
HOUSE BILL 2078

State of Washington

61st Legislature

2009 Regular Session

By Representatives Roberts, O'Brien, Walsh, Jacks, Appleton, Goodman, Dickerson, Green, Kagi, Chase, Wood, Kenney, and Haler

Read first time 02/09/09. Referred to Committee on Human Services.

1 AN ACT Relating to persons with developmental disabilities who are
2 in correctional facilities or jails; and adding a new chapter to Title
3 71A RCW.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that the presence of
6 a developmental disability does not limit an individual's rights nor
7 the opportunity to participate in the life of the community.

8 Over the years, the efforts of the state have been to enhance the
9 opportunities of its citizens with developmental disabilities to live
10 integrated lives in their local community, obtaining employment, and
11 enjoying all the opportunities our communities offer.

12 The legislature also finds that a small number of persons with
13 developmental disabilities commit crimes, are held in jail, are tried
14 for their offenses, and are sentenced to serve time in our correctional
15 system.

16 A developmental disability often stems from a mix of causes and
17 many with developmental disabilities have cognitive impairments that
18 require reasonable accommodations to assure they understand what is
19 happening to them and what is expected of them.

1 NEW SECTION. **Sec. 2.** The purpose of this chapter is:

2 (1) To assure that when a person with a developmental disability is
3 in the criminal justice or correctional system, he or she is safe and
4 free from victimization;

5 (2) To define the population this chapter concerns; and

6 (3) To outline the basic requirements needed to assure that this
7 population is properly served within the facilities.

8 NEW SECTION. **Sec. 3.** (1) For the purposes of this chapter,
9 persons with developmental disabilities are those persons over the age
10 of eighteen who are eligible to receive services under this title. If
11 a person was eligible for services by the division of developmental
12 disabilities at the time of admission to a correctional or jail
13 facility, he or she shall remain eligible for those services as long as
14 he or she remains continuously confined to a correctional facility or
15 jail facility, and upon release. Prior to or upon release, a person
16 with a developmental disability shall receive an assessment by the
17 division of developmental disabilities to determine the level of
18 support he or she requires.

19 (2) The department of social and health services shall adopt rules
20 and policies providing that when persons with developmental
21 disabilities who were enrolled in medical assistance prior to
22 confinement are released, their medical assistance coverage will be
23 fully reinstated on the day of their release, subject to any expedited
24 review of their continued eligibility for medical assistance coverage
25 that is required under federal or state law.

26 (3) The department of social and health services, in collaboration
27 with the Washington association of sheriffs and police chiefs, the
28 department of corrections, and local jail personnel shall establish
29 procedures for coordinating the work of the local offices of the
30 department, correctional institutions, and local jails to ensure prompt
31 reinstatement of eligibility and speedy eligibility determination for
32 persons who are likely to be eligible for medical assistance upon
33 release from confinement.

34 (4) For the purposes of this section, "confined" means incarcerated
35 in a correctional institution, as defined in RCW 9.94.049, or a local
36 jail.

1 NEW SECTION. **Sec. 4.** Persons with developmental disabilities who
2 are confined must be identified early during confinement and monitored
3 to ensure their safety during confinement.

4 A simple screening tool may help correctional or jail staff
5 identify persons with developmental disabilities. Within state funds
6 appropriated for this purpose, the legislature directs the
7 developmental disabilities council to contract for the development and
8 implementation of such a screening tool by July 1, 2010.

9 Once developed, jail or correctional staff may use the screening
10 tool to identify persons with developmental disabilities at the time of
11 booking. Upon this determination, the staff shall contact the local
12 office of the department of social and health services division of
13 developmental disabilities and request a determination as to whether or
14 not the person is already a client of the division of developmental
15 disabilities. The department of social and health services shall
16 respond within twenty-four hours of receipt of the inquiry as to
17 whether or not the person is a client of the division. In the event
18 that the person is not a client, the department shall, within forty-
19 eight hours of receipt of the inquiry, perform an in-person eligibility
20 determination, unless the department has previously determined the
21 person ineligible.

22 If the person has a developmental disability, jail or correctional
23 staff shall determine the reasonable accommodations required while the
24 person is in the correctional facility or jail. If the person is
25 eligible for services by the division of developmental disabilities,
26 jail or correctional staff shall consult with the division in
27 determining what accommodations are necessary.

28 NEW SECTION. **Sec. 5.** (1) It is essential that staff in
29 correctional facilities and jails know how to identify inmates with
30 developmental disabilities and how best to support them. Persons with
31 developmental disabilities are often confused with persons with mental
32 illness. These populations are different and must be understood as
33 distinct groups, with different reasonable accommodation needs.

34 (2) Within state funds appropriated for this purpose, the
35 legislature directs the developmental disabilities council, in
36 consultation with the department of corrections, department of social
37 and health services, representatives of local jails, a representative

1 of the state designated protection and advocacy system, and other
2 advocates, to develop training tools for correctional and jail staff.
3 The training tools shall be short and concise so it does not take
4 unreasonable time when used.

5 NEW SECTION. **Sec. 6.** The department of social and health
6 services, in consultation with the department of corrections,
7 representatives of local jails, a representative of the developmental
8 disabilities council, and other key stakeholder advocate groups, shall
9 develop a proposed transition program to support clients with
10 developmental disabilities moving from jail, upon release, to
11 appropriate support services in their local community.

12 By the 2010 legislative session, the department of social and
13 health services shall submit to the appropriate committees of the
14 legislature the proposed transition program. The transition program
15 plan shall be developed within the budgets of the participating
16 organizations.

17 NEW SECTION. **Sec. 7.** Sections 1 through 6 of this act constitute
18 a new chapter in Title 71A RCW.

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