SENATE BILL REPORT

SB 5490

AS REPORTED BY COMMITTEE ON HEALTH & HUMAN SERVICES, MARCH 3, 1993

Brief Description: Reforming the provisions and delivery of services for individuals with developmental disabilities.

SPONSORS: Senators Niemi, L. Smith, Talmadge, Wojahn, M. Rasmussen, McAuliffe and Erwin

SENATE COMMITTEE ON HEALTH & HUMAN SERVICES

Majority Report: That Substitute Senate Bill No. 5490 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Talmadge, Chairman; Wojahn, Vice Chairman; Deccio, Erwin, Franklin, Fraser, Hargrove, McAuliffe, Moyer, Niemi, Prentice, Quigley, Sheldon, and L. Smith.

Staff: Martin Lovinger (786-7443)

Hearing Dates: February 23, 1993; March 3, 1993

SENATE COMMITTEE ON WAYS & MEANS

Staff: Tim Yowell (786-7715)

Hearing Dates: March 8, 1993

BACKGROUND:

Current state law requires the state to assist individuals with developmental disabilities through a uniform, coordinated system of services to enable them to achieve a greater measure of independence and fulfillment. The Department of Social and Health Services (DSHS) operates six institutions known as residential habilitation centers (RHCs) and delivers community services through six state employee-staffed regional offices. Some people contend that the delivery of services for individuals with developmental disabilities through locally administered governing bodies is better than the current system because the local bodies are closer to and more familiar with the specific needs of the individuals and communities they serve.

Current state law also provides a diagnosis specific definition of developmental disabilities which excludes numerous people with similar functional limitations on activities of daily living. The federal government has recently adopted a definition that focuses on functional abilities.

Research shows that access to early childhood development services reduces the impact of developmental disabilities on the individual. The provision of these services is cost-effective because it may reduce the need for more expensive intervention at later points in the life of the individual with developmental disabilities.

There are approximately 18,000 persons in the state who are enrolled as eligible to receive developmental disabilities services. Of that number approximately 5,500 are on waiting lists to receive services, if and when, such services are funded and become available.

Currently, neither recipients of developmental disabilities services nor their families are required to pay a portion of state-funded services, which are provided without regard to family income. Parents of children receiving mental health services, foster care services, and juvenile rehabilitation services are required to participate in payment for those services.

Services to some individuals with developmental disabilities include residential placement. If DSHS determines to relocate an individual living in one of the six RHCs operated by the state, DSHS has the burden of proving that the move is in the best interest of the individual being moved. At present there are approximately 1500 persons residing in the RHCs. Some of the residents could be supported in community residential settings or through other support programs that many believe would be less restrictive and, in many cases, more cost-effective. There are also individuals with developmental disabilities who cannot be effectively provided for in their family homes or in the community. Some of these also have problems with mental illness and are committed involuntarily to the state's mental hospitals.

SUMMARY:

It is recognized by the Legislature that living in home and community-based settings is most conducive to personal growth and independence for individuals with developmental disabilities and that it is generally more cost-effective than institutional care and that the state should provide aid to individuals with developmental disabilities and their families through locally administered services. It is intended that families caring for their members with developmental disabilities should be preserved, strengthened and maintained.

Definitions for early childhood development services, family, local support network, residential setting, and therapeutic services are added to the law. The definition of services is clarified as those that increase the independence of individuals with developmental disabilities. A functional definition of developmental disabilities is adopted.

Regional support networks established to administer mental health programs which have a minimum population of 150,000 or consist of at least three counties may apply to provide or

arrange for the provision of all developmental disabilities services within their geographic area. The Department of Social and Health Services (DSHS) must assume responsibility for providing services in all areas for which no regional support network has applied.

Local support networks must determine eligibility, assess the needs of the eligible individual and his or her family, if appropriate, and establish individual service plans for individuals with developmental disabilities, which may vary with support capabilities. In order to operate within budget appropriations and maximize basic support services, access to specialized or intensive services may be restricted.

DSHS must assure that local support networks provide access to services intended to enable individuals with developmental disabilities to live with their families or in their communities in a more productive and fulfilling manner. These services must prevent or reduce inappropriate out-of-home placements and shall include early childhood development services, case management, family support services and employment and community access services.

Early childhood development services must be provided free of charge to all eligible individuals under age seven without regard to family income.

Local support networks must provide residential services to those receiving them as of January 1, 1993 and may provide those services to those not receiving residential services as of that date.

Family support services must be provided to the extent funds are available free of charge to families whose gross income level is below 185 percent of the federal poverty level (currently $24,800 for a family of four). Family support services shall be provided on a sliding scale not to exceed 5 percent of gross family income minus out-of-pocket medical expenses for the individual with developmental disabilities to families with a gross income between 185 percent of federal poverty level and 150 percent of the state median income (currently $63,000 for a family of four). Services will not be provided at state expense to those whose gross family income exceeds 150 percent of the state median income. Parents and relatives other than spouses and minor children are not responsible for financial participation for individuals over 18 years of age.

DSHS must adopt rules for the placement of residents of RHCs in the least restrictive community setting when appropriate. Such placements shall be to the most cost-effective available program. Adjudicative proceedings when DSHS is seeking to transfer an individual from an RHC to the community shall require the state to carry the burden of proving that the placement decision is of equal or greater value to the resident, only in those cases where the individual is an RHC resident as of the effective date of this act.

It is legislative intent that RHCs develop into specialized diagnostic, treatment, and support centers, including specialized respite care, to better utilize their expertise. A six-point plan must be developed by DSHS and the local support networks by July 1, 1994, to plan the structure of the RHCs as of July 1, 2001.

On the grounds of the Rainier School a specialized, separately housed, program for 48 individuals with developmental disabilities who have been involuntarily committed for treatment is established.

EFFECT OF PROPOSED SUBSTITUTE:

Definitions of "case management", "community-based services", "independence", "integration and inclusion", and "productivity or contribution" are added.

DSHS must assist local support networks to coordinate efforts by public and private agencies to provide family support services.

DSHS must develop preliminary rules by January 1, 1994. The rules must include criteria for waiving the minimum population and size requirements for local support networks that can establish that their cost per capita will not be greater nor their services less than local support networks which meet the minimum requirements.

DSHS must assure cooperation and coordination of all its divisions with local support networks.

Regional support networks wishing to be recognized as local support networks in January of any year must apply for recognition by August 1 of the preceding year.

DSHS shall refer eligible residents of RHCs to local support networks for placement.

Local support networks must submit a family support plan and budget as part of their operating and capital plan and budget. Requirements for implementation of the family support plan are set forth. The requirements apply to public and private providers and include participation of families in all aspects of the process, coordination of all available resources, and flexibility for families to choose among available resources. Local support networks may not limit access to services or service providers if doing so jeopardizes federal funds.

Local support networks must use family support funds for an extensive list of services from which families can choose. The local support network may use vouchers, cash subsidies and grants. If cash subsidies are used, they are not alienable by assignment, sale, garnishment or execution and shall not pass to creditors in case of bankruptcy.

Local support networks must provide services to promote and enhance transition from education or treatment programs to

employment and may develop incentives for local school districts that enhance the transition.

The family support program is established with a list of family focused and system-wide principles and goals that must be followed by local support networks in implementing the family support program. The family support program must supplement, not supplant existing services.

Local support networks must use the family support program to develop community-based services through grants, research, contracting directly with providers and using available government and local programs.

An individual's assessment may not vary with the support capabilities of the local support network.

The cap on gross income for receipt of family support services is removed. The cap on the sliding fee scale for family financial participation is removed.

An individual service plan must include family support services unless it is inappropriate to do so. The local support network may assist in the development of a family support plan if the need for family support services has been identified in the individual support plan. Participation of the family in developing the plan is required. An annual review of each recipient under this program must be made to determine if the needs and goals of each family support plan are being met. Written participation agreements are necessary to govern the expenditure of funds when vouchers are used.

Early childhood development services must be provided to all eligible children under age three.

DSHS must establish two secure, specialized, separate programs in existing RHC buildings: one each in eastern Washington and western Washington. The secretary shall use these facilities for individuals with developmental disabilities as a primary diagnosis who have been or are about to be involuntarily committed to a state mental hospital. The secretary shall not place individuals with a primary diagnosis of mental illness or other mental disorder in these facilities.

Individual education plans for students with developmental disabilities must include transition services beginning not later than age 16. The Superintendent of Public Instruction must adopt rules to implement this requirement.

The Developmental Disability Planning Council must perform an annual evaluation of the family support program, including a review of the adequacy of and family satisfaction with family support services.

Appropriation: none

Revenue: none

Fiscal Note: available

TESTIMONY FOR (Health & Human Services):

The system is broken and needs fixing. Local boards will contribute to improved quality of life. Any investment in families is an investment in the future. Coordination between RHCs and the community will improve the overall quality of service. Decentralization supports family access. A community system will avoid losses of inefficiency of a large bureaucracy. Adoption of a functional definition will result in eligibility for a number of people who need services. Family support services will lead to greater integration of individuals with developmental disabilities in their communities and more normal lives for their families. Policy makers will be more accessible.

TESTIMONY AGAINST (Health & Human Services):

The requirement that local support networks have either a minimum population of 150,000 or else consist of three counties is too restrictive. Existing regional support networks are not the best local bodies to handle decentralization of developmental disabilities services. The state should not act as local support network if no regional support network applies for the responsibility in some area, because that will result in the loss of local programs that are currently operating well. Many of the goals of this bill can be accomplished under the present system if resources in the RHCs could be used in communities to enhance services. Guidelines are being developed for RHC employees to provide community services. DSHS already has offices located in counties. Problem is underfunding, not structure of present system. This bill does nothing to address the underserved or unserved. Large counties will have lobbying advantage over small counties which will result in inequities. There are a number of service delivery issues that need further study.

TESTIFIED (Health & Human Services): PRO: Scott Johnson, Clark County; Ray Jensen, King County; Mike Vidos, King County; Comer LaRue, Snohomish County DD Board; Nancy Meltzer, Elaine Schab Bragg, Judy Liddell, ARC of King County; Sandy Silveria, Debbie Yanak, Sue Bucholtz, Clark County Parent Coalition; Clarice McCarten, DDPC; Jean Wessman, Washington Association of Counties; Cherie Tessier, People First; Margaret-Lee Thompson, King County Parent Coalition; Patti Par Norwood, Seattle parent; Janice Skinner, Hoquiam; Joanne Preston, Redmond parent; CON: Gary Moore, Duwane Huffaker, Lynn Wickstrom, Washington Federation of State Employees; John Gilson, Community Residential Services Association; Scott Pelham, Rehabilitation Enterprises of Washington : PRO: Scott Johnson, Clark County; Ray Jensen, King County; Mike Vidos, King County; Comer LaRue, Snohomish County DD Board; Nancy Meltzer, Elaine Schab Bragg, Judy Liddell, ARC of King County; Sandy Silveria, Debbie Yanak, Sue Bucholtz, Clark County Parent Coalition; Clarice McCarten, DDPC; Jean Wessman, Washington Association of Counties; Cherie Tessier, People First; Margaret-Lee Thompson, King County Parent Coalition;

Patti Par Norwood, Seattle parent; Janice Skinner, Hoquiam; Joanne Preston, Redmond parent; CON: Gary Moore, Duwane Huffaker, Lynn Wickstrom, Washington Federation of State Employees; John Gilson, Community Residential Services Association; Scott Pelham, Rehabilitation Enterprises of Washington

TESTIMONY FOR (Ways & Means):

The administrative costs projected in the fiscal note are too high, based on estimates for their county by King County staff. The proposed study to define the future role and size of the residential habilitation centers is important and should be done. The proposed entitlement to early intervention services represents a good investment which would save money down the road. Families want to be involved in planning and decision-making, and that hasn't happened under a state-managed system. Localized planning which promotes coordination and pooling with local and private resources will result in better use of state funds.

TESTIMONY AGAINST (Ways & Means):

The administrative system could result in the loss of substantial amounts of federal Medicaid funding. Creation of local support networks could result in additional administrative costs which will take money away from services. The problems with the current system are not due to organization, they are due to insufficient funds.

TESTIFIED (Ways & Means): PRO: Ray Jensen, King County Human Services; Nancy Meltzer, King County ARC; Clarice McCarter, DD Planning Council; CON: Gary Moore, WA Federation of State Employees; Scott Pelham, Rehabilitation Enterprises of WA; Ellie Menzies, Local 1199 NW, Service Employees International