
HOUSE BILL 2261

State of Washington

58th Legislature

2003 Regular Session

By Representatives Kagi and Cody

Read first time 04/16/2003. Referred to Committee on Appropriations.

1 AN ACT Relating to services for persons with developmental
2 disabilities; amending RCW 13.34.160, 13.34.270, 74.13.031, 74.13.350,
3 74.20A.030, 71A.10.020, 71A.10.030, 71A.10.050, 71A.12.020, 71A.12.040,
4 71A.12.050, 71A.12.090, 71A.18.010, 71A.18.020, 71A.18.030, 71A.18.050,
5 35.82.285, 71A.20.010, and 84.36.042; adding new sections to chapter
6 71A.18 RCW; adding a new section to chapter 71A.10 RCW; creating a new
7 section; repealing RCW 71A.10.010, 71A.10.800, 71A.10.805, 71A.10.900,
8 71A.10.901, 71A.10.902, 71A.16.020, 71A.16.030, 71A.16.040, 71A.16.050,
9 and 71A.16.010; providing effective dates; and declaring an emergency.

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

11 NEW SECTION. **Sec. 1.** The legislature finds that the number of
12 individuals with a developmental disability is increasing. This
13 growth, along with economic and social changes, presents opportunities
14 for the development of long-term community services and creates a need
15 for different approaches to long-term service programs. The
16 legislature recognizes that the primary resource for long-term support
17 continues to be family. However, family caregivers are increasingly
18 employed outside the home. In addition, many families continue to
19 support their sons and daughters when they are no longer legally

1 obligated to do so. The legislature finds that supporting caregivers
2 in a collaborative fashion can keep families together, prevent out-of-
3 home placements, and leverage public and private support for people
4 with a developmental disability.

5 The legislature further finds the delivery of services to persons
6 with developmental disabilities should be prioritized based upon an
7 individual needs assessment. Limited state resources should be
8 allocated in a manner that complements and supports the use of
9 individual family and natural supports, enabling the individual to be
10 independent and not reliant upon institutional or residential care
11 services until such time as these services are required in order to
12 reasonably assure the health and safety of the individual.

13 It is the intent of the legislature that the provisions of this act
14 shall be applied to individuals currently and prospectively receiving
15 services under Title 71A RCW. The immediate implementation of this act
16 is necessary for the support of state government and its institutions
17 and programs.

18 **Sec. 2.** RCW 13.34.160 and 1997 c 58 s 505 are each amended to read
19 as follows:

20 (1) In an action brought under this chapter, the court may inquire
21 into the ability of the parent or parents of the child to pay child
22 support and may enter an order of child support as set forth in chapter
23 26.19 RCW. The court may enforce the same by execution, or in any way
24 in which a court of equity may enforce its decrees. All child support
25 orders entered pursuant to this chapter shall be in compliance with the
26 provisions of RCW 26.23.050.

27 (2) For purposes of this section, if a dependent child's parent is
28 an unmarried minor parent or pregnant minor applicant, then the parent
29 or parents of the minor shall also be deemed a parent or parents of the
30 dependent child. However, liability for child support under this
31 subsection only exists if the parent or parents of the unmarried minor
32 parent or pregnant minor applicant are provided the opportunity for a
33 hearing on their ability to provide support. Any child support order
34 requiring such a parent or parents to provide support for the minor
35 parent's child may be effective only until the minor parent reaches
36 eighteen years of age.

1 (3) In the absence of a court order setting support, the department
2 may establish an administrative order for support upon receipt of a
3 referral or application for support enforcement services.

4 **Sec. 3.** RCW 13.34.270 and 2000 c 122 s 33 are each amended to read
5 as follows:

6 (1) Whenever the department places a child with a developmental
7 disability in out-of-home care pursuant to RCW 74.13.350, the
8 department shall obtain a judicial determination within one hundred
9 eighty days of the placement that continued placement is in the best
10 interests of the child. If the child's out-of-home placement ends
11 before one hundred eighty days have elapsed, no judicial determination
12 is required.

13 (2) To obtain the judicial determination, the department shall file
14 a petition alleging that there is located or residing within the county
15 a child who has a developmental disability and that the child has been
16 placed in out-of-home care pursuant to RCW 74.13.350. The petition
17 shall request that the court review the child's placement, make a
18 determination whether continued placement is in the best interests of
19 the child, and take other necessary action as provided in this section.
20 The petition shall contain the name, date of birth, and residence of
21 the child and the names and residences of the child's parent or legal
22 guardian who has agreed to the child's placement in out-of-home care.
23 Reasonable attempts shall be made by the department to ascertain and
24 set forth in the petition the identity, location, and custodial status
25 of any parent who is not a party to the placement agreement and why
26 that parent cannot assume custody of the child.

27 (3) Upon filing of the petition, the clerk of the court shall
28 schedule the petition for a hearing to be held no later than fourteen
29 calendar days after the petition has been filed. The department shall
30 provide notification of the time, date, and purpose of the hearing to
31 the parent or legal guardian who has agreed to the child's placement in
32 out-of-home care. The department shall also make reasonable attempts
33 to notify any parent who is not a party to the placement agreement, if
34 the parent's identity and location is known. Notification under this
35 section may be given by the most expedient means, including but not
36 limited to, mail, personal service, and telephone.

1 (4) The court shall appoint a guardian ad litem for the child as
2 provided in RCW 13.34.100, unless the court for good cause finds the
3 appointment unnecessary.

4 (5) Permanency planning hearings shall be held as provided in this
5 section. At the hearing, the court shall review whether the child's
6 best interests are served by continued out-of-home placement and
7 determine the future legal status of the child.

8 (a) For children age ten and under, a permanency planning hearing
9 shall be held in all cases where the child has remained in out-of-home
10 care for at least nine months and an adoption decree or guardianship
11 order under chapter 11.88 RCW has not previously been entered. The
12 hearing shall take place no later than twelve months following
13 commencement of the child's current placement episode.

14 (b) For children over age ten, a permanency planning hearing shall
15 be held in all cases where the child has remained in out-of-home care
16 for at least fifteen months and an adoption decree or guardianship
17 order under chapter 11.88 RCW has not previously been entered. The
18 hearing shall take place no later than eighteen months following
19 commencement of the current placement episode.

20 (c) No later than ten working days before the permanency planning
21 hearing, the department shall submit a written permanency plan to the
22 court and shall mail a copy of the plan to all parties. The plan shall
23 be directed toward securing a safe, stable, and permanent home for the
24 child as soon as possible. The plan shall identify one of the
25 following outcomes as the primary goal and may also identify additional
26 outcomes as alternative goals: Return of the child to the home of the
27 child's parent or legal guardian; adoption; guardianship; or long-term
28 out-of-home care, until the child is age eighteen, with a written
29 agreement between the parties and the child's care provider.

30 (d) If a goal of long-term out-of-home care has been achieved
31 before the permanency planning hearing, the court shall review the
32 child's status to determine whether the placement and the plan for the
33 child's care remains appropriate. In cases where the primary
34 permanency planning goal has not been achieved, the court shall inquire
35 regarding the reasons why the primary goal has not been achieved and
36 determine what needs to be done to make it possible to achieve the
37 primary goal.

1 (e) Following the first permanency planning hearing, the court
2 shall hold a further permanency planning hearing in accordance with
3 this section at least once every twelve months until a permanency
4 planning goal is achieved or the voluntary placement agreement is
5 terminated.

6 (6) Any party to the voluntary placement agreement may terminate
7 the agreement at any time. Upon termination of the agreement, the
8 child shall be returned to the care of the child's parent or legal
9 guardian, unless the child has been taken into custody pursuant to RCW
10 13.34.050 or 26.44.050, placed in shelter care pursuant to RCW
11 13.34.060, or placed in foster care pursuant to RCW 13.34.130. The
12 department shall notify the court upon termination of the voluntary
13 placement agreement and return of the child to the care of the child's
14 parent or legal guardian. Whenever a voluntary placement agreement is
15 terminated, an action under this section shall be dismissed.

16 (7) When state or federal funds are expended for the care and
17 maintenance of a child with a developmental disability, whether placed
18 in care as a result of an action under this chapter or a voluntary
19 placement agreement, the department shall refer the case to the
20 division of child support, unless the department finds that there is
21 good cause not to pursue collection of child support against the parent
22 or parents of the child.

23 (8) This section does not prevent the department from filing a
24 dependency petition if there is reason to believe that the child is a
25 dependent child as defined in RCW 13.34.030. An action filed under
26 this section shall be dismissed upon the filing of a dependency
27 petition regarding a child who is the subject of the action under this
28 section.

29 **Sec. 4.** RCW 74.13.031 and 2001 c 192 s 1 are each amended to read
30 as follows:

31 The department shall have the duty to provide child welfare
32 services and shall:

33 (1) Develop, administer, supervise, and monitor a coordinated and
34 comprehensive plan that establishes, aids, and strengthens services for
35 the protection and care of runaway, dependent, or neglected children.

36 (2) Within available resources, recruit an adequate number of
37 prospective adoptive and foster homes, both regular and specialized,

1 i.e. homes for children of ethnic minority, including Indian homes for
2 Indian children, sibling groups, handicapped and emotionally disturbed,
3 teens, pregnant and parenting teens, and annually report to the
4 governor and the legislature concerning the department's success in:
5 (a) Meeting the need for adoptive and foster home placements; (b)
6 reducing the foster parent turnover rate; (c) completing home studies
7 for legally free children; and (d) implementing and operating the
8 passport program required by RCW 74.13.285. The report shall include
9 a section entitled "Foster Home Turn-Over, Causes and Recommendations."

10 (3) Investigate complaints of any recent act or failure to act on
11 the part of a parent or caretaker that results in death, serious
12 physical or emotional harm, or sexual abuse or exploitation, or that
13 presents an imminent risk of serious harm, and on the basis of the
14 findings of such investigation, offer child welfare services in
15 relation to the problem to such parents, legal custodians, or persons
16 serving in loco parentis, and/or bring the situation to the attention
17 of an appropriate court, or another community agency: PROVIDED, That
18 an investigation is not required of nonaccidental injuries which are
19 clearly not the result of a lack of care or supervision by the child's
20 parents, legal custodians, or persons serving in loco parentis. If the
21 investigation reveals that a crime against a child may have been
22 committed, the department shall notify the appropriate law enforcement
23 agency.

24 (4) Offer, on a voluntary basis, family reconciliation services to
25 families who are in conflict.

26 (5) Monitor out-of-home placements, on a timely and routine basis,
27 to assure the safety, well-being, and quality of care being provided is
28 within the scope of the intent of the legislature as defined in RCW
29 74.13.010 and 74.15.010, and annually submit a report measuring the
30 extent to which the department achieved the specified goals to the
31 governor and the legislature.

32 (6) Have authority to accept custody of children from parents and
33 to accept custody of children from juvenile courts, where authorized to
34 do so under law, to provide child welfare services including placement
35 for adoption, and to provide for the physical care of such children and
36 make payment of maintenance costs if needed. Except where required by
37 Public Law 95-608 (25 U.S.C. Sec. 1915), no private adoption agency

1 which receives children for adoption from the department shall
2 discriminate on the basis of race, creed, or color when considering
3 applications in their placement for adoption.

4 (7) Have authority to provide temporary shelter to children who
5 have run away from home and who are admitted to crisis residential
6 centers.

7 (8) Have authority to purchase care for children; and shall follow
8 in general the policy of using properly approved private agency
9 services for the actual care and supervision of such children insofar
10 as they are available, paying for care of such children as are accepted
11 by the department as eligible for support at reasonable rates
12 established by the department.

13 (9) Establish a children's services advisory committee which shall
14 assist the secretary in the development of a partnership plan for
15 utilizing resources of the public and private sectors, and advise on
16 all matters pertaining to child welfare, licensing of child care
17 agencies, adoption, and services related thereto. At least one member
18 shall represent the adoption community.

19 (10) Have authority to provide continued foster care or group care
20 for individuals from eighteen through twenty years of age to enable
21 them to complete their high school or vocational school program.

22 (11) Refer cases to the division of child support whenever state or
23 federal funds are expended for the care and maintenance of a child,
24 including a child with a developmental disability, whether placed as a
25 result of an action under chapter 13.34 RCW or a voluntary placement
26 agreement, unless the department finds that there is good cause not to
27 pursue collection of child support against the parent or parents of the
28 child.

29 (12) Have authority within funds appropriated for foster care
30 services to purchase care for Indian children who are in the custody of
31 a federally recognized Indian tribe or tribally licensed child-placing
32 agency pursuant to parental consent, tribal court order, or state
33 juvenile court order; and the purchase of such care shall be subject to
34 the same eligibility standards and rates of support applicable to other
35 children for whom the department purchases care.

36 Notwithstanding any other provision of RCW 13.32A.170 through
37 13.32A.200 and 74.13.032 through 74.13.036, or of this section all
38 services to be provided by the department of social and health services

1 under subsections (4), (6), and (7) of this section, subject to the
2 limitations of these subsections, may be provided by any program
3 offering such services funded pursuant to Titles II and III of the
4 federal juvenile justice and delinquency prevention act of 1974.

5 ~~((12))~~ (13) Within amounts appropriated for this specific
6 purpose, provide preventive services to families with children that
7 prevent or shorten the duration of an out-of-home placement.

8 ~~((13))~~ (14) Have authority to provide independent living services
9 to youths, including individuals eighteen through twenty years of age,
10 who are or have been in foster care.

11 **Sec. 5.** RCW 74.13.350 and 1998 c 229 s 1 are each amended to read
12 as follows:

13 It is the intent of the legislature that parents are responsible
14 for the care and support of children with developmental disabilities.
15 The legislature recognizes that, because of the intense support
16 required to care for a child with developmental disabilities, the help
17 of an out-of-home placement may be needed. It is the intent of the
18 legislature that, when the sole reason for the out-of-home placement is
19 the child's developmental disability, such services be offered by the
20 department to these children and their families through a voluntary
21 placement agreement. In these cases, the parents shall retain legal
22 custody of the child.

23 As used in this section, "voluntary placement agreement" means a
24 written agreement between the department and a child's parent or legal
25 guardian authorizing the department to place the child in a licensed
26 facility. Under the terms of this agreement, the parent or legal
27 guardian shall retain legal custody and the department shall be
28 responsible for the child's placement and care. The agreement shall at
29 a minimum specify the legal status of the child and the rights and
30 obligations of the parent or legal guardian, the child, and the
31 department while the child is in placement. The agreement must be
32 signed by the child's parent or legal guardian and the department to be
33 in effect, except that an agreement regarding an Indian child shall not
34 be valid unless executed in writing before the court and filed with the
35 court as provided in RCW 13.34.245. Any party to a voluntary placement
36 agreement may terminate the agreement at any time. Upon termination of
37 the agreement, the child shall be returned to the care of the child's

1 parent or legal guardian unless the child has been taken into custody
2 pursuant to RCW 13.34.050 or 26.44.050, placed in shelter care pursuant
3 to RCW 13.34.060, or placed in foster care pursuant to RCW 13.34.130.

4 As used in this section, "out-of-home placement" and "out-of-home
5 care" mean the placement of a child in a foster family home or group
6 care facility licensed under chapter 74.15 RCW.

7 Whenever the department places a child in out-of-home care under a
8 voluntary placement pursuant to this section, the department shall have
9 the responsibility for the child's placement and care. The department
10 shall develop a permanency plan of care for the child no later than
11 sixty days from the date that the department assumes responsibility for
12 the child's placement and care. Within the first one hundred eighty
13 days of the placement, the department shall obtain a judicial
14 determination pursuant to RCW 13.04.030(1)(j) and 13.34.270 that the
15 placement is in the best interests of the child. If the child's out-
16 of-home placement ends before one hundred eighty days have elapsed, no
17 judicial determination under RCW 13.04.030(1)(b) is required. The
18 permanency planning hearings shall review whether the child's best
19 interests are served by continued out-of-home placement and determine
20 the future legal status of the child.

21 The department shall provide for periodic administrative reviews as
22 required by federal law. A review may be called at any time by either
23 the department, the parent, or the legal guardian.

24 Nothing in this section shall prevent the department from filing a
25 dependency petition if there is reason to believe that the child is a
26 dependent child as defined in RCW 13.34.030.

27 The department shall adopt rules providing for the implementation
28 of chapter 386, Laws of 1997 and the transfer of responsibility for
29 out-of-home placements from the dependency process under chapter 13.34
30 RCW to the process under this chapter.

31 It is the intent of the legislature that the department undertake
32 voluntary out-of-home placement in cases where the child's
33 developmental disability is such that the parent, guardian, or legal
34 custodian is unable to provide the necessary care for the child, and
35 the parent, guardian, or legal custodian has determined that the child
36 would benefit from placement outside of the home. If the department
37 does not accept a voluntary placement agreement signed by the parent,

1 a petition may be filed and an action pursued under chapter 13.34 RCW.
2 The department shall inform the parent, guardian, or legal custodian in
3 writing of their right to civil action under chapter 13.34 RCW.

4 Nothing in this section prohibits the department from seeking
5 support from parents of a child when state or federal funds are
6 expended for the care and maintenance of that child, including a child
7 with a developmental disability, or when the department receives an
8 application for services from the physical custodian of the child,
9 unless the department finds that there is good cause not to pursue
10 collection of child support against the parent or parents.

11 **Sec. 6.** RCW 74.20A.030 and 2000 c 86 s 7 are each amended to read
12 as follows:

13 (1) The department shall be subrogated to the right of any
14 dependent child or children or person having the care, custody, and
15 control of said child or children, if public assistance money is paid
16 to or for the benefit of the child, or for the care and maintenance of
17 a child, including a child with a developmental disability, under a
18 state-funded program, or a program funded under Title IV-A or IV-E of
19 the federal social security act as amended by the personal
20 responsibility and work opportunity reconciliation act of 1996, to
21 prosecute or maintain any support action or execute any administrative
22 remedy existing under the laws of the state of Washington to obtain
23 reimbursement of moneys expended, based on the support obligation of
24 the responsible parent established by a child support order.
25 Distribution of any support moneys shall be made in accordance with RCW
26 26.23.035.

27 (2) The department may initiate, continue, maintain, or execute an
28 action to establish, enforce, and collect a support obligation,
29 including establishing paternity and performing related services, under
30 this chapter and chapter 74.20 RCW, or through the attorney general or
31 prosecuting attorney under chapter 26.09, 26.18, 26.20, 26.21, 26.23,
32 or 26.26 RCW or other appropriate statutes or the common law of this
33 state, for so long as and under such conditions as the department may
34 establish by regulation.

35 (3) Public assistance moneys shall be exempt from collection action
36 under this chapter except as provided in RCW 74.20A.270.

1 (4) (~~No collection action shall be taken against parents of~~
2 ~~children eligible for admission to, or children who have been~~
3 ~~discharged from a residential habilitation center as defined by RCW~~
4 ~~71A.10.020(8). For the period July 1, 1993, through June 30, 1995, a~~
5 ~~collection action may be taken against parents of children with~~
6 ~~developmental disabilities who are placed in community based~~
7 ~~residential care. The amount of support the department may collect~~
8 ~~from the parents shall not exceed one half of the parents' support~~
9 ~~obligation accrued while the child was in community based residential~~
10 ~~care.)) The child support obligation shall be calculated pursuant to~~
11 ~~chapter 26.19 RCW.~~

12 **Sec. 7.** RCW 71A.10.020 and 1998 c 216 s 2 are each amended to read
13 as follows:

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

16 (1) "Community residential support services," or "community support
17 services," and "in-home services" means one or more of the services
18 listed in RCW 71A.12.040.

19 (2) "Department" means the department of social and health
20 services.

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

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

36 ~~(5))~~ (4) "Habilitative services" means those services (~~provided~~
37 ~~by program personnel~~) to assist persons in acquiring and maintaining

1 life skills and to raise their levels of physical, mental, social, and
2 vocational functioning. Habilitative services include education,
3 training for employment, supported employment, and therapy.

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

10 (6) "Natural supports" means the provision of nonpaid assistance,
11 support, or care which is conducted by mutual agreement between a
12 person with a developmental disability and any entity in the community
13 including, but not limited to, family, friends, neighbors, civic
14 groups, or religious organizations.

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

17 (8) "Residential habilitation center" means a state-operated
18 facility for persons with developmental disabilities governed by
19 chapter 71A.20 RCW.

20 (9) "Secretary" means the secretary of social and health services
21 or the secretary's designee.

22 (10) "Service" or "services" means services provided by state or
23 local government to carry out this title.

24 (11) "Vacancy" means an opening at a residential habilitation
25 center, which when filled, would not require the center to exceed its
26 ~~((biannually [biennially]))~~ biennially budgeted capacity.

27 **Sec. 8.** RCW 71A.10.030 and 1988 c 176 s 103 are each amended to
28 read as follows:

29 (1) The existence of developmental disabilities does not affect the
30 civil rights of the person with the developmental disability except as
31 otherwise provided by law.

32 ~~((The secretary's determination under RCW 71A.16.040 that a
33 person is eligible for services under this title shall not deprive the
34 person of any civil rights or privileges. The secretary's
35 determination alone shall not constitute cause to declare the))~~ A
36 person ~~((to be))~~ is not legally incompetent solely because he or she is
37 receiving services under this title.

1 (3) The department shall emphasize to the persons and entities it
2 contracts with the importance of recognizing the rights of a person
3 with a developmental disability referenced in 42 U.S.C. Sec. 15009.
4 The department shall require contractees to post these rights and make
5 them readily available to persons who have a developmental disability.

6 (4) This title shall not be construed to deprive the parent or
7 parents of any parental rights with relation to a child residing in a
8 residential habilitation center, except as provided in this title for
9 the orderly operation of such residential habilitation centers.

10 **Sec. 9.** RCW 71A.10.050 and 1989 c 175 s 138 are each amended to
11 read as follows:

12 (1) An applicant or recipient or former recipient of a
13 developmental disabilities service under this title from the department
14 of social and health services has the right to appeal the following
15 department actions:

16 (a) A denial of (~~an application for eligibility under RCW~~
17 ~~71A.16.040~~) a determination that a person has a developmental
18 disability;

19 (b) An unreasonable delay in acting on an application (~~for~~
20 ~~eligibility~~) for a service(~~τ~~) or for an alternative service under
21 RCW 71A.18.040;

22 (c) A denial, reduction, or termination of a service;

23 (d) A claim that the person owes a debt to the state for an
24 overpayment;

25 (e) A disagreement with an action of the secretary under RCW
26 71A.10.060 or 71A.10.070;

27 (f) A decision to return a resident of (~~an [a]~~) a habilitation
28 center to the community; and

29 (g) A decision to change a person's placement from one category of
30 residential services to a different category of residential services.

31 The adjudicative proceeding is governed by the Administrative
32 Procedure Act, chapter 34.05 RCW.

33 (2) This subsection applies only to an adjudicative proceeding in
34 which the department action appealed is a decision to return a resident
35 of a habilitation center to the community. The resident or his or her
36 representative may appeal on the basis of whether the specific
37 placement decision is in the best interests of the resident. When the

1 resident or his or her representative files an application for an
2 adjudicative proceeding under this section the department has the
3 burden of proving that the specific placement decision is in the best
4 interests of the resident.

5 (3) When the department takes any action described in subsection
6 (1) of this section it shall give notice as provided by RCW 71A.10.060.
7 The notice must include a statement advising the recipient of the right
8 to an adjudicative proceeding and the time limits for filing an
9 application for an adjudicative proceeding. Notice of a decision to
10 return a resident of a habilitation center to the community under RCW
11 71A.20.080 must also include a statement advising the recipient of the
12 right to file a petition for judicial review of an adverse adjudicative
13 order as provided in chapter 34.05 RCW.

14 **Sec. 10.** RCW 71A.12.020 and 1988 c 176 s 202 are each amended to
15 read as follows:

16 ~~(1) ((To the extent that state, federal, or other funds designated
17 for services to persons with developmental disabilities are available,
18 the secretary shall provide every eligible person with habilitative
19 services suited to the person's needs, regardless of age or degree of
20 developmental disability.~~

21 ~~(2))~~ The secretary shall provide persons who receive services with
22 the opportunity for integration with ~~((nonhandicapped and less
23 handicapped persons))~~ people without disabilities to the greatest
24 extent possible.

25 ~~((3))~~ (2) The secretary shall establish minimum standards for
26 ~~((habilitative))~~ services through the development of a quality
27 assurance system. Consumers, advocates, service providers, appropriate
28 professionals, and local government agencies shall be involved in the
29 development of the standards.

30 **Sec. 11.** RCW 71A.12.040 and 1988 c 176 s 204 are each amended to
31 read as follows:

32 Services that the secretary may provide or arrange with others to
33 provide, or the individual may self-direct, under this title include,
34 but are not limited to:

- 35 (1) Architectural services;
- 36 (2) Case management services;

- 1 (3) Early childhood intervention;
- 2 (4) Employment services, including supported employment;
- 3 (5) Family counseling;
- 4 (6) Family support;
- 5 (7) Information and referral;
- 6 (8) Health services and equipment;
- 7 (9) Legal services;
- 8 (10) Residential services and support, including voluntary
- 9 placement and community protection;
- 10 (11) Respite care;
- 11 (12) Therapy services and equipment;
- 12 (13) Transportation services; and
- 13 (14) Vocational services.

14 **Sec. 12.** RCW 71A.12.050 and 1988 c 176 s 205 are each amended to
15 read as follows:

16 The secretary may make payments for nonresidential services which
17 exceed the cost of caring for an average individual at home, and which
18 are reasonably necessary for the care, treatment, maintenance, support,
19 and training of persons with developmental disabilities, upon
20 application pursuant to RCW 71A.18.050. The secretary shall prioritize
21 nonresidential services to individuals identified as priorities in RCW
22 71A.12.090. The secretary shall adopt rules determining the extent and
23 type of care and training for which the department will pay all or a
24 portion of the costs.

25 **Sec. 13.** RCW 71A.12.090 and 1988 c 176 s 209 are each amended to
26 read as follows:

27 ~~((If a person with developmental disabilities is the parent of a~~
28 ~~child who is about to be placed for adoption or foster care by the~~
29 ~~secretary, the parent shall be eligible to receive services in order to~~
30 ~~promote the integrity of the family unit.)) The department shall
31 identify priority populations based upon assessed need. The priorities
32 shall be based on the severity of an individual's disability; including
33 whether the impact of the disability is profound, severe, moderate, or
34 mild, and shall include an evaluation of any extraordinary behavioral
35 issues and severe physical impairments, and the conditions surrounding
36 the individual's caregiver.~~

1 NEW SECTION. **Sec. 14.** A new section is added to chapter 71A.18
2 RCW to read as follows:

3 It is the intent of the legislature that the department establish
4 a single point of referral for persons with developmental disabilities
5 and their families so that they may have a place of entry and
6 continuing contact for services.

7 NEW SECTION. **Sec. 15.** A new section is added to chapter 71A.18
8 RCW to read as follows:

9 (1) The department shall develop a tool for the comprehensive
10 assessment of need for services under this title. The department is
11 not required to meet all needs of a person with a developmental
12 disability. The tool shall identify natural supports and any services
13 that would supplement the natural supports. The assessment tool shall
14 be implemented by January 2004. Development of a computer-based system
15 may require additional time and funding, which should be reported to
16 the legislature by September 2003.

17 (2) The assessment shall include the identification of any specific
18 limitations of the primary caregiver; including low income, an aging
19 caregiver, a single caregiver, a caregiver with a disability, a
20 caregiver with multiple children with a disability, or no identified
21 caregiver. The assessment shall be based upon the developmental age
22 and the level of functioning of the individual with a developmental
23 disability.

24 **Sec. 16.** RCW 71A.18.010 and 1988 c 176 s 501 are each amended to
25 read as follows:

26 (1) In order for a person with a developmental disability to access
27 services that the person with a developmental disability has been
28 assessed to need and has been authorized to receive, the secretary
29 ~~((may))~~ shall produce and maintain an individual service plan for each
30 ~~((eligible))~~ person with a developmental disability that is reviewed
31 annually and revised as needed. An individual service plan is a plan
32 that identifies the needs of a person for services and determines what
33 services will be in the best interests of the person and ~~((will meet~~
34 ~~the person's needs))~~ which individuals and entities are responsible for
35 providing the identified services. The secretary is not required to
36 provide for all the needs identified in the individual service plan.

1 The service plan shall be developed collaboratively with the person
2 with a developmental disability and the person with a developmental
3 disability's natural supports, and any other person considered integral
4 to the service planning process. The service plan shall be developed
5 within a reasonable period of time following the department's needs
6 assessment and authorization that the person with a developmental
7 disability receive services.

8 (2) The department shall ensure that intake, eligibility, and the
9 individual assessment process shall be implemented uniformly and
10 completed within established time frames.

11 **Sec. 17.** RCW 71A.18.020 and 1988 c 176 s 601 are each amended to
12 read as follows:

13 The ~~((secretary may))~~ department's duty to provide a service to a
14 person ((eligible)) with a developmental disability under this title
15 ((if)) is limited by the funds ((are available. If there is an
16 individual service plan, the secretary shall consider the need for
17 services as provided in that plan)) specifically appropriated to
18 administer this title.

19 Limitations in funding can be the basis for denying services to a
20 person with a developmental disability not enrolled in medicaid or a
21 federal medicaid waiver program, and limitations in funding can be the
22 basis for denying nonwaiver services to a person with a developmental
23 disability enrolled in medicaid or a federal medicaid waiver program.

24 NEW SECTION. **Sec. 18.** A new section is added to chapter 71A.18
25 RCW to read as follows:

26 (1) An applicant enrolled in a medicaid waiver or receiving waiver
27 services must be ICF/MR eligible.

28 (2) Accessing medicaid for an applicant by enrolling an applicant
29 in a medicaid waiver is prohibited, unless the applicant is assessed to
30 need waiver services and is a person assessed to meet the criteria of
31 a priority population.

32 (3) The department shall evaluate medicaid cost-sharing options for
33 applicants enrolled in a medicaid waiver and report to the legislature
34 regarding its findings by September 2003.

35 (4) The department shall evaluate available cost-effective options

1 for covering an applicant assessed to need medical coverage and report
2 to the legislature regarding its findings by September 2003.

3 (5) The department shall comply with all federal requirements that
4 are necessary for the receipt of federal funds.

5 **Sec. 19.** RCW 71A.18.030 and 1988 c 176 s 602 are each amended to
6 read as follows:

7 (~~(An eligible)~~) A person with a developmental disability or the
8 (~~(person's)~~) person with a developmental disability's legal
9 representative may reject an authorized service. Rejection of an
10 authorized service shall not affect the person's eligibility for
11 services and shall not eliminate the person from consideration for
12 other services or for the same service at a different time or under
13 different circumstances.

14 **Sec. 20.** RCW 71A.18.050 and 1988 c 176 s 604 are each amended to
15 read as follows:

16 (1) When considering the discontinuance of a service that is being
17 provided to a person, the secretary shall consult as required in RCW
18 71A.10.070.

19 (~~(The discontinuance of a service under this section does not~~
20 ~~affect the person's eligibility for services.)~~) Other services may be
21 provided or the same service may be restored when it is again available
22 or when it is again needed.

23 (3) Except when the service is discontinued at the request of the
24 person receiving the service or that person's legal representative, the
25 secretary shall give notice as required in RCW 71A.10.060.

26 NEW SECTION. **Sec. 21.** A new section is added to chapter 71A.18
27 RCW to read as follows:

28 The department shall coordinate with the office of the
29 superintendent of public instruction to access funding to the fullest
30 extent possible so that a person with a disability can achieve the
31 maximum level of self-sufficiency, including employability. The
32 department shall coordinate with all other state agencies to achieve
33 early intervention that may prevent the need for more complex and
34 costly services later in the person's development.

1 NEW SECTION. **Sec. 22.** A new section is added to chapter 71A.10
2 RCW to read as follows:

3 The department may adopt rules to implement this act.

4 **Sec. 23.** RCW 35.82.285 and 1991 c 167 s 3 are each amended to read
5 as follows:

6 Housing authorities created under this chapter may establish and
7 operate group homes or halfway houses to serve juveniles released from
8 state juvenile or correctional institutions, or to serve the
9 developmentally disabled as defined in RCW 71A.10.020(~~(+2)~~).
10 Authorities may contract for the operation of facilities so
11 established, with qualified nonprofit organizations as agent of the
12 authority. Authorities may provide support or supportive services in
13 facilities serving juveniles, the developmentally disabled or other
14 persons under a disability, and the frail elderly, whether or not they
15 are operated by the authority.

16 Action under this section shall be taken by the authority only
17 after a public hearing as provided by chapter 42.30 RCW. In exercising
18 this power the authority shall not be empowered to acquire property by
19 eminent domain, and the facilities established shall comply with all
20 zoning, building, fire, and health regulations and procedures
21 applicable in the locality.

22 **Sec. 24.** RCW 71A.20.010 and 1988 c 176 s 701 are each amended to
23 read as follows:

24 This chapter covers the operation of residential habilitation
25 centers. The selection of persons to be served at the centers is
26 governed by (~~chapters 71A.16 and 71A.18 RCW~~) this title. The
27 purposes of this chapter are: To provide for those children and adults
28 who are exceptional in their needs for care, treatment, and education
29 by reason of developmental disabilities, residential care designed to
30 develop their individual capacities to their optimum; to provide for
31 admittance, withdrawal and discharge from state residential
32 habilitation centers upon application; and to insure a comprehensive
33 program for the education, guidance, care, treatment, and
34 rehabilitation of all persons admitted to residential habilitation
35 centers.

1 **Sec. 25.** RCW 84.36.042 and 1998 c 202 s 1 are each amended to read
2 as follows:

3 (1) All real and personal property owned or leased by a nonprofit
4 organization, corporation, or association to provide housing for
5 ((eligible)) persons with developmental disabilities is exempt from
6 property taxation.

7 (a) To qualify for this exemption, the nonprofit organization,
8 corporation, or association must be qualified for exemption under
9 section 501(c)(3) of the internal revenue code of 1986 (26 U.S.C. Sec.
10 501(c)(3)). It must also have been organized for charitable purposes
11 to create and preserve long-term affordable housing for low-income
12 developmentally disabled persons.

13 (b) The housing must be occupied by ((eligible)) persons with a
14 developmental disability who have a low income.

15 (2) As used in this section:

16 (a) "Developmental disability" means the same as defined in RCW
17 71A.10.020;

18 (b) (~~("Eligible person" means the same as defined in RCW~~
19 ~~71A.10.020; and~~

20 ~~(c))~~ "Low income" means the adjusted gross income of the resident
21 is at eighty percent or less of the median income adjusted for family
22 size, as most recently determined by the federal department of housing
23 and urban development for the county in which the housing is located
24 and in effect as of January 1st of the assessment year for which the
25 exemption is sought. "Adjusted gross income" is as defined in the
26 federal internal revenue code of 1986, as it exists on June 11, 1998,
27 or such subsequent date as the director may provide by rule consistent
28 with the purpose of this section.

29 (3) To be exempt under this section, the property must be used
30 exclusively for the purposes for which the exemption is granted, except
31 as provided in RCW 84.36.805.

32 (4) If the real or personal property for which exemption is sought
33 is leased, the benefit of the exemption must inure to the nonprofit
34 organization, corporation, or association leasing the property to
35 provide the housing for developmentally disabled persons.

36 NEW SECTION. **Sec. 26.** The following acts or parts of acts are
37 each repealed:

- 1 (1) RCW 71A.10.010 (Legislative finding--Intent--1988 c 176) and
2 1988 c 176 s 1;
- 3 (2) RCW 71A.10.800 (Application of Title 71A RCW to matters pending
4 as of June 9, 1988) and 1988 c 176 s 1008;
- 5 (3) RCW 71A.10.805 (Headings in Title 71A RCW not part of law) and
6 1988 c 176 s 1002;
- 7 (4) RCW 71A.10.900 (Severability--1988 c 176) and 1988 c 176 s
8 1003;
- 9 (5) RCW 71A.10.901 (Saving--1988 c 176) and 1988 c 176 s 1004;
- 10 (6) RCW 71A.10.902 (Continuation of existing law--1988 c 176) and
11 1988 c 176 s 1001;
- 12 (7) RCW 71A.16.020 (Eligibility for services--Rules) and 1988 c 176
13 s 402;
- 14 (8) RCW 71A.16.030 (Outreach program--Determination of eligibility
15 for services--Application) and 1998 c 216 s 4 & 1988 c 176 s 403;
- 16 (9) RCW 71A.16.040 (Determination of eligibility--Notice--Rules for
17 redetermination) and 1989 c 175 s 141 & 1988 c 176 s 404; and
- 18 (10) RCW 71A.16.050 (Determination of eligibility--Effect--
19 Determination of appropriate services) and 1988 c 176 s 405.

20 NEW SECTION. **Sec. 27.** RCW 71A.16.010 (Referral for services--
21 Admittance to residential habilitation centers--Expiration of
22 subsections) and 1998 c 216 s 3 & 1988 c 176 s 401 are each repealed,
23 effective June 30, 2003.

24 NEW SECTION. **Sec. 28.** If any provision of this act or its
25 application to any person or circumstance is held invalid, the
26 remainder of the act or the application of the provision to other
27 persons or circumstances is not affected.

28 NEW SECTION. **Sec. 29.** This act is necessary for the immediate
29 preservation of the public peace, health, or safety, or support of the
30 state government and its existing public institutions, and takes effect
31 July 1, 2003.

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