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**SUBSTITUTE SENATE BILL 6751**

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**State of Washington**

**55th Legislature**

**1998 Regular Session**

**By** Senate Committee on Health & Long-Term Care (originally sponsored by Senators Deccio, Wojahn, Wood, Franklin, Benton, Thibaudeau, Oke and Winsley)

Read first time 02/06/98.

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 a new section to chapter 71A.10 RCW; adding new  
5 sections to chapter 71A.12 RCW; adding a new section to chapter 71A.20  
6 RCW; providing expiration dates; and declaring 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 affirm its longtime  
11 commitment to secure for eligible persons with developmental  
12 disabilities in partnership with their families, legal guardians, or  
13 conservators the opportunity to choose where they live. Consistent  
14 with this commitment, the legislature supports the existence of a  
15 complete spectrum of options, including in-home services, community  
16 support services, and residential habilitation centers.

17 The choice of service options must be supported by state policy,  
18 whether the choice is residential habilitation centers, community  
19 support services, or in-home programs. The intent of the legislature

1 is to ensure choice of service options to persons with developmental  
2 disabilities allowing, to the maximum extent possible, that they not  
3 have to leave their home or community.

4 The legislature supports the respective roles that both residential  
5 habilitation centers, community programs, and in-home care play in  
6 providing options and resources for people with developmental  
7 disabilities and their families who need services. The legislature  
8 recognizes that services must ensure credibility, responsiveness, and  
9 reasonable quality, whether they are state, county, or community  
10 funded.

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

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

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

17 (2) "Department" means the department of social and health  
18 services.

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

32 ((+3)) (4) "Eligible person" means a person who has been found by  
33 the secretary under RCW 71A.16.040 to be eligible for services.

34 ((+4)) (5) "Habilitative services" means those services provided  
35 by program personnel to assist persons in acquiring and maintaining  
36 life skills and to raise their levels of physical, mental, social, and  
37 vocational functioning. Habilitative services include education,  
38 training for employment, and therapy.

1       (~~(5)~~) (6) "Legal representative" means a parent of a person who  
2 is under eighteen years of age, a person's legal guardian, a person's  
3 limited guardian when the subject matter is within the scope of the  
4 limited guardianship, a person's attorney at law, a person's attorney  
5 in fact, or any other person who is authorized by law to act for  
6 another person.

7       (~~(6)~~) (7) "Notice" or "notification" of an action of the  
8 secretary means notice in compliance with RCW 71A.10.060.

9       (~~(7)~~) (8) "Residential habilitation center" means a state-  
10 operated facility for persons with developmental disabilities governed  
11 by chapter 71A.20 RCW.

12       (~~(8)~~) (9) "Secretary" means the secretary of social and health  
13 services or the secretary's designee.

14       (~~(9)~~) (10) "Service" or "services" means services provided by  
15 state or local government to carry out this title.

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

18       (1) It is the intention of the legislature in this chapter to  
19 establish a single point of referral for persons with developmental  
20 disabilities and their families so that they may have a place of entry  
21 and continuing contact for services authorized under this title to  
22 persons with developmental disabilities. Eligible persons with  
23 developmental disabilities, whether they live in the community or  
24 residential habilitation centers, should have the opportunity to choose  
25 where they live.

26       (2) Until June 30, 2003, if there are vacancies in residential  
27 habilitation centers or capacity within community residential support  
28 services, eligible persons with a developmental disability will be  
29 offered the services of a residential habilitation center or community  
30 residential support services. The choice of service that a person with  
31 developmental disabilities or their parent makes shall follow an  
32 assessment performed by the department. The department shall offer  
33 admittance to a residential habilitation center to any eligible person  
34 with developmental disabilities if his or her assessed needs require  
35 the funded level of resources that are provided by the residential  
36 habilitation center. Persons with developmental disabilities whose  
37 immediate condition seriously endangers the health or safety of  
38 themselves, their family, or their caregiver, who are offered admission

1 to a residential habilitation center, must be allowed to choose between  
2 the residential habilitation center and the use of services provided  
3 under section 10 of this act. Nothing in this section shall be  
4 construed to create an entitlement to state services for persons with  
5 developmental disabilities.

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

8 (1) The department will develop an outreach program to ensure that  
9 anyone who may need developmental disabilities services in homes, the  
10 community, and residential habilitation centers will be made aware of  
11 these services. This subsection (1) expires June 30, 2003.

12 (2) The secretary shall establish a single procedure for persons to  
13 apply for a determination of eligibility for services provided to  
14 persons with developmental disabilities.

15 ~~((2))~~ (3) Until June 30, 2003, the procedure set out under  
16 subsection (1) of this section must require that all applicants be  
17 given notice of the existence and availability of residential  
18 habilitation center and community residential support services. For  
19 genuine choice to exist, people must know what the options are.  
20 Available options must be clearly explained, with services customized  
21 to fit the unique needs and circumstances of developmentally disabled  
22 clients and their families. Choice of providers and design of services  
23 and supports will be determined by the individual in conjunction with  
24 the department. When the person cannot make these choices, the  
25 person's legal guardian may make them, consistent with chapter 11.88 or  
26 11.92 RCW.

27 (4) An application may be submitted by a person with a  
28 developmental disability, by the legal representative of a person with  
29 a developmental disability, or by any other person who is authorized by  
30 rule of the secretary to submit an application.

31 NEW SECTION. **Sec. 5.** A new section is added to chapter 71A.12 RCW  
32 to read as follows:

33 (1) The legislature recognizes that residential habilitation center  
34 and community residential support services should be available to each  
35 eligible person with developmental disabilities in our state within  
36 appropriated funds.

1 (2) The legislature recognizes that there have been substantially  
2 increasing demands for all of these services. Therefore, the  
3 legislature believes that any reductions in the capacity of these  
4 services could jeopardize a needed balance in the developmental  
5 disabilities system. The legislature intends to stabilize the capacity  
6 of community support services and residential habilitation center  
7 services. The capacity of the residential habilitation centers shall  
8 not be reduced below the number of persons budgeted to be served in  
9 residential habilitation centers in chapter 149, Laws of 1997, subject  
10 to budget direction from the governor or reductions needed to adhere to  
11 an agreement with the federal department of justice regarding Fircrest  
12 School. The capacity of community residential support services or  
13 community support services shall not be reduced below the capacity  
14 provided for by the appropriation specified in chapter 149, Laws of  
15 1997, subject to budget direction from the governor. If the direction  
16 from the governor requires reductions in the division of developmental  
17 disabilities, the budgets of both the residential habilitation centers  
18 and community services shall be given equal consideration.

19 (3) If such capacity is not needed for current clients of the  
20 department, any vacancies that may occur in community residential  
21 support or residential habilitation center services shall be used to  
22 expand services to eligible persons with developmental disabilities not  
23 now receiving services. If a vacancy is created it will be made  
24 available to any eligible individual who is seeking and desires the  
25 services of a residential habilitation center. If residential  
26 habilitation center capacity is not needed for permanent residents, the  
27 department shall make any residential habilitation center vacancies  
28 available for respite care and any other services needed to care for  
29 this population in residential habilitation centers.

30 NEW SECTION. **Sec. 6.** A new section is added to chapter 71A.12 RCW  
31 to read as follows:

32 Any restrictions in staffing ratios that may be needed to implement  
33 section 5 of this act within available resources may not result in  
34 reductions to direct care staff.

35 NEW SECTION. **Sec. 7.** A new section is added to chapter 71A.20 RCW  
36 to read as follows:

1 As a means of implementing a choice-oriented system for people with  
2 developmental disabilities, staff of residential habilitation centers  
3 will continue to increase vocational and community access for current  
4 residents. Likewise, specialized residential habilitation services  
5 will be more easily accessed by community residents within available  
6 funds.

7 NEW SECTION. **Sec. 8.** A new section is added to chapter 71A.12 RCW  
8 to read as follows:

9 The department shall conduct an analysis whereby it identifies all  
10 persons with developmental disabilities who are eligible for services  
11 under Title 71A RCW, and whether they are served, unserved, or  
12 underserved. The department will gather data on the services and  
13 supports required by this population, their families or their  
14 guardians, and the cost of providing these services. This analysis  
15 will include assessing services such as those at residential  
16 habilitation centers, those community residential support services  
17 listed in RCW 71A.12.040, and including, but not limited to, supported  
18 employment, family support, posthigh school transition programs, crisis  
19 intervention services, supports for persons who have a developmental  
20 disability and also a mental illness, alternative uses for residential  
21 habilitation centers, community vocational services, respite care,  
22 specialized medical treatment, and appropriate placements for persons  
23 with developmental disabilities who are also offenders. The assessment  
24 shall be done with the participation of the developmental disabilities  
25 stakeholders work group. The assessment will commence no later than  
26 July 1, 1998.

27 The assessment data will not be used to determine or allocate  
28 services for individual people. It will be used by the department,  
29 with the participation of the developmental disabilities stakeholder  
30 work group, to develop a long-term strategic plan. The plan will  
31 include three phases, the first one beginning December 1, 1998; the  
32 second beginning December 1, 2000; and the third beginning December 1,  
33 2002. For each phase the department will provide incremental data and  
34 assessment of programs, services, and funding for persons with  
35 developmental disabilities and their families. For each phase the plan  
36 must also include budget and statutory recommendations intended to  
37 secure for all persons with developmental disabilities the opportunity  
38 to choose where they live, and shall support the existence of a

1 complete spectrum of options including in-home services, community  
2 support services, and residential habilitation centers that are  
3 consistent with those needs.

4 NEW SECTION. **Sec. 9.** A new section is added to chapter 71A.12 RCW  
5 to read as follows:

6 For the purposes of section 8 of this act, the developmental  
7 disabilities stakeholder work group is the division of developmental  
8 disabilities strategies for the future stakeholder work group  
9 established by the secretary in 1997 to develop recommendations on  
10 future directions and strategies for service delivery improvement,  
11 resulting in an agreement on the directions the department should  
12 follow in considering the respective roles of the residential  
13 habilitation centers and the community programs, including a focus on  
14 the resources for people in need of services.

15 NEW SECTION. **Sec. 10.** A new section is added to chapter 71A.12  
16 RCW to read as follows:

17 The department shall offer community residential support services  
18 or community support services listed in RCW 71A.12.040 to eligible  
19 persons with developmental disabilities whose immediate condition  
20 seriously endangers the health or safety of themselves, their family,  
21 or their caregiver, if the department offers the person admittance to  
22 a residential habilitation center.

23 NEW SECTION. **Sec. 11.** Sections 1 and 5 through 10 of this act  
24 expire June 30, 2003.

25 NEW SECTION. **Sec. 12.** This act is necessary for the immediate  
26 preservation of the public peace, health, or safety, or support of the  
27 state government and its existing public institutions, and takes effect  
28 immediately.

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