

HOUSE BILL REPORT

HB 2802

*As Reported By House Committee on:
Human Services*

Title: An act relating to developmental disabilities.

Brief Description: Revising procedures relating to review of placement decisions for persons with developmental disabilities.

Sponsor(s): Representative Cooper.

Brief History:

Reported by House Committee on:
Human Services, February 6, 1992, DPS.

**HOUSE COMMITTEE ON
HUMAN SERVICES**

Majority Report: *The substitute bill be substituted therefor and the substitute bill do pass.* Signed by 6 members: Representatives Leonard, Chair; Riley, Vice Chair; Brekke; Hargrove; R. King; and H. Myers.

Minority Report: *Do not pass.* Signed by 5 members: Representatives Winsley, Ranking Minority Member; Tate, Assistant Ranking Minority Member; Anderson; Beck; and Hochstatter.

Staff: David Knutson (786-7146).

Background: Developmentally disabled residents of Residential Habilitation Centers are entitled to an adjudicative proceeding if they disagree with a decision by the secretary of the Department of Social and Health Services that the person is ready to be returned to the community. The transfer of the person to the community cannot take place during an appeal of the secretary's decision. The department has the burden of proving that the specific placement decision is in the best interest of the resident of the Residential Habilitation Center.

Summary of Substitute Bill: When the secretary determines a person is ready to be transferred to the community from a Residential Habilitation Center, the placement may be made during an appeal as long as the Department of Social and Health Services maintains space in the facility if the

person's appeal is successful. The burden of proof is shifted from the department to the resident to prove the placement decision is not in the resident's best interest.

Substitute Bill Compared to Original Bill: The Department of Social and Health Services is required to provide residents who transfer to the community from Residential Habilitation Centers with all the services necessary to ensure they can live successfully in the community.

Fiscal Note: Not requested.

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

Testimony For: The Administrative Procedures Act requires individuals who believe an agency action harms them to prove the harm to an administrative law judge. In cases involving residents of Residential Habilitation Centers, the burden of proof is reversed. This makes it very difficult for the Department of Social and Health Services to transfer residents to the community when the department finds that is the most appropriate place for the resident. Developmentally disabled residents of institutions should follow the same standards that apply to all other citizens when appealing an agency action through the Administrative Procedures Act.

Testimony Against: The protection provided to developmentally disabled residents of Residential Habilitation Centers, making it difficult to transfer them to the community, should be maintained. The Department of Social and Health Services cannot be trusted to do what is in the best interest on institutionalized residents of Residential Habilitation Centers.

Witnesses: Representative Cooper, Prime Sponsor (support); Sue Elliott, Department of Social and Health Services, (neutral); Tom Dean, parent (con); Dave Wood, parent (con); and Bill Looney, parent (con).