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SENATE BILL 5238

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State of Washington

53rd Legislature

1993 Regular Session

By Senators L. Smith, Niemi, Hargrove, McDonald, Erwin, Oke, Winsley and Hochstatter

Read first time 01/19/93. Referred to Committee on Health & Human Services.

1 AN ACT Relating to support programs for families of individuals  
2 with developmental disabilities; amending RCW 71A.10.015, 71A.10.020,  
3 71A.12.010, and 71A.18.010; adding a new chapter to Title 71A RCW; and  
4 creating a new section.

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

6 **Sec. 1.** RCW 71A.10.015 and 1988 c 176 s 101 are each amended to  
7 read as follows:

8 The legislature recognizes the capacity of all persons, including  
9 those with developmental disabilities, to be personally and socially  
10 productive. The legislature further recognizes the state's obligation  
11 to provide aid to persons with developmental disabilities through a  
12 uniform, coordinated system of services to enable them to achieve a  
13 greater measure of independence and fulfillment and to enjoy all rights  
14 and privileges under the Constitution and laws of the United States and  
15 the state of Washington.

16 The legislature also recognizes the benefits of supporting families  
17 who provide appropriate levels of care to their family members with  
18 developmental disabilities. The legislature declares that the family,  
19 which is the fundamental resource of American life, should be nurtured.

1 The legislature declares that it is in the best interest of the state  
2 to preserve, strengthen, and maintain the family units caring for  
3 persons with developmental disabilities. Individuals with  
4 developmental disabilities have a right to and need enduring family  
5 relationships with caring people in a nurturing home environment. The  
6 legislature further finds that a growing number of families are  
7 searching for ways to maintain family members with developmental  
8 disabilities in home and community settings. Families are also  
9 selecting out-of-home placement as members with developmental  
10 disabilities reach adulthood, but continuing to provide some support to  
11 the members with developmental disabilities outside the home. Public  
12 policy encourages the family to seek out-of-home living and treats the  
13 adult member as a separate individual, interdependent on the family and  
14 appropriate services. The legislature finds that if families and  
15 friends in ongoing relationships with individuals with developmental  
16 disabilities provide support, augmented by family support and  
17 community-based services, the cost of long-term care may decrease.

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

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

22 (1) "Case management" includes, but is not limited to those  
23 services that assist eligible families to gain access to social,  
24 medical, legal, educational, and other services and includes:

25 (a) Services that assure, through a continuing relationship between  
26 an agency or provider and a family, that the changing needs of the  
27 family are recognized and appropriately met;

28 (b) Coordinating and monitoring services provided to families by  
29 two or more persons, organizations, or agencies; and

30 (c) Providing information to families about the availability of  
31 services and assisting them in obtaining appropriate services.

32 (2) "Community supports" means formal programs and informal  
33 associations designed to promote independence, productivity, and  
34 integration for individuals with developmental disabilities and their  
35 families.

36 (3) "Department" means the department of social and health  
37 services.

1       ~~((2))~~ (4) "Developmental disability" means a disability  
2 attributable to mental retardation, cerebral palsy, epilepsy, autism,  
3 or another neurological or other condition of an individual found by  
4 the secretary to be closely related to mental retardation or to require  
5 treatment similar to that required for individuals with mental  
6 retardation, which disability originates before the individual attains  
7 age eighteen, which has continued or can be expected to continue  
8 indefinitely, and which constitutes a substantial handicap to the  
9 individual. ~~((By January 1, 1989, the department shall promulgate  
10 rules which define neurological or other conditions in a way that is  
11 not limited to intelligence quotient scores as the sole determinate  
12 [determinant] of these conditions, and notify the legislature of this  
13 action.~~

14       (3)) (5) "Eligible person" means a person who has been found by  
15 the secretary under RCW 71A.16.040 to be eligible for services.

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

21       (5)) (6) "Family" means the unit that consists of an individual  
22 member with a developmental disability and one or more natural,  
23 adoptive, or foster parents, or siblings, or grandparents, regardless  
24 of where each member resides.

25       (7) "Family support" means support services authorized by this  
26 chapter.

27       (8) "Habilitation" means the process by which an individual with a  
28 developmental disability is assisted to acquire and maintain those  
29 skills that enable the individual to cope more effectively with the  
30 demands of the person's conditions and environment and to raise the  
31 level of the individual's physical, mental, and social efficiency.  
32 Services that achieve habilitation include but are not limited to  
33 family support services, vocational training, and education programs.

34       (9) "Independence and interdependence" means the extent to which  
35 individuals with developmental disabilities and their families exert  
36 control and choice over their own lives.

37       (10) "Integration" and "inclusion" mean (a) the use by individuals  
38 with developmental disabilities and their families of the same  
39 community resources that are used by and are available to other

1 individuals; (b) the participation by persons with developmental  
2 disabilities and their families in the same community activities in  
3 which individuals without developmental disabilities participate,  
4 together with regular contact with individuals without developmental  
5 disabilities; and (c) the residing in homes or in homelike settings by  
6 individuals with developmental disabilities.

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

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

14 ((+7)) (13) "Productivity and contribution" means engagement by an  
15 individual with developmental disabilities in income-producing work  
16 that is measured through improvements in wages and benefits, employment  
17 status, or job advancement, or engagement by an individual with a  
18 developmental disability in work contributing to household or  
19 community.

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

23 ((+8)) (15) "Secretary" means the secretary of social and health  
24 services or the secretary's designee.

25 ((+9)) (16) "Service" or "services" means services provided by  
26 state or local government to carry out this title.

27 (17) "Therapeutic services" means occupational, physical,  
28 communication, respiratory, vision, behavior management, and other  
29 therapies to increase, maintain, or improve the functional capacities  
30 of individuals with developmental disabilities.

31 **Sec. 3.** RCW 71A.12.010 and 1988 c 176 s 201 are each amended to  
32 read as follows:

33 (1) It is declared to be the policy of the state to authorize the  
34 secretary to develop and coordinate state services for persons with  
35 developmental disabilities; to encourage research and staff training  
36 for state and local personnel working with persons with developmental  
37 disabilities; and to cooperate with communities to encourage the  
38 establishment and development of services to persons with developmental

1 disabilities through locally administered and locally controlled  
2 programs.

3 (2) The complexities of developmental disabilities require the  
4 services of many state departments as well as those of the community.  
5 Services should be planned and provided as a part of a continuum. A  
6 pattern of facilities and services should be established, within  
7 appropriations designated for this purpose, which is sufficiently  
8 complete to meet the needs of each person with a developmental  
9 disability regardless of age or degree of handicap, and at each stage  
10 of the person's development.

11 (3) The department shall coordinate and assist in coordinating  
12 efforts by public and private agencies to provide services for  
13 individuals with developmental disabilities and their families. The  
14 department shall apply the principles of coordination in chapter 198,  
15 Laws of 1992, to this chapter.

16 Coordination efforts shall include, but not be limited to:

17 (a) Identifying services provided by different agencies to  
18 eliminate duplication;

19 (b) Designating areas of responsibility for services, identifying  
20 existing gaps in services, and assigning responsibility for providing  
21 the missing services; and

22 (c) Coordinating planning among and implementation by agencies and  
23 consumer groups to ensure that interagency programs receive approval  
24 from individuals with developmental disabilities and their families.

25 **Sec. 4.** RCW 71A.18.010 and 1988 c 176 s 501 are each amended to  
26 read as follows:

27 ~~((The secretary may produce and maintain an individual service plan~~  
28 ~~for each eligible person.)) The secretary shall assist each eligible  
29 individual and his or her family, if applicable, to develop an  
30 individual service plan, which shall include family support services  
31 unless it is inappropriate to do so. An individual service plan is a  
32 plan that identifies the needs of a person for services and determines  
33 what services will be in the best interests of the person and will meet  
34 the person's needs.~~

35 NEW SECTION. Sec. 5. FAMILY SUPPORT PROGRAM. (1) To carry out  
36 the intent of the 1993 amendments to RCW 71A.10.015, 71A.10.020,  
37 71A.12.010, and 71A.18.010 contained in chapter ..., Laws of 1993 (this

1 act), the family support program is established and shall have the  
2 following family-focused principles:

3 (a) To empower families of individuals with developmental  
4 disabilities to determine their own needs and choices and to meet those  
5 unique needs and choices with individualized flexible services designed  
6 to increase the integration, contribution, productivity, and inclusion  
7 in the community of the individual with developmental disabilities at  
8 all stages of his or her life without overly intruding.

9 (b) To provide a systematic process for access to and participation  
10 in the family support program and other programs that help families  
11 identify and satisfy their health, education, social service, and other  
12 needs and choices.

13 (2) The state policy principles declared in RCW 74.14A.025 apply to  
14 families with members with developmental disabilities seeking services  
15 from state and local, private, and public agencies.

16 (3) To carry out the intent of the 1993 amendments to RCW  
17 71A.10.015, 71A.10.020, 71A.12.010, and 71A.18.010 contained in chapter  
18 ..., Laws of 1993 (this act), the family support program shall have the  
19 following system-wide principles and goals:

20 (a) To provide services in settings that are close to the patterns  
21 and norms of society and sensitive to regional, cultural, and ethnic  
22 characteristics of families and communities.

23 (b) To promote the return of individuals with developmental  
24 disabilities where appropriate from out-of-home placement.

25 (c) To promote the appropriate placement, with family support, in  
26 independent and interdependent residential living settings by  
27 providing home and community-based services to families in the least  
28 restrictive appropriate setting.

29 (d) To provide services for families as close to their home  
30 communities as possible and to promote integration of individuals with  
31 developmental disabilities and their families into their communities.

32 (e) To be sensitive to the differing capacities of local  
33 communities and to complement existing public and private community  
34 resources, including natural and informal supports provided by family  
35 and friends.

36 (f) To give priority to planning, developing, implementing, and  
37 evaluating family support programs that prevent, ameliorate, or reduce  
38 the impact of developmental disabilities on families.

1        NEW SECTION.    **Sec. 6.**        Every two years, the department shall  
2 prepare, adopt, review, solicit public input in the preparation of,  
3 and, as appropriate, revise a state family support plan and budget for  
4 submittal by the governor to the legislature that shall:

5        (1) Assess needs, establish goals, and set priorities for the  
6 provision of family support services to families of individuals with  
7 developmental disabilities;

8        (2) Provide for coordinated delivery of family support services and  
9 establish comprehensive services, resources, and programs for families;

10       (3) Review and comment on plans and services provided by  
11 departmental divisions and other state agencies that affect the state  
12 plan; and

13       (4) Be implemented by a fair, swift, and convenient process.

14       NEW SECTION.    **Sec. 7.**        The department shall implement the state  
15 plan by requiring that providers of family support services, as  
16 applicable:

17       (1) Identify and coordinate all available resources, both formal,  
18 and informal, public and private, so that the family's identified needs  
19 can be met and their strengths applied;

20       (2) Include participation of families with members with  
21 developmental disabilities in all phases of planning, developing,  
22 implementing, and evaluating the programs that affect them;

23       (3) Be staffed by qualified staff who are trained in the principles  
24 of the family support program;

25       (4) Be flexible, so that families will have power to decide what  
26 services to use, how to use them, and how often to use them, unless the  
27 law requires otherwise on behalf of the individual with developmental  
28 disabilities;

29       (5) Apply the family-focused principles approach identified in  
30 section 5(1) of this act;

31       (6) Disseminate information so that eligible families will know of  
32 the availability of services; and

33       (7) Avoid discrimination on the basis of race, sex, religion,  
34 ethnicity, national origin, or disabling condition in the employment of  
35 individuals in the program.

36       NEW SECTION.    **Sec. 8.**        (1) The department shall use funds  
37 allocated for the family support program to purchase a broad range of

1 goods and services within the following categories to support the  
2 family. Services authorized by the family support program shall  
3 include, but not be limited to:

4 (a) Case management and service coordination that includes  
5 individualized planning;

6 (b) Specialized diagnosis and evaluation;

7 (c) Medical and dental care not otherwise covered by third-party  
8 payors;

9 (d) Respite care for families;

10 (e) Personal assistance services;

11 (f) Homemaker services;

12 (g) Home health services;

13 (h) Therapeutic and nursing services not otherwise covered;

14 (i) Home and vehicle modifications;

15 (j) Equipment and supplies;

16 (k) Transportation;

17 (l) Recreation and social services;

18 (m) Specialized nutrition and clothing;

19 (n) Counseling services;

20 (o) Parent education and training;

21 (p) Communication services;

22 (q) Crisis intervention;

23 (r) Vocational and employment supports;

24 (s) Day care;

25 (t) Specialized utility costs;

26 (u) Self-advocacy training; and

27 (v) Estate and transition planning.

28 (2) The department may use funds allocated for the family support  
29 program, including cash subsidies and grants, to meet the special needs  
30 of each eligible family.

31 (3) Funds distributed under this chapter on behalf of the family  
32 may be used only to provide those goods and services necessary to meet  
33 the family's unmet needs as determined in the assessment and the  
34 individual service plan.

35 (4) Families receiving cash subsidies under the family support  
36 program shall have the authority to decide how the services will be  
37 used, subject to the following conditions:

1 (a) The family shall annually prepare a report in the way that the  
2 family is best able stating how the cash subsidy was used to meet the  
3 special needs of the family.

4 (b) The family shall promptly report to the department any event or  
5 condition affecting eligibility for services, including but not limited  
6 to:

7 (i) Death of the family member with developmental disabilities;

8 (ii) Death of the responsible adult in the eligible family to whom  
9 the cash subsidy or services were being provided;

10 (iii) Placement outside the home of the member with developmental  
11 disabilities;

12 (iv) Change of state of residence of the eligible family; and

13 (v) Any other change in need for services or eligibility for any  
14 assistance programs from other agencies.

15 (5) Family support cash subsidy payments shall not be alienable by  
16 assignment, sale, garnishment, execution, or otherwise and in the event  
17 of family bankruptcy shall not pass to or through a trustee or any  
18 other person acting on behalf of the creditors.

19 NEW SECTION. **Sec. 9.** (1) The family support program may  
20 assist in developing community-based services by:

21 (a) Establishing a program of grants to regional and local agencies  
22 and providers, both public and private, and to consumer groups to  
23 establish or develop family support services;

24 (b) Contracting directly with providers, both public and private,  
25 including consumer groups, to establish services in regions of the  
26 state where services are not readily available;

27 (c) Promoting research and training staff in the principles and  
28 practices of family support; and

29 (d) Using available state, regional, and local parent-to-parent  
30 programs to support outreach to families so that families may become  
31 aware of available family support services.

32 (2) The family support program may provide technical assistance to  
33 public and private agencies and consumer groups that are developing or  
34 offering family support services to provide appropriate, flexible, and  
35 cost-effective home and community-based services for families in order  
36 to prevent and ameliorate the impact of developmental disabilities on  
37 families.

1        NEW SECTION.    **Sec. 10.**    FAMILY SUPPORT SERVICES PLAN.    (1) For

2 eligible individuals whose individual service plan as provided for  
3 under RCW 71A.18.010 calls for family support as a needed service, the  
4 department shall immediately assist the family to develop a family  
5 support services plan. In developing the plan the department shall  
6 conduct an assessment in the following manner:

7        (a) Ensure that the family participates in the assessment to the  
8 greatest extent possible;

9        (b) With the permission of the family, involve other persons who  
10 are knowledgeable about the member with developmental disabilities'  
11 needs and who can identify and assist the family in assessing the  
12 social, psychological, and medical needs of all family members;

13        (c) Identify services and goods that the family is currently  
14 receiving, other services and goods available to the family through  
15 public and private agencies, friends, and relatives and services and  
16 goods that the family is not currently receiving and that the family  
17 needs to maintain the family member with developmental disabilities at  
18 home;

19        (d) Identify the services and goods needed by the family that are  
20 available from sources other than public or private sources, including  
21 friends and family;

22        (e) Identify the services and goods needed by the family that are  
23 available for funding through the program;

24        (f) Where possible the assessment shall take place in the home of  
25 a family member unless the family chooses another setting; and

26        (g) During the assessment process the member with developmental  
27 disabilities shall be included to the greatest extent possible by the  
28 person or persons conducting the assessment.

29        (2) The plan shall include, but not be limited to:

30        (a) Documentation of the individual and family's need for service  
31 and identification of the individual or family's strengths and  
32 resources that the plan may supplement or support to meet the family's  
33 needs;

34        (b) Notice of the specific programs, subsidies, or services for  
35 which the individual or family is eligible;

36        (c) A clear explanation of the way in which the programs,  
37 subsidies, or services will be provided to the individual or family;

38        (d) A statement of the specific goals of the services and the  
39 methods to be used in achieving the goals and the measures for success;

1 (e) A projected timetable for obtaining goals.

2 (3) Each service plan shall include all of the following:

3 (a) A list of services and goods that will be funded through the  
4 family support program, the estimated costs of each and an estimate of  
5 the length of time each will need to be funded through the program; and

6 (b) For families receiving vouchers, a written participation  
7 agreement, which shall be signed by a parent and the department,  
8 governing expenditure of program funds by or on behalf of the family.

9 (4) An annual review shall be made by the department of each family  
10 participating in the family support program. The review shall include  
11 a review of the needs of the family for family support services,  
12 including an assessment prepared by the family and the department of  
13 whether there is cooperation and active participation by the family in  
14 the planning and whether the needs and the goals of the individual  
15 service plan are being met.

16 The family may at any time request a review of their needs and the  
17 services to meet those needs.

18 NEW SECTION. **Sec. 11.** The governor shall appoint an advisory  
19 council to make recommendations on the operation and implementation of  
20 the family support program and advocate for the family support program  
21 before the legislature, the public, and the governor. The advisory  
22 council shall advise the governor, the department, the legislature, and  
23 all concerned state and local agencies on issues affecting individuals  
24 with developmental disabilities and their families; and its members  
25 shall serve as ombudsmen for complaints by consumers of family support  
26 services. The advisory council shall review the state family support  
27 plan and make appropriate recommendations.

28 NEW SECTION. **Sec. 12.** The developmental disabilities planning  
29 council shall evaluate the family support program and annually submit  
30 to the governor and the legislature and the advisory council an  
31 evaluation report that includes but is not limited to the following:

32 (1) Information on the impact of the family support program on  
33 families, including sample case studies on families who chose to  
34 participate in the program, families who chose not to participate, and  
35 families who participated but whose eligibility terminated;

36 (2) Information on the types of services used by families;

1 (3) Information on family satisfaction with the family support  
2 program, including sample case studies of the adequacy of the services,  
3 and on the need for services not available;

4 (4) With confidentiality protected, sample decisions on appeals  
5 from the denial or termination of eligibility for the family support  
6 program, together with statistics on the actual number of appeals, the  
7 outcome of those appeals, and changes in the family support program  
8 made as a result of the appeals;

9 (5) Information on efforts to reach families who may be eligible  
10 for the family support program;

11 (6) Information on efforts to return family members with  
12 developmental disabilities from state or private institutions or foster  
13 care that can be attributed to the alternative services offered by the  
14 family support program;

15 (7) Information on programs that can be attributed to the family  
16 support program to ameliorate the impact of developmental disabilities  
17 on families; and

18 (8) Information on family satisfaction with the family support  
19 program and their willingness to continue providing total or partial  
20 care to their family member with developmental disabilities.

21 The department shall assist families in determining whether other  
22 sources of governmental funds can appropriately address the needs and  
23 choices of the family and the member with developmental disabilities  
24 before using family support funds.

25 NEW SECTION. **Sec. 13.** The department shall adopt rules  
26 necessary and appropriate to fully administer and implement the  
27 provisions of this chapter.

28 The department shall adopt rules including but not limited to:

29 (1) Procedures and guidelines for determining need and choice  
30 priorities and other criteria for selecting families to participate in  
31 the family support program;

32 (2) Procedures and guidelines for coordinating other sources of  
33 support for families;

34 (3) Procedures for reviewing, at least annually, the eligibility of  
35 each family receiving a cash subsidy or services from the family  
36 support program and of the progress toward the goals set by the  
37 individual service plan;

1 (4) Standards and procedures for making grants and contracting with  
2 public and private entities and vendors and families, including  
3 procedures for quality assurance; and

4 (5) Procedures to provide accountability for the family support  
5 program through a fair process of determining family eligibility,  
6 including due process hearings and an independent evaluation, including  
7 an assessment of consumer satisfaction.

8 NEW SECTION. **Sec. 14.** It is intended by this chapter that the  
9 activities authorized and operated pursuant to it shall (1) comply with  
10 all relevant federal laws and regulations; and (2) supplement, rather  
11 than supplant, any existing rights, entitlement, or services for which  
12 families and individuals with developmental disabilities may be  
13 eligible under any other state or federal law or regulation.

14 NEW SECTION. **Sec. 15.** Sections 5 through 14 of this act shall  
15 constitute a new chapter in Title 71A RCW.

16 NEW SECTION. **Sec. 16.** Captions as used in this act constitute  
17 no part of the law.

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