
HOUSE BILL 2498

State of Washington

61st Legislature

2010 Regular Session

By Representatives Orwall, Dickerson, Dammeier, Morrell, and Hurst; by request of Department of Social and Health Services

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1 AN ACT Relating to funding the care of residents of residential
2 habilitation centers; and amending RCW 71A.20.100, 43.20B.415,
3 43.20B.430, and 43.20B.435.

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

5 **Sec. 1.** RCW 71A.20.100 and 1988 c 176 s 710 are each amended to
6 read as follows:

7 The secretary shall serve as custodian without compensation of
8 personal property of a resident of a residential habilitation center
9 that is located at the residential habilitation center, including
10 moneys deposited with the secretary for the benefit of the resident.
11 As custodian, the secretary shall have authority to disburse moneys
12 from the resident's fund for the following purposes and subject to the
13 following limitations:

14 (1) Subject to specific instructions by a donor of money to the
15 secretary for the benefit of a resident, the secretary may disburse any
16 of the funds belonging to a resident for such personal needs of the
17 resident as the secretary may deem proper and necessary.

18 (2) The secretary may pay to the department as reimbursement for
19 the costs of care, support, maintenance, treatment, hospitalization,

1 medical care, and habilitation of a resident from the resident's fund
2 when such fund exceeds a sum as established by rule of the department,
3 to the extent of any notice and finding of financial responsibility
4 served upon the secretary after such findings shall have become final.
5 (~~If the resident does not have a guardian, parent, spouse, or other~~
6 ~~person acting in a representative capacity, upon whom notice and~~
7 ~~findings of financial responsibility have been served, then the~~
8 ~~secretary shall not make payments to the department as provided in this~~
9 ~~subsection, until a guardian has been appointed by the court, and the~~
10 ~~time for the appeal of findings of financial responsibility as provided~~
11 ~~in RCW 43.20B.430 shall not commence to run until the appointment of~~
12 ~~such guardian and the service upon the guardian of notice and findings~~
13 ~~of financial responsibility.))~~

14 (3) When services to a person are changed from a residential center
15 to another setting, the secretary shall deliver to the person, or to
16 the parent, guardian, or agency legally responsible for the person, all
17 or such portion of the funds of which the secretary is custodian as
18 defined in this section, or other property belonging to the person, as
19 the secretary may deem necessary to the person's welfare, and the
20 secretary may deliver to the person such additional property or funds
21 belonging to the person as the secretary may from time to time deem
22 proper, so long as the person continues to receive service under this
23 title. When the resident no longer receives any services under this
24 title, the secretary shall deliver to the person, or to the parent,
25 person, or agency legally responsible for the person, all funds or
26 other property belonging to the person remaining in the secretary's
27 possession as custodian.

28 (4) All funds held by the secretary as custodian may be deposited
29 in a single fund, the receipts and expenditures from the fund to be
30 accurately accounted for by the secretary. All interest accruing from,
31 or as a result of the deposit of such moneys in a single fund shall be
32 credited to the personal accounts of the residents. All expenditures
33 under this section shall be subject to the duty of accounting provided
34 for in this section.

35 (5) The appointment of a guardian for the estate of a resident
36 shall terminate the secretary's authority as custodian of any funds of
37 the resident which may be subject to the control of the guardianship,
38 upon receipt by the secretary of a certified copy of letters of

1 guardianship. Upon the guardian's request, the secretary shall
2 immediately forward to the guardian any funds subject to the control of
3 the guardianship or other property of the resident remaining in the
4 secretary's possession, together with a full and final accounting of
5 all receipts and expenditures made.

6 (6) Upon receipt of a written request from the secretary stating
7 that a designated individual is a resident of the residential
8 habilitation center and that such resident has no legally appointed
9 guardian of his or her estate, any person, bank, corporation, or agency
10 having possession of any money, bank accounts, or choses in action
11 owned by such resident, shall, if the amount does not exceed two
12 hundred dollars, deliver the same to the secretary as custodian and
13 mail written notice of the delivery to such resident at the residential
14 habilitation center. The receipt by the secretary shall constitute
15 full and complete acquittance for such payment and the person, bank,
16 corporation, or agency making such payment shall not be liable to the
17 resident or his or her legal representative. All funds so received by
18 the secretary shall be duly deposited by the secretary as custodian in
19 the resident's fund to the personal account of the resident. If any
20 proceeding is brought in any court to recover property so delivered,
21 the attorney general shall defend the lawsuit without cost to the
22 person, bank, corporation, or agency that delivered the property to the
23 secretary, and the state shall indemnify such person, bank,
24 corporation, or agency against any judgment rendered as a result of
25 such proceeding.

26 **Sec. 2.** RCW 43.20B.415 and 1971 ex.s. c 118 s 2 are each amended
27 to read as follows:

28 The estates of all (~~mentally or physically deficient~~) persons
29 with developmental disabilities who have been admitted to the (~~state~~
30 ~~residential schools listed~~) residential habilitation centers
31 identified in RCW (~~72.33.030 either by application of their parents or~~
32 ~~guardian or by commitment of court~~) 71A.20.020, or who may hereafter
33 be admitted (~~or committed~~) to such institutions, shall be liable for
34 their per capita costs of care, support and treatment: PROVIDED, That
35 the estate funds may not be reduced as a result of such liability below
36 an amount as set forth in RCW (~~72.33.180~~) 71A.20.100.

1 **Sec. 3.** RCW 43.20B.430 and 1989 c 175 s 99 are each amended to
2 read as follows:

3 In all cases where a determination is made that the estate of a
4 resident of a residential habilitation center is able to pay all or any
5 portion of the charges, ~~((a))~~ an initial notice and finding of
6 responsibility shall be served on the guardian of the resident's
7 estate, or if no guardian has been appointed then to the resident, the
8 resident's spouse, or other person acting in a representative capacity
9 and having property in his or her possession belonging to a resident.
10 The notice shall set forth the amount the department has determined
11 that such estate is able to pay, not to exceed the charge as fixed in
12 accordance with RCW 43.20B.420(~~(, and)~~). The responsibility for
13 payment to the department shall commence twenty-eight days after
14 personal service of such notice and finding of responsibility. ~~The~~
15 finding of responsibility applies to the resident's cost of care from
16 the date of his or her admission to the residential habilitation center
17 to the end of his or her stay, subject to the modification or vacation
18 of the finding in accordance with this chapter. Service shall be in
19 the manner prescribed for the service of a summons in a civil action or
20 may be served by certified mail, return receipt requested. The return
21 receipt signed by addressee only is prima facie evidence of service.
22 An application for an adjudicative proceeding from the determination of
23 responsibility may be made to the secretary by ~~((the guardian of the~~
24 ~~resident's estate, or if no guardian has been appointed then by the~~
25 ~~resident, the resident's spouse, or other person acting in a))~~ the
26 resident or his or her representative ~~((capacity and having property in~~
27 ~~his or her possession belonging to a resident of a state school))~~,
28 within such twenty-eight day period. The application must be written
29 and served on the secretary by registered or certified mail, or by
30 personal service. If no application is filed, the notice and finding
31 of responsibility shall become final. If an application is filed, the
32 execution of notice and finding of responsibility shall be stayed
33 pending the final adjudicative order. The hearing shall be conducted
34 in a local department office or other location in Washington convenient
35 to the appellant. The proceeding is governed by the Administrative
36 Procedure Act, chapter 34.05 RCW.

1 **Sec. 4.** RCW 43.20B.435 and 1979 c 141 s 240 are each amended to
2 read as follows:

3 The secretary, upon application of the guardian of the estate of
4 the resident, and after investigation, or upon investigation without
5 application, may, if satisfied of the financial ability or inability of
6 such person to make payments in accordance with the original finding of
7 responsibility, modify or vacate such original finding of
8 responsibility, and enter a new finding of responsibility. Notice of
9 the secretary's determination to modify or vacate findings of
10 responsibility shall be ((served and be)) provided in writing to the
11 guardian of the resident's estate, or if no guardian has been
12 appointed, then to the resident, the resident's spouse, or other
13 persons acting in a representative capacity and having property in his
14 or her possession belonging to a resident. Modified or vacated
15 findings or responsibility are appealable in the same manner and in
16 accordance with the same procedure for appeals of original findings of
17 responsibility.

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