment Center and
16 Secondary School of Western State Hospital, and like)) residential
17 state schools, camps, and centers ((hereafter established, and to place
18 them under)) operated by the department of social and health services
19 except where specified otherwise; and to provide for the persons
20 committed or admitted to those schools that type of care, instruction,
21 and treatment most likely to accomplish their rehabilitation and
22 restoration to normal citizenship.

23 **Sec. 12.** RCW 28A.190.020 and 1990 c 33 s 171 are each amended to
24 read as follows:

25 The term "residential school" as used in RCW 28A.190.020 through
26 28A.190.060, 72.01.200, 72.05.010, and 72.05.130, each as now or
27 hereafter amended, shall mean ((Green Hill school, Maple Lane school,
28 Naselle Youth Camp, Cedar Creek Youth Camp, Mission Creek Youth Camp,
29 Echo Glen, Lakeland Village, Rainier school, Yakima Valley school,
30 Interlake school, Fircrest school, Francis Haddon Morgan Center, the
31 Child Study and Treatment Center and Secondary School of Western State
32 Hospital, and such other)) schools, camps, and centers as are now or
33 hereafter established by the department of social and health services
34 for the diagnosis, confinement, and rehabilitation of juveniles
35 committed by the courts or for the care and treatment of persons who
36 are exceptional in their needs by reason of mental and/or physical

1 deficiency: PROVIDED, That the term shall not include the state
2 schools for the deaf and blind or adult correctional institutions.

3 NEW SECTION. **Sec. 13.** The following acts or parts of acts are
4 each repealed:

5 (1) RCW 71A.20.070 (Educational programs) and 1990 c 33 s 590 &
6 1988 c 176 s 707; and

7 (2) RCW 28B.30.810 (Dairy/forage and agricultural research
8 facility--Rainier school farm--Revolving fund--Lease of herd, lands,
9 authorized) and 1988 c 57 s 1 & 1981 c 238 s 4.

10 NEW SECTION. **Sec. 14.** This act is necessary for the immediate
11 preservation of the public peace, health, or safety, or support of the
12 state government and its existing public institutions, and takes effect
13 immediately.

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