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**SUBSTITUTE SENATE BILL 6019**

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**State of Washington**

**55th Legislature**

**1997 Regular Session**

**By** Senate Committee on Health & Long-Term Care (originally sponsored by Senators Deccio, Wojahn, Winsley, Wood, Benton, Heavey, Franklin, Thibaudeau, Sheldon, Kohl, Hochstatter, Swanson, Schow, Prince, Roach, Oke, McAuliffe, Long, Bauer, Patterson and Rasmussen)

Read first time 03/05/97.

1       AN ACT Relating to stabilizing long-term care for persons with  
2 developmental disabilities living in the community and in residential  
3 habilitation centers; amending RCW 71A.10.020, 71A.16.010, and  
4 71A.16.030; adding new sections to chapter 71A.10 RCW; adding a new  
5 section to chapter 71A.12 RCW; making an appropriation; and declaring  
6 an emergency.

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

8       NEW SECTION. **Sec. 1.** A new section is added to chapter 71A.10 RCW  
9 to read as follows:

10       It is the intent of the legislature to bring an end to the long-  
11 standing conflict between the advocates of community-based services and  
12 the advocates of state-operated residential habilitation centers for  
13 the developmentally disabled.

14       Further, it is the intent of the legislature to affirm its longtime  
15 commitment to secure for all persons with developmental disabilities in  
16 partnership with their families, legal guardians, or conservators the  
17 opportunity to choose where they live. Consistent with this  
18 commitment, the legislature supports the existence of a complete

1 spectrum of options, including community services and residential  
2 habilitation centers, based on appropriated funding levels.

3 Unless and until medicine eliminates or substantially reduces the  
4 incidence of developmental disabilities, it is the policy of the state  
5 of Washington to maintain and enhance the quality of its residential  
6 habilitation centers permanently established according to RCW  
7 71A.20.020 and its community residential support services.

8 **Sec. 2.** RCW 71A.10.020 and 1988 c 176 s 102 are each amended to  
9 read as follows:

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

12 (1) "Community residential support services" or "community support  
13 services" means the services listed in RCW 71A.12.040.

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

16 (~~(2)~~) (3) "Developmental disability" means a disability  
17 attributable to mental retardation, cerebral palsy, epilepsy, autism,  
18 or another neurological or other condition of an individual found by  
19 the secretary to be closely related to mental retardation or to require  
20 treatment similar to that required for individuals with mental  
21 retardation, which disability originates before the individual attains  
22 age eighteen, which has continued or can be expected to continue  
23 indefinitely, and which constitutes a substantial handicap to the  
24 individual. By January 1, 1989, the department shall promulgate rules  
25 which define neurological or other conditions in a way that is not  
26 limited to intelligence quotient scores as the sole (~~determinate~~  
27 ~~{determinant}~~) determinant of these conditions, and notify the  
28 legislature of this action.

29 (~~(3)~~) (4) "Direct patient care staff" means those personnel in  
30 residential rehabilitation centers or in community residential support  
31 services who have frequent, direct interaction with, and who provide  
32 direct assistance to, persons with developmental disabilities as the  
33 major portion of their regular employment duties.

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

36 (~~(4)~~) (6) "Habilitative services" means those services provided  
37 by program personnel to assist persons in acquiring and maintaining  
38 life skills and to raise their levels of physical, mental, social, and

1 vocational functioning. Habilitative services include education,  
2 training for employment, and therapy.

3 ~~((+5))~~ (7) "Legal representative" means a parent of a person who  
4 is under eighteen years of age, a person's legal guardian, a person's  
5 limited guardian when the subject matter is within the scope of the  
6 limited guardianship, a person's attorney at law, a person's attorney  
7 in fact, or any other person who is authorized by law to act for  
8 another person.

9 ~~((+6))~~ (8) "Notice" or "notification" of an action of the  
10 secretary means notice in compliance with RCW 71A.10.060.

11 ~~((+7))~~ (9) "Residential habilitation center" means a state-  
12 operated nursing facility or other facility for persons with  
13 developmental disabilities governed by chapter 71A.20 RCW.

14 ~~((+8))~~ (10) "Secretary" means the secretary of social and health  
15 services or the secretary's designee.

16 ~~((+9))~~ (11) "Service" or "services" means services provided by  
17 state or local government to carry out this title.

18 **Sec. 3.** RCW 71A.16.010 and 1988 c 176 s 401 are each amended to  
19 read as follows:

20 It is the intention of the legislature in this chapter to establish  
21 a single point of referral for persons with developmental disabilities  
22 and their families so that they may have a place of entry and  
23 continuing contact for services authorized under this title to persons  
24 with developmental disabilities. So long as there are vacancies within  
25 the capacity of residential habilitation centers as specified in RCW  
26 71A.20.020 or in community residential support services, no person with  
27 a developmental disability may be denied the services of a residential  
28 habilitation center or community residential support services, except  
29 for lack of funds as provided by legislative appropriation from both  
30 state and federal sources.

31 **Sec. 4.** RCW 71A.16.030 and 1988 c 176 s 403 are each amended to  
32 read as follows:

33 (1) The secretary shall establish a single procedure for persons to  
34 apply for a determination of eligibility for services provided to  
35 persons with developmental disabilities. This procedure must require  
36 that all applicants be given notice of the existence and availability  
37 of residential habilitation center and community residential support

1 services. The department shall establish waiting lists for admission  
2 to residential habilitation centers, including permanently available  
3 respite and other services, as well as waiting lists for community  
4 residential support services. The department shall include these  
5 waiting lists in an annual report to the senate health and long-term  
6 care committee and the house of representatives health care committee  
7 on actual admissions to the residential habilitation centers and to  
8 community residential support services.

9 (2) An application may be submitted by a person with a  
10 developmental disability, by the legal representative of a person with  
11 a developmental disability, or by any other person who is authorized by  
12 rule of the secretary to submit an application.

13 NEW SECTION. Sec. 5. A new section is added to chapter 71A.12 RCW  
14 to read as follows:

15 (1) The legislature recognizes that essential residential  
16 habitation center and community residential support services should be  
17 available to each person with developmental disabilities in our state.

18 (2) The legislature recognizes that there have been substantially  
19 increasing demands for all of these services. Therefore, the  
20 legislature believes that any reductions in the capacity of these  
21 services could jeopardize a needed balance in the developmental  
22 disabilities system. The legislature intends to stabilize the capacity  
23 of community residential support and residential habilitation center  
24 services. The capacity of residential habilitation centers and the  
25 capacity of community support services shall not be reduced below the  
26 number of persons served in each of these services during March 1997,  
27 except that the department may reduce the capacity of residential  
28 habilitation centers to complete reductions scheduled through the end  
29 of the 1995-1997 biennium. The department shall submit any legislation  
30 or funding requests to further reduce residential habilitation center  
31 capacity in the 1998 supplemental budget request or in subsequent  
32 appropriations requests if such reductions are needed to adhere to a  
33 formal agreement with the federal department of justice regarding  
34 Fircrest School. If such capacity is not needed for current clients  
35 of the department, any vacancies that may occur in community  
36 residential support or residential habilitation center services shall  
37 be used to expand services to eligible developmentally disabled persons  
38 not now receiving services. If residential habilitation center

1 capacity is not needed for permanent residents, the department shall  
2 make any residential habilitation center vacancies available for  
3 respite care. Any restrictions in staffing ratios that may be needed  
4 to implement this section within available resources may not result in  
5 reductions to direct patient care staff.

6 NEW SECTION. **Sec. 6.** A new section is added to chapter 71A.10 RCW  
7 to read as follows:

8 The department of social and health services shall convene a  
9 working group for the purpose of developing a long range plan for the  
10 future of residential habilitation center and community support  
11 services.

12 This working group shall be composed of people with developmental  
13 disabilities, their family members and guardians, and others who are  
14 selected by the secretary and who equally reflect and are committed to  
15 ensuring a complete spectrum of services within the developmental  
16 disabilities community. The working group shall be composed of equal  
17 numbers of advocates for each of the following services: (1)  
18 Residential habilitation centers; and (2) community residential support  
19 services. The department shall appoint the working group members by  
20 August 1, 1997.

21 The working group shall convene by September 1, 1997, and shall  
22 cease to exist on December 1, 2002. The working group shall seek a  
23 consensus on a single long range plan and seek to develop a lasting,  
24 working relationship among its members and the groups they represent.

25 The working group shall address those topics necessary for the  
26 completion of its task, including at least the following: The role,  
27 configuration, and capacity of the permanently established residential  
28 habilitation centers; respite care; crisis intervention services;  
29 supports for people who exhibit challenging behaviors, have a mental  
30 illness, or are medically fragile; quality assurance; consumer and  
31 family choices; appropriate settings for legal offenders; managed care;  
32 due process; employee dislocation and turnover; equitable service  
33 allocation; residential service guidelines; future uses for unneeded  
34 institutional property; and future use of adult family homes. The  
35 working group shall also implement a process for ongoing communication  
36 and future dispute resolution. The department may contract with  
37 experts in mediation and large group process facilitation to complete  
38 the tasks described in this section.

1       The department shall make annual reports on the working group's  
2 activities beginning December 1, 1997. The reports must include  
3 appropriate recommendations for legislation and budgetary  
4 appropriations. The department shall conduct assessments of need, or  
5 cause them to be conducted by neutral parties, and shall develop and  
6 include in its reports to the legislature supporting documentation of  
7 current and projected population and service trends, needs, and costs.

8       NEW SECTION.   **Sec. 7.** The sum of forty-nine thousand dollars, or  
9 as much thereof as may be necessary, is appropriated for the biennium  
10 ending June 30, 1999, from the general fund to the department of social  
11 and health services for the purposes of section 6 of this act.

12       NEW SECTION.   **Sec. 8.** This act is necessary for the immediate  
13 preservation of the public peace, health, or safety, or support of the  
14 state government and its existing public institutions, and takes effect  
15 immediately.

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