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SENATE BILL 6751

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State of Washington

55th Legislature

1998 Regular Session

By Senators Deccio, Wojahn, Wood, Franklin, Benton, Thibaudeau, Oke and Winsley

Read first time 02/04/98. Referred to Committee on Health & Long-Term Care.

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 a new  
5 section to chapter 71A.12 RCW; adding a new section to chapter 71A.20  
6 RCW; repealing RCW 71A.10.011; 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 all persons with developmental disabilities in  
12 partnership with their families, legal guardians, or conservators the  
13 opportunity to choose where they live. Consistent with this  
14 commitment, the legislature supports the existence of a complete  
15 spectrum of options, including community services and residential  
16 habilitation centers.

17 The choice of service options must be supported by state policy,  
18 whether the choice is residential habilitation centers or community  
19 programs. The intent of the legislature is to ensure choice of service

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

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

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

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

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

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

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

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

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

1       (~~(4)~~) (6) "Habilitative services" means those services provided  
2 by program personnel to assist persons in acquiring and maintaining  
3 life skills and to raise their levels of physical, mental, social, and  
4 vocational functioning. Habilitative services include education,  
5 training for employment, and therapy.

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

12       (~~(6)~~) (8) "Notice" or "notification" of an action of the  
13 secretary means notice in compliance with RCW 71A.10.060.

14       (~~(7)~~) (9) "Residential habilitation center" means a state-  
15 operated nursing facility or other facility for persons with  
16 developmental disabilities governed by chapter 71A.20 RCW.

17       (~~(8)~~) (10) "Secretary" means the secretary of social and health  
18 services or the secretary's designee.

19       (~~(9)~~) (11) "Service" or "services" means services provided by  
20 state or local government to carry out this title.

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

23       It is the intention of the legislature in this chapter to establish  
24 a single point of referral for persons with developmental disabilities  
25 and their families so that they may have a place of entry and  
26 continuing contact for services authorized under this title to persons  
27 with developmental disabilities. So long as there are vacancies within  
28 the capacity of residential habilitation centers as specified in RCW  
29 71A.20.020 or in community residential support services, no person with  
30 a developmental disability may be denied the services of a residential  
31 habilitation center or community residential support services. The  
32 service that a person with developmental disabilities or their parent  
33 chooses may be made following an assessment performed by the  
34 department, but no person will be denied admittance to a residential  
35 habilitation center if their assessed needs require the level of  
36 resources that are provided by the residential habilitation center.

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

3       (1) The secretary shall establish a single procedure for persons to  
4 apply for a determination of eligibility for services provided to  
5 persons with developmental disabilities. This procedure must require  
6 that all applicants be given notice of the existence and availability  
7 of residential habilitation center and community residential support  
8 services. For genuine choice to exist, people must know what the  
9 options are. Available options must be clearly explained, with  
10 services customized to fit the unique needs and circumstances of  
11 developmentally disabled clients and their families. Choice of  
12 providers and design of services and supports will be determined by the  
13 individual, or the individual's legal guardian, in conjunction with the  
14 department, if such support is necessary.

15       (2) An application may be submitted by a person with a  
16 developmental disability, by the legal representative of a person with  
17 a developmental disability, or by any other person who is authorized by  
18 rule of the secretary to submit an application.

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

21       (1) The legislature recognizes that residential habitation center  
22 and community residential support services should be available to each  
23 person with developmental disabilities in our state.

24       (2) The legislature recognizes that there have been substantially  
25 increasing demands for all of these services. Therefore, the  
26 legislature believes that any reductions in the capacity of these  
27 services could jeopardize a needed balance in the developmental  
28 disabilities system. The legislature intends to stabilize the capacity  
29 of community residential support and residential habilitation center  
30 services. The capacity of residential habilitation centers and the  
31 capacity of community support services shall not be reduced below the  
32 number of persons budgeted to be served in each of these services in  
33 chapter 149, Laws of 1997, except if such reductions are needed to  
34 adhere to an agreement with the federal department of justice regarding  
35 Fircrest School. If such capacity is not needed for current clients of  
36 the department, any vacancies that may occur in community residential  
37 support or residential habilitation center services shall be used to  
38 expand services to eligible developmentally disabled persons not now

1 receiving services. If a vacancy is created it will be made available  
2 to any eligible individual who is seeking and desires the services of  
3 a residential habilitation center. If residential habilitation center  
4 capacity is not needed for permanent residents, the department shall  
5 make any residential habilitation center vacancies available for  
6 respite care and any other services needed to care for this population.  
7 Any restrictions in staffing ratios that may be needed to implement  
8 this section within available resources may not result in reductions to  
9 direct patient care staff.

10 NEW SECTION. **Sec. 6.** A new section is added to chapter 71A.20 RCW  
11 to read as follows:

12 As a means of implementing a choice-oriented system for people with  
13 developmental disabilities, staff of residential habilitation centers  
14 will continue to increase vocational and community access for current  
15 residents. Likewise, specialized residential habilitation services  
16 will be more easily accessed by community residents.

17 NEW SECTION. **Sec. 7.** RCW 71A.10.011 and 1995 c 383 s 1 are each  
18 repealed.

19 NEW SECTION. **Sec. 8.** This act is necessary for the immediate  
20 preservation of the public peace, health, or safety, or support of the  
21 state government and its existing public institutions, and takes effect  
22 immediately.

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