
SENATE BILL 5459

State of Washington 62nd Legislature 2011 Regular Session

By Senators Kline, Keiser, Regala, and McAuliffe

Read first time 01/26/11. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to transition services for people with
2 developmental disabilities; amending RCW 71A.10.020, 71A.20.010,
3 71A.20.020, 71A.20.080, and 71A.20.170; adding new sections to chapter
4 71A.20 RCW; creating new sections; providing an effective date;
5 providing an expiration date; and declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that:

8 (1) A developmental disability is a natural part of human life and
9 the presence of a developmental disability does not diminish a person's
10 rights or the opportunity to participate in the life of the local
11 community;

12 (2) Washington state has more institutional beds per citizen for
13 clients with developmental disabilities than most other states; and

14 (3) People who live in the institutions and their families are
15 satisfied with the services they receive, and deserve to continue
16 receiving services of equal quality when a person moves from an
17 institution to a community setting.

18 NEW SECTION. **Sec. 2.** The legislature intends that:

1 (1) Out-of-the-family home residential services supporting
2 individuals with developmental disabilities should be available in the
3 most integrated setting appropriate to individual needs;

4 (2) A person with a developmental disability moving from an
5 institution to a community setting has the services and support
6 arrangements needed to meet the person's assessed health and welfare
7 needs; and

8 (3) Children with developmental disabilities be served in home or
9 community settings, not in institutions.

10 **Sec. 3.** RCW 71A.10.020 and 2010 c 94 s 21 are each amended to read
11 as follows:

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

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

17 (2) "Department" means the department of social and health
18 services.

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

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

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

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

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

8 (8) "Residential habilitation center" means a state-operated
9 facility for persons twenty-one years of age or older with
10 developmental disabilities governed by chapter 71A.20 RCW.

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

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

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

18 **Sec. 4.** RCW 71A.20.010 and 1988 c 176 s 701 are each amended to
19 read as follows:

20 This chapter covers the operation of residential habilitation
21 centers. The selection of persons to be served at the centers is
22 governed by chapters 71A.16 and 71A.18 RCW. The purposes of this
23 chapter are: To provide for those (~~children and~~) adults who are
24 exceptional in their needs for care, treatment, and education by reason
25 of developmental disabilities, residential care designed to develop
26 their individual capacities to their optimum; to provide for
27 admittance, withdrawal and discharge from state residential
28 habilitation centers upon application; and to insure a comprehensive
29 program for the education, guidance, care, treatment, and
30 rehabilitation of all persons admitted to residential habilitation
31 centers. Admission to a residential habilitation center may not be
32 considered a permanent placement.

33 **Sec. 5.** RCW 71A.20.020 and 1994 c 215 s 1 are each amended to read
34 as follows:

35 (~~The following~~) Subject to the availability of funds appropriated
36 by the legislature, residential habilitation centers are (~~permanently~~

1 established)) authorized to provide services to persons with
2 developmental disabilities(~~(: Lakeland Village, located at Medical~~
3 ~~Lake, Spokane county; Rainier School, located at Buckley, Pierce~~
4 ~~county; Yakima Valley School, located at Selah, Yakima county; Fircrest~~
5 ~~School, located at Seattle, King county; and Frances Haddon Morgan~~
6 ~~Children's Center, located at Bremerton, Kitsap county)) based upon
7 admissions criteria established by the department.~~

8 NEW SECTION. Sec. 6. (1) By June 30, 2011, the department shall
9 close Frances Haddon Morgan residential rehabilitation center and
10 relocate current residents consistent with the requirements of section
11 7 of this act.

12 (2) By December 31, 2012, the department shall close the Yakima
13 Valley school and relocate current residents consistent with the
14 requirements of section 7 of this act.

15 (3) This section expires December 31, 2012.

16 NEW SECTION. Sec. 7. The department shall:

17 (1) Within sixty days of admission to a residential habilitation
18 center, ensure that each resident's individual habilitation plan
19 includes a plan for discharge to the community;

20 (2) Use a person-centered approach in developing the discharge
21 plan, including consulting with the resident, guardian, family, and
22 staff, to assess the resident's needs and identify services the
23 resident requires to successfully transition to the community,
24 including:

25 (a) Offering to place, with the consent of the resident or his or
26 her guardian, each resident of the residential habilitation center on
27 the appropriate home and community-based waiver, as authorized under 42
28 U.S.C. Sec. 1396n, and provide continued access to the services that
29 meet his or her assessed needs;

30 (b) Preparing clients and their families for transition to the
31 community, including visits to community living options and consulting
32 with families with children who have previously completed such a
33 transition;

34 (c) Providing choice of community living options and providers,
35 consistent with federal requirements;

1 (d) Addressing services required to address the resident's assessed
2 needs necessary for transition, including:

3 (i) Medical services;

4 (ii) Dental care;

5 (iii) Behavioral and mental health supports;

6 (iv) Employment or other day support; and

7 (v) Transportation or other supports needed to assist family and
8 friends in maintaining regular contact with the resident;

9 (3) Assure that, prior to discharge from a residential habilitation
10 center, clients continue to be eligible for services for which they
11 have an assessed need;

12 (4) Maximize federal funding for transitioning clients through the
13 roads to community living grant;

14 (5) Restrict the ability of a state-operated living alternative to
15 reject clients;

16 (6) Use any savings achieved through efficiencies to extend
17 services to people with developmental disabilities currently receiving
18 limited or no services; and

19 (7) Provide quality assurance and follow-up, and reporting to the
20 legislature, consistent with the provisions of RCW 71A.20.080 and
21 section 9 of this act.

22 **Sec. 8.** RCW 71A.20.080 and 1989 c 175 s 143 are each amended to
23 read as follows:

24 (1) Whenever in the judgment of the secretary, the treatment and
25 training of any resident of a residential habilitation center has
26 progressed to the point that it is deemed advisable to return such
27 resident to the community, the secretary may grant placement on such
28 terms and conditions as the secretary may deem advisable after
29 consultation in the manner provided in RCW 71A.10.070. The secretary
30 shall give written notice of the decision to return a resident to the
31 community as provided in RCW 71A.10.060. The notice must include a
32 statement advising the recipient of the right to an adjudicative
33 proceeding under RCW 71A.10.050 and the time limits for filing an
34 application for an adjudicative proceeding. The notice must also
35 include a statement advising the recipient of the right to judicial
36 review of an adverse adjudicative order as provided in chapter 34.05
37 RCW.

1 (2) A placement decision shall not be implemented at any level
2 during any period during which an appeal can be taken or while an
3 appeal is pending and undecided, unless authorized by court order so
4 long as the appeal is being diligently pursued.

5 ~~((The department of social and health services shall periodically
6 evaluate at reasonable intervals the adjustment of the resident to the
7 specific placement to determine whether the resident should be
8 continued in the placement or returned to the institution or given a
9 different placement.))~~ (3) The department shall:

10 (a) Employ the quality assurance for people moving process to
11 monitor the adjustment of each resident who leaves a residential
12 habilitation center; and

13 (b) Consult with the developmental disabilities council, disability
14 rights Washington, University of Washington center for human
15 development and disability, providers, and families and advocates of
16 persons with disabilities on its implementation of the quality
17 assurance for people moving process.

18 NEW SECTION. Sec. 9. (1) Beginning December 1, 2011, and annually
19 thereafter, the department shall report to the appropriate committees
20 of the legislature on its progress transitioning residents from Frances
21 Haddon Morgan Center and any other residential habilitation center.

22 (2) Beginning November 1, 2012, and annually thereafter, the
23 department shall submit information to the appropriate committees of
24 the legislature, including:

25 (a) Progress toward meeting the requirements of this act;

26 (b) Client and guardian satisfaction with services;

27 (c) Stability of placement and provider turnover;

28 (d) Safety and health outcomes;

29 (e) Types of services received by clients transitioned to the
30 community; and

31 (f) Continued accessibility of former residents to family.

32 **Sec. 10.** RCW 71A.20.170 and 2008 c 265 s 1 are each amended to
33 read as follows:

34 (1) The developmental disabilities community trust account is
35 created in the state treasury. All net proceeds from the use of excess
36 property identified in the 2002 joint legislative audit and review

1 committee capital study or other studies of the division of
2 developmental disabilities residential habilitation centers ((~~at~~
3 ~~Lakeland Village, Yakima Valley school, Francis Haddon Morgan Center,~~
4 ~~and Rainier school~~)) that would not impact current residential
5 habilitation center operations must be deposited into the account.

6 (2) Proceeds may come from the lease of the land, conservation
7 easements, sale of timber, or other activities ((~~short of sale of the~~
8 ~~property~~)).

9 (3) "Excess property" includes that portion of the property at
10 Rainier school previously under the cognizance and control of
11 Washington State University for use as a dairy/forage research
12 facility.

13 (4) Only investment income from the principal of the proceeds
14 deposited into the trust account may be spent from the account. For
15 purposes of this section, "investment income" includes lease payments,
16 rent payments, or other periodic payments deposited into the trust
17 account. For purposes of this section, "principal" is the actual
18 excess land from which proceeds are assigned to the trust account.

19 (5) Moneys in the account may be spent only after appropriation.
20 Expenditures from the account shall be used exclusively to provide
21 family support, community residential, and/or employment/day services
22 to eligible persons with developmental disabilities who can be served
23 by community-based developmental disability services. It is the intent
24 of the legislature that the account should not be used to replace,
25 supplant, or reduce existing appropriations or to assist with any
26 relocation of residents currently residing in residential habilitation
27 centers to other placements.

28 (6) The account shall be known as the Dan Thompson memorial
29 developmental disabilities community trust account.

30 NEW SECTION. Sec. 11. Sections 6, 7, and 9 of this act are each
31 added to chapter 71A.20 RCW.

32 NEW SECTION. Sec. 12. If any provision of this act or its
33 application to any person or circumstance is held invalid, the
34 remainder of the act or the application of the provision to other
35 persons or circumstances is not affected.

1 NEW SECTION. **Sec. 13.** If any part of this act is found to be in
2 conflict with federal requirements that are a prescribed condition to
3 the allocation of federal funds to the state, the conflicting part of
4 this act is inoperative solely to the extent of the conflict and with
5 respect to the agencies directly affected, and this finding does not
6 affect the operation of the remainder of this act in its application to
7 the agencies concerned. Rules adopted under this act must meet federal
8 requirements that are a necessary condition to the receipt of federal
9 funds by the state.

10 NEW SECTION. **Sec. 14.** Section 6 of this act is necessary for the
11 immediate preservation of the public peace, health, or safety, or
12 support of the state government and its existing public institutions,
13 and takes effect June 30, 2011.

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