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**SENATE BILL 5428**

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**State of Washington 69th Legislature 2025 Regular Session**

**By** Senators Harris and Chapman

AN ACT Relating to improving community inclusion services for individuals with developmental disabilities; amending RCW 71A.10.020, 71A.12.110, 71A.12.290, 71A.14.060, and 18.88B.041; and adding a new section to chapter 71A.12 RCW.

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

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

(1) The department shall enter into contracts directly with service providers for the delivery of community inclusion services under home and community-based waivers.

(2) Administrative rules and provider contracts must align with the following standards for community inclusion services:

(a) Community inclusion services must include the provision of incidental personal care as needed by the client;

(b) Provider-client ratios may not be restricted to a one-to-one ratio, and the service must provide opportunities for peer group interaction;

(c) Providers may only bill for direct client services with the following exceptions:

(i) Reasonable fees may be billed for transportation to and from community inclusion services and between service settings; and

(ii) Up to 15 minutes per week may be billed per client for recordkeeping and other administrative tasks;

(d) Access to community inclusion services must be in the form of assessed service hours. Assessed community inclusion service hours may not be reduced in the event that community inclusion services are integrated into aggregate services that are subject to a specified dollar limit.

**Sec.**  RCW 71A.10.020 and 2022 c 277 s 2 are each amended to read as follows:

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

(1) "Administration" means the department of social and health services developmental disabilities administration.

(2) "Assessment" means an evaluation is provided by the department to determine:

(a) If the individual meets functional and financial criteria for medicaid services; and

(b) The individual's support needs for service determination.

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

(4) "Crisis stabilization services" means services provided to persons with developmental disabilities who are experiencing behaviors that jeopardize the safety and stability of their current living situation. Crisis stabilization services include:

(a) Temporary intensive services and supports, typically not to exceed ((~~sixty~~)) 60 days, to prevent psychiatric hospitalization, institutional placement, or other out-of-home placement; and

(b) Services designed to stabilize the person and strengthen their current living situation so the person may continue to safely reside in the community during and beyond the crisis period.

(5) "Department" means the department of social and health services.

(6) "Developmental disability" means a disability attributable to intellectual disability, cerebral palsy, epilepsy, autism, or another neurological or other condition of an individual found by the secretary to be closely related to an intellectual disability or to require treatment similar to that required for individuals with intellectual disabilities, which disability originates before the individual attains age ((~~eighteen~~)) 18, which has continued or can be expected to continue indefinitely, and which constitutes a substantial limitation to the individual. By June 30, 2025, the administration shall promulgate rules to further define developmental disability without the use of intelligence quotient scores.

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

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

(9) "Legal representative" means a parent of a person who is under ((~~eighteen~~)) 18 years of age, a person's legal guardian, a person's limited guardian when the subject matter is within the scope of the limited guardianship, a person's attorney‑at‑law, a person's attorney‑in‑fact, or any other person who is authorized by law to act for another person.

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

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

(12) "Respite services" means relief for families and other caregivers of people with disabilities, typically not to exceed ((~~ninety~~)) 90 days, to include both in-home and out-of-home respite care on an hourly and daily basis, including ((~~twenty-four~~)) 24 hour care for several consecutive days. Respite care workers provide supervision, companionship, and personal care services temporarily replacing those provided by the primary caregiver of the person with disabilities. Respite care may include other services needed by the client, including medical care which must be provided by a licensed health care practitioner.

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

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

(15) "Service request list" means a list of eligible persons who have received an assessment for service determination and their assessment shows that they meet the eligibility requirements for the requested service but were denied access due to funding limits.

(16) "State-operated living alternative" means programs for community residential services which may include assistance with activities of daily living, behavioral, habilitative, interpersonal, protective, medical, nursing, and mobility supports to individuals who have been assessed by the department as meeting state and federal requirements for eligibility in home and community-based waiver programs for individuals with developmental disabilities. State-operated living alternatives are operated and staffed with state employees.

(17) "Supported living" means community residential services and housing which may include assistance with activities of daily living, behavioral, habilitative, interpersonal, protective, medical, nursing, and mobility supports provided to individuals with disabilities who have been assessed by the department as meeting state and federal requirements for eligibility in home and community-based waiver programs for individuals with developmental disabilities. Supported living services are provided under contracts with private agencies or with individuals who are not state employees.

(18) "Vacancy" means an opening at a residential habilitation center, which when filled, would not require the center to exceed its biennially budgeted capacity.

(19) "Community inclusion services" means services provided to individuals with developmental disabilities that:

(a) Are provided in typical, integrated community settings;

(b) Are individualized;

(c) Promote skill development, independent living, and community integration to assist participants in learning how to actively and independently engage in their community; and

(d) Provide opportunities for participants to develop relationships and increase independence.

**Sec.**  RCW 71A.12.110 and 1988 c 176 s 211 are each amended to read as follows:

(1) The secretary may enter into agreements with any person, corporation, or governmental entity to pay the contracting party to perform services that the secretary is authorized to provide under this title, except for ((~~operation~~)):

(a) Operation of residential habilitation centers under chapter 71A.20 RCW; and

(b) As provided in section 1 of this act.

(2) The secretary by contract or by rule may impose standards for services contracted for by the secretary.

**Sec.**  RCW 71A.12.290 and 2022 c 142 s 2 are each amended to read as follows:

(1) Clients age 21 and older who are receiving employment services must be offered the choice to transition to a community ((~~access~~)) inclusion program after nine months of enrollment in an employment program, and the option to transition from a community ((~~access~~)) inclusion program to an employment program at any time. Enrollment in an employment program begins at the time the client is authorized to receive employment.

(2) Prior approval by the department shall not be required to effectuate the client's choice to transition from an employment program to community ((~~access~~)) inclusion services after verifying nine months of participation in employment-related services.

(3) The department shall inform clients and their legal representatives of all available options for employment and day services, including the opportunity to request an exception from enrollment in an employment program. Information provided to the client and the client's legal representative must include the types of activities each service option provides, and the amount, scope, and duration of service for which the client would be eligible under each service option.

(4) The department shall work with counties and stakeholders to strengthen and expand the existing community ((~~access~~)) inclusion program, including the consideration of options that allow for alternative service settings outside of the client's residence. The program should emphasize support for the clients so that they are able to participate in activities that integrate them into their community and support independent living and skills.

(5) The department shall develop rules to allow for an exception to the requirement that a client participate in an employment program for nine months prior to transitioning to a community ((~~access~~)) inclusion program.

**Sec.**  RCW 71A.14.060 and 1988 c 176 s 306 are each amended to read as follows:

The secretary by rule may authorize the county and the developmental disability board to provide any service for persons with developmental disabilities that the department is authorized to provide, except for ((~~operating~~)):

(1) Operating residential habilitation centers under chapter 71A.20 RCW; and

(2) As provided in section 1 of this act.

**Sec.**  RCW 18.88B.041 and 2024 c 322 s 1 are each amended to read as follows:

(1) The following long-term care workers are not required to become a certified home care aide pursuant to this chapter:

(a)(i)(A) Registered nurses, licensed practical nurses, certified nursing assistants or persons who are in an approved training program for certified nursing assistants under chapter 18.88A RCW, medicare-certified home health aides, or other persons who hold a similar health credential, as determined by the secretary, or persons with special education training and an endorsement granted by the superintendent of public instruction, as described in RCW 28A.300.010, if the secretary determines that the circumstances do not require certification.

(B) A person who was initially hired as a long‑term care worker prior to January 7, 2012, and who completes all of the training requirements in effect as of the date the person was hired.

(ii) Individuals exempted by (a)(i) of this subsection may obtain certification as a home care aide without fulfilling the training requirements in RCW 74.39A.074(1)(d)(ii) but must successfully complete a certification examination pursuant to RCW 18.88B.031.

(b) All long-term care workers employed by community residential service businesses.

(c)(i) An individual provider caring only for the individual provider's child or parent, including when related by marriage or domestic partnership; and

(ii) An individual provider caring only for the individual provider's sibling, aunt, uncle, cousin, niece, nephew, grandparent, or grandchild, including when related by marriage or domestic partnership.

(d) A person working as an individual provider who provides 20 hours or less of nonrespite care for one person in any calendar month.

(e) A person working as an individual provider who only provides respite services and works less than 300 hours in any calendar year.

(f) A long-term care worker providing approved services only for a spouse or registered domestic partner, pursuant to the long-term services and supports trust program established in chapter 50B.04 RCW.

(g) A long-term care worker providing approved services only for a spouse or registered domestic partner and funded through the United States department of veterans affairs home and community-based programs.

(h) A long-term care worker providing only community inclusion services as described in section 1 of this act.

(2) A long-term care worker exempted by this section from the training requirements contained in RCW 74.39A.074 may not be prohibited from enrolling in training pursuant to that section.

(3) The department shall adopt rules to implement this section.

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