

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2098

Chapter 508, Laws of 1993

(partial veto)

53rd Legislature
1993 Regular Session

LONG-TERM CARE OPTIONS EXPANDED

EFFECTIVE DATE: 5/18/93

Passed by the House April 25, 1993
Yeas 98 Nays 0

BRIAN EBERSOLE
**Speaker of the
House of Representatives**

Passed by the Senate April 24, 1993
Yeas 37 Nays 7

R. LORRAINE WOJAHN
President of the Senate

Approved May 18, 1993, with the
exception of section 8, which is
vetoed.

MIKE LOWRY
Governor of the State of Washington

CERTIFICATE

I, Alan Thompson, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2098** as passed by the House of Representatives and the Senate on the dates hereon set forth.

ALAN THOMPSON
Chief Clerk

FILED

May 18, 1993 - 2:39 p.m.

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2098

AS AMENDED BY THE SENATE

Passed Legislature - 1993 Regular Session

State of Washington

53rd Legislature

1993 Regular Session

By House Committee on Health Care (originally sponsored by Representative Valle; by request of Department of Social and Health Services)

Read first time 04/08/93.

1 AN ACT Relating to options in long-term care; nursing homes-
2 resident care, operating standards; health planning and development;
3 amending RCW 74.42.010 and 70.38.111; reenacting and amending RCW
4 70.38.115; adding a new section to chapter 74.14A RCW; adding a new
5 section to chapter 71A.20 RCW; adding a new chapter to Title 74 RCW;
6 creating a new section; and declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** FINDINGS. The legislature finds that the
9 aging of the population and advanced medical technology have resulted
10 in a growing number of persons who require assistance. The primary
11 resource for long-term care continues to be family and friends.
12 However, these traditional caregivers are increasingly employed outside
13 the home. There is a growing demand for improvement and expansion of
14 home and community-based long-term care services to support and
15 complement the services provided by these informal caregivers.

16 The legislature further finds that the public interest would best
17 be served by a broad array of long-term care services that support
18 persons who need such services at home or in the community whenever
19 practicable and that promote individual autonomy, dignity, and choice.

1 The legislature finds that as other long-term care options become
2 more available, the relative need for nursing home beds is likely to
3 decline. The legislature recognizes, however, that nursing home care
4 will continue to be a critical part of the state's long-term care
5 options, and that such services should promote individual dignity,
6 autonomy, and a homelike environment.

7 NEW SECTION. **Sec. 2.** PURPOSE AND INTENT. It is the legislature's
8 intent that:

9 (1) Long-term care services administered by the department of
10 social and health services include a balanced array of health, social,
11 and supportive services that promote individual choice, dignity, and
12 the highest practicable level of independence;

13 (2) Home and community-based services be developed, expanded, or
14 maintained in order to meet the needs of consumers and to maximize
15 effective use of limited resources;

16 (3) Long-term care services be responsive and appropriate to
17 individual need and also cost-effective for the state;

18 (4) Nursing home care is provided in such a manner and in such an
19 environment as will promote maintenance or enhancement of the quality
20 of life of each resident and timely discharge to a less restrictive
21 care setting when appropriate; and

22 (5) State health planning for nursing home bed supply take into
23 account increased availability of other home and community-based
24 service options.

25 NEW SECTION. **Sec. 3.** ASSISTED LIVING. To the extent of available
26 funding, the department of social and health services may contract with
27 licensed boarding homes for assisted living services. The department
28 shall develop rules that ensure that the contracted services:

29 (1) Recognize individual needs, privacy, and autonomy;

30 (2) Include, but not be limited to, personal care, nursing
31 services, medication administration, and supportive services that
32 promote independence and self-sufficiency;

33 (3) Are of sufficient scope to assure that each resident who
34 chooses to remain in assisted living may do so, unless nursing care
35 needs exceed the level of care defined by the department;

1 (4) Are directed first to those persons most likely, in the absence
2 of assisted living services, to need hospital, nursing facility, or
3 other out-of-home placement; and

4 (5) Are provided in compliance with applicable department of health
5 facility and professional licensing laws and rules.

6 **Sec. 4.** RCW 74.42.010 and 1979 ex.s. c 211 s 1 are each amended to
7 read as follows:

8 Unless the context clearly requires otherwise, the definitions in
9 this section apply throughout this chapter.

10 (1) "Department" means the department of social and health services
11 and the department's employees.

12 (2) "Facility" refers to a nursing home as defined in RCW
13 18.51.010.

14 (3) "Licensed practical nurse" means a person licensed to practice
15 practical nursing under chapter 18.78 RCW.

16 (4) "Medicaid" means Title XIX of the Social Security Act enacted
17 by the social security amendments of 1965 (42 U.S.C. Sec. 1396; 79
18 Stat. 343), as amended.

19 (5) "Nursing care" means that care provided by a registered nurse,
20 a licensed practical nurse, or a nursing assistant in the regular
21 performance of their duties.

22 (6) "Qualified therapist" means:

23 (a) An activities specialist who has specialized education,
24 training, or experience specified by the department.

25 (b) An audiologist who is eligible for a certificate of clinical
26 competence in audiology or who has the equivalent education and
27 clinical experience.

28 (c) A mental health professional as defined in chapter 71.05 RCW.

29 (d) A mental retardation professional who is a qualified therapist
30 or a therapist approved by the department and has specialized training
31 or one year experience in treating or working with the mentally
32 retarded or developmentally disabled.

33 (e) An occupational therapist who is a graduate of a program in
34 occupational therapy or who has equivalent education or training.

35 (f) A physical therapist as defined in chapter 18.74 RCW.

36 (g) A social worker who is a graduate of a school of social work.

1 (h) A speech pathologist who is eligible for a certificate of
2 clinical competence in speech pathology or who has equivalent education
3 and clinical experience.

4 (7) "Registered nurse" means a person practicing nursing under
5 chapter 18.88 RCW.

6 (8) "Resident" means an individual (~~((recipient of medical benefits~~
7 ~~pursuant to chapter 74.09 RCW, except as to RCW 74.42.030 through~~
8 ~~74.42.130 which shall apply to all patients))~~ residing in a nursing
9 home, as defined in RCW 18.51.010.

10 (9) "Physician's assistant" means a person practicing pursuant to
11 chapters 18.57A and 18.71A RCW.

12 (10) "Nurse practitioner" means a person practicing such expanded
13 acts of nursing as are authorized by the board of nursing pursuant to
14 RCW 18.88.030.

15 **Sec. 5.** RCW 70.38.111 and 1992 c 27 s 2 are each amended to read
16 as follows:

17 (1) The department shall not require a certificate of need for the
18 offering of an inpatient tertiary health service by:

19 (a) A health maintenance organization or a combination of health
20 maintenance organizations if (i) the organization or combination of
21 organizations has, in the service area of the organization or the
22 service areas of the organizations in the combination, an enrollment of
23 at least fifty thousand individuals, (ii) the facility in which the
24 service will be provided is or will be geographically located so that
25 the service will be reasonably accessible to such enrolled individuals,
26 and (iii) at least seventy-five percent of the patients who can
27 reasonably be expected to receive the tertiary health service will be
28 individuals enrolled with such organization or organizations in the
29 combination;

30 (b) A health care facility if (i) the facility primarily provides
31 or will provide inpatient health services, (ii) the facility is or will
32 be controlled, directly or indirectly, by a health maintenance
33 organization or a combination of health maintenance organizations which
34 has, in the service area of the organization or service areas of the
35 organizations in the combination, an enrollment of at least fifty
36 thousand individuals, (iii) the facility is or will be geographically
37 located so that the service will be reasonably accessible to such
38 enrolled individuals, and (iv) at least seventy-five percent of the

1 patients who can reasonably be expected to receive the tertiary health
2 service will be individuals enrolled with such organization or
3 organizations in the combination; or

4 (c) A health care facility (or portion thereof) if (i) the facility
5 is or will be leased by a health maintenance organization or
6 combination of health maintenance organizations which has, in the
7 service area of the organization or the service areas of the
8 organizations in the combination, an enrollment of at least fifty
9 thousand individuals and, on the date the application is submitted
10 under subsection (2) of this section, at least fifteen years remain in
11 the term of the lease, (ii) the facility is or will be geographically
12 located so that the service will be reasonably accessible to such
13 enrolled individuals, and (iii) at least seventy-five percent of the
14 patients who can reasonably be expected to receive the tertiary health
15 service will be individuals enrolled with such organization;
16 if, with respect to such offering or obligation by a nursing home, the
17 department has, upon application under subsection (2) of this section,
18 granted an exemption from such requirement to the organization,
19 combination of organizations, or facility.

20 (2) A health maintenance organization, combination of health
21 maintenance organizations, or health care facility shall not be exempt
22 under subsection (1) of this section from obtaining a certificate of
23 need before offering a tertiary health service unless:

24 (a) It has submitted at least thirty days prior to the offering of
25 services reviewable under RCW 70.38.105(4)(d) an application for such
26 exemption; and

27 (b) The application contains such information respecting the
28 organization, combination, or facility and the proposed offering or
29 obligation by a nursing home as the department may require to determine
30 if the organization or combination meets the requirements of subsection
31 (1) of this section or the facility meets or will meet such
32 requirements; and

33 (c) The department approves such application. The department shall
34 approve or disapprove an application for exemption within thirty days
35 of receipt of a completed application. In the case of a proposed
36 health care facility (or portion thereof) which has not begun to
37 provide tertiary health services on the date an application is
38 submitted under this subsection with respect to such facility (or
39 portion), the facility (or portion) shall meet the applicable

1 requirements of subsection (1) of this section when the facility first
2 provides such services. The department shall approve an application
3 submitted under this subsection if it determines that the applicable
4 requirements of subsection (1) of this section are met.

5 (3) A health care facility (or any part thereof) with respect to
6 which an exemption was granted under subsection (1) of this section may
7 not be sold or leased and a controlling interest in such facility or in
8 a lease of such facility may not be acquired and a health care facility
9 described in (1)(c) which was granted an exemption under subsection (1)
10 of this section may not be used by any person other than the lessee
11 described in (1)(c) unless:

12 (a) The department issues a certificate of need approving the sale,
13 lease, acquisition, or use; or

14 (b) The department determines, upon application, that (i) the
15 entity to which the facility is proposed to be sold or leased, which
16 intends to acquire the controlling interest, or which intends to use
17 the facility is a health maintenance organization or a combination of
18 health maintenance organizations which meets the requirements of
19 (1)(a)(i), and (ii) with respect to such facility, meets the
20 requirements of (1)(a)(ii) or (iii) or the requirements of (1)(b)(i)
21 and (ii).

22 (4) In the case of a health maintenance organization, an ambulatory
23 care facility, or a health care facility, which ambulatory or health
24 care facility is controlled, directly or indirectly, by a health
25 maintenance organization or a combination of health maintenance
26 organizations, the department may under the program apply its
27 certificate of need requirements only to the offering of inpatient
28 tertiary health services and then only to the extent that such offering
29 is not exempt under the provisions of this section.

30 (5)(a) The department shall not require a certificate of need for
31 the construction, development, or other establishment of a nursing
32 home, or the addition of beds to an existing nursing home, that is
33 owned and operated by a continuing care retirement community that:

34 (i) Offers services only to contractual members;

35 (ii) Provides its members a contractually guaranteed range of
36 services from independent living through skilled nursing, including
37 some assistance with daily living activities;

38 (iii) Contractually assumes responsibility for the cost of services
39 exceeding the member's financial responsibility under the contract, so

1 that no third party, with the exception of insurance purchased by the
2 retirement community or its members, but including the medicaid
3 program, is liable for costs of care even if the member depletes his or
4 her personal resources;

5 (iv) Has offered continuing care contracts and operated a nursing
6 home continuously since January 1, 1988, or has obtained a certificate
7 of need to establish a nursing home;

8 (v) Maintains a binding agreement with the state assuring that
9 financial liability for services to members, including nursing home
10 services, will not fall upon the state;

11 (vi) Does not operate, and has not undertaken a project that would
12 result in a number of nursing home beds in excess of one for every four
13 living units operated by the continuing care retirement community,
14 exclusive of nursing home beds; and

15 (vii) Has obtained a professional review of pricing and long-term
16 solvency within the prior five years which was fully disclosed to
17 members.

18 (b) A continuing care retirement community shall not be exempt
19 under this subsection from obtaining a certificate of need unless:

20 (i) It has submitted an application for exemption at least thirty
21 days prior to commencing construction of, is submitting an application
22 for the licensure of, or is commencing operation of a nursing home,
23 whichever comes first; and

24 (ii) The application documents to the department that the
25 continuing care retirement community qualifies for exemption.

26 (c) The sale, lease, acquisition, or use of part or all of a
27 continuing care retirement community nursing home that qualifies for
28 exemption under this subsection shall require prior certificate of need
29 approval to qualify for licensure as a nursing home unless the
30 department determines such sale, lease, acquisition, or use is by a
31 continuing care retirement community that meets the conditions of (a)
32 of this subsection.

33 (6) A rural hospital, as defined by the department, reducing the
34 number of licensed beds to become a rural primary care hospital under
35 the provisions of Part A Title XVIII of the Social Security Act Section
36 1820, 42 U.S.C., 1395c et seq. may, within three years of the reduction
37 of beds licensed under chapter 70.41 RCW, increase the number of
38 licensed beds to no more than the previously licensed number without
39 being subject to the provisions of this chapter.

1 (7) A rural health care facility licensed under RCW 70.175.100
2 formerly licensed as a hospital under chapter 70.41 RCW may, within
3 three years of the effective date of the rural health care facility
4 license, apply to the department for a hospital license and not be
5 subject to the requirements of RCW 70.38.105(4)(a) as the construction,
6 development, or other establishment of a new hospital, provided there
7 is no increase in the number of beds previously licensed under chapter
8 70.41 RCW and there is no redistribution in the number of beds used for
9 acute care or long-term care, the rural health care facility has been
10 in continuous operation, and the rural health care facility has not
11 been purchased or leased.

12 (8)(a) A nursing home that voluntarily reduces the number of its
13 licensed beds to provide assisted living, licensed boarding home care,
14 adult day care, adult day health, respite care, hospice, outpatient
15 therapy services, congregate meals, home health, or senior wellness
16 clinic, or to reduce to one or two the number of beds per room in the
17 nursing home, may convert the original facility or portion of the
18 facility back, and thereby increase the number of nursing home beds to
19 no more than the previously licensed number of nursing home beds
20 without being subject to the provisions of this chapter except under
21 RCW 70.38.105(4)(d), provided the facility has been in continuous
22 operation and has not been purchased or leased.

23 (b) To convert beds back to nursing home beds under this
24 subsection, the nursing home must:

25 (i) Give notice of its intent to preserve conversion options to the
26 department of health no later than thirty days after the effective date
27 of the license reduction; and

28 (ii) Give notice to the department of health and to the department
29 of social and health services of the intent to convert beds back. If
30 construction is required for the conversion of beds back, the notice of
31 intent to convert beds back must be given no later than two years prior
32 to the effective date of license modification reflecting the restored
33 beds; otherwise, the notice must be given no later than one year prior
34 to the effective date of license modification reflecting the restored
35 beds.

36 (c) Conversion of beds back under this subsection must be completed
37 no later than four years after the effective date of the license
38 reduction. However, for good cause shown, the four-year period for

1 conversion may be extended by the department of health for one
2 additional four-year period.

3 (d) Nursing home beds that have been voluntarily reduced under this
4 section shall be counted as available nursing home beds for the purpose
5 of evaluating need under RCW 70.38.115(2)(a) and (k) so long as the
6 facility retains the ability to convert them back to nursing home use
7 under the terms of this section.

8 **Sec. 6.** RCW 70.38.115 and 1989 1st ex.s. c 9 s 605 and 1989 c 175
9 s 126 are each reenacted and amended to read as follows:

10 (1) Certificates of need shall be issued, denied, suspended, or
11 revoked by the designee of the secretary in accord with the provisions
12 of this chapter and rules of the department which establish review
13 procedures and criteria for the certificate of need program.

14 (2) Criteria for the review of certificate of need applications,
15 except as provided in subsection (3) of this section for health
16 maintenance organizations, shall include but not be limited to
17 consideration of the following:

18 ~~((Until June 30, 1990, the relationship of the health services~~
19 ~~being reviewed to the applicable health plans;~~

20 ~~(b))~~) The need that the population served or to be served by such
21 services has for such services;

22 ~~((e))~~) (b) The availability of less costly or more effective
23 alternative methods of providing such services;

24 ~~((d))~~) (c) The financial feasibility and the probable impact of
25 the proposal on the cost of and charges for providing health services
26 in the community to be served;

27 ~~((e))~~) (d) In the case of health services to be provided, (i) the
28 availability of alternative uses of project resources for the provision
29 of other health services, (ii) the extent to which such proposed
30 services will be accessible to all residents of the area to be served,
31 and (iii) the need for and the availability in the community of
32 services and facilities for osteopathic and allopathic physicians and
33 their patients. The department shall consider the application in terms
34 of its impact on existing and proposed institutional training programs
35 for doctors of osteopathy and medicine at the student, internship, and
36 residency training levels;

37 ~~((f))~~) (e) In the case of a construction project, the costs and
38 methods of the proposed construction, including the cost and methods of

1 energy provision, and the probable impact of the construction project
2 reviewed (i) on the cost of providing health services by the person
3 proposing such construction project and (ii) on the cost and charges to
4 the public of providing health services by other persons;

5 ~~((g))~~ (f) The special needs and circumstances of osteopathic
6 hospitals, nonallopathic services and children's hospitals;

7 ~~((h))~~ (g) Improvements or innovations in the financing and
8 delivery of health services which foster cost containment and serve to
9 promote quality assurance and cost-effectiveness;

10 ~~((i))~~ (h) In the case of health services proposed to be provided,
11 the efficiency and appropriateness of the use of existing services and
12 facilities similar to those proposed;

13 ~~((j))~~ (i) In the case of existing services or facilities, the
14 quality of care provided by such services or facilities in the past;
15 (~~and~~

16 ~~(k))~~ (j) In the case of hospital certificate of need applications,
17 whether the hospital meets or exceeds the regional average level of
18 charity care, as determined by the secretary; and

19 (k) In the case of nursing home applications:

20 (i) The availability of other nursing home beds in the planning
21 area to be served; and

22 (ii) The availability of other services in the community to be
23 served. Data used to determine the availability of other services will
24 include but not be limited to data provided by the department of social
25 and health services.

26 (3) A certificate of need application of a health maintenance
27 organization or a health care facility which is controlled, directly or
28 indirectly, by a health maintenance organization, shall be approved by
29 the department if the department finds:

30 (a) Approval of such application is required to meet the needs of
31 the members of the health maintenance organization and of the new
32 members which such organization can reasonably be expected to enroll;
33 and

34 (b) The health maintenance organization is unable to provide,
35 through services or facilities which can reasonably be expected to be
36 available to the organization, its health services in a reasonable and
37 cost-effective manner which is consistent with the basic method of
38 operation of the organization and which makes such services available

1 on a long-term basis through physicians and other health professionals
2 associated with it.

3 A health care facility, or any part thereof, with respect to which
4 a certificate of need was issued under this subsection may not be sold
5 or leased and a controlling interest in such facility or in a lease of
6 such facility may not be acquired unless the department issues a
7 certificate of need approving the sale, acquisition, or lease.

8 (4) Until the final expiration of the state health plan as provided
9 under RCW 70.38.919, the decision of the department on a certificate of
10 need application shall be consistent with the state health plan in
11 effect, except in emergency circumstances which pose a threat to the
12 public health. The department in making its final decision may issue
13 a conditional certificate of need if it finds that the project is
14 justified only under specific circumstances. The conditions shall
15 directly relate to the project being reviewed. The conditions may be
16 released if it can be substantiated that the conditions are no longer
17 valid and the release of such conditions would be consistent with the
18 purposes of this chapter.

19 (5) Criteria adopted for review in accordance with subsection (2)
20 of this section may vary according to the purpose for which the
21 particular review is being conducted or the type of health service
22 reviewed.

23 (6) The department shall specify information to be required for
24 certificate of need applications. Within fifteen days of receipt of
25 the application, the department shall request additional information
26 considered necessary to the application or start the review process.
27 Applicants may decline to submit requested information through written
28 notice to the department, in which case review starts on the date of
29 receipt of the notice. Applications may be denied or limited because
30 of failure to submit required and necessary information.

31 (7) Concurrent review is for the purpose of comparative analysis
32 and evaluation of competing or similar projects in order to determine
33 which of the projects may best meet identified needs. Categories of
34 projects subject to concurrent review include at least new health care
35 facilities, new services, and expansion of existing health care
36 facilities. The department shall specify time periods for the
37 submission of applications for certificates of need subject to
38 concurrent review, which shall not exceed ninety days. Review of
39 concurrent applications shall start fifteen days after the conclusion

1 of the time period for submission of applications subject to concurrent
2 review. Concurrent review periods shall be limited to one hundred
3 fifty days, except as provided for in rules adopted by the department
4 authorizing and limiting amendment during the course of the review, or
5 for an unresolved pivotal issue declared by the department.

6 (8) Review periods for certificate of need applications other than
7 those subject to concurrent review shall be limited to ninety days.
8 Review periods may be extended up to thirty days if needed by a review
9 agency, and for unresolved pivotal issues the department may extend up
10 to an additional thirty days. A review may be extended in any case if
11 the applicant agrees to the extension.

12 (9) The department or its designee, shall conduct a public hearing
13 on a certificate of need application if requested unless the review is
14 expedited or subject to emergency review. The department by rule shall
15 specify the period of time within which a public hearing must be
16 requested and requirements related to public notice of the hearing,
17 procedures, recordkeeping and related matters.

18 (10) Any applicant denied a certificate of need or whose
19 certificate of need has been suspended or revoked has the right to an
20 adjudicative proceeding. The proceeding is governed by chapter 34.05
21 RCW, the Administrative Procedure Act.

22 (11) An amended certificate of need shall be required for the
23 following modifications of an approved project:

24 (a) A new service requiring review under this chapter;

25 (b) An expansion of a service subject to review beyond that
26 originally approved;

27 (c) An increase in bed capacity;

28 (d) A significant reduction in the scope of a nursing home project
29 without a commensurate reduction in the cost of the nursing home
30 project, or a cost increase (as represented in bids on a nursing home
31 construction project or final cost estimates acceptable to the person
32 to whom the certificate of need was issued) if the total of such
33 increases exceeds twelve percent or fifty thousand dollars, whichever
34 is greater, over the maximum capital expenditure approved. The review
35 of reductions or cost increases shall be restricted to the continued
36 conformance of the nursing home project with the review criteria
37 pertaining to financial feasibility and cost containment.

38 (12) An application for a certificate of need for a nursing home
39 capital expenditure which is determined by the department to be

1 required to eliminate or prevent imminent safety hazards or correct
2 violations of applicable licensure and accreditation standards shall be
3 approved.

4 (13) In the case of an application for a certificate of need to
5 replace existing nursing home beds, all criteria must be met on the
6 same basis as an application for a certificate of need for a new
7 nursing home, except that the need criteria shall be deemed met if the
8 applicant is an existing licensee who proposes to replace existing beds
9 that the licensee has operated for at least one year with the same or
10 fewer number of beds in the same planning area. When an entire nursing
11 home ceases operation, its beds shall be treated as existing nursing
12 home beds for purposes of replacement for eight years or until a
13 certificate of need to replace them is issued, whichever occurs first.
14 However, the nursing home must give notice of its intent to retain the
15 beds to the department of health no later than thirty days after the
16 effective date of the facility's closure.

17 NEW SECTION. Sec. 7. A new section is added to chapter 74.14A RCW
18 to read as follows:

19 The secretary shall:

20 (1)(a) Consult with relevant qualified professionals to develop a
21 set of minimum guidelines to be used for identifying all children who
22 are in a state-assisted support system, whether at-home or out-of-home,
23 who are likely to need long-term care or assistance, because they face
24 physical, emotional, medical, mental, or other long-term challenges;

25 (b) The guidelines must, at a minimum, consider the following
26 criteria for identifying children in need of long-term care or
27 assistance:

28 (i) Placement within the foster care system for two years or more;

29 (ii) Multiple foster care placements;

30 (iii) Repeated unsuccessful efforts to be placed with a permanent
31 adoptive family;

32 (iv) Chronic behavioral or educational problems;

33 (v) Repetitive criminal acts or offenses;

34 (vi) Failure to comply with court-ordered disciplinary actions and
35 other imposed guidelines of behavior, including drug and alcohol
36 rehabilitation; and

37 (vii) Chronic physical, emotional, medical, mental, or other
38 similar conditions necessitating long-term care or assistance;

1 (2) Develop programs that are necessary for the long-term care of
2 children and youth that are identified for the purposes of this
3 section. Programs must: (a) Effectively address the educational,
4 physical, emotional, mental, and medical needs of children and youth;
5 and (b) incorporate an array of family support options, to individual
6 needs and choices of the child and family. The programs must be ready
7 for implementation by January 1, 1995;

8 (3) Conduct an evaluation of all children currently within the
9 foster care agency caseload to identify those children who meet the
10 criteria set forth in this section. The evaluation shall be completed
11 by January 1, 1994. All children entering the foster care system after
12 January 1, 1994, must be evaluated for identification of long-term
13 needs within thirty days of placement;

14 (4) Study and develop a comprehensive plan for the evaluation and
15 identification of all children and youth in need of long-term care or
16 assistance, including, but not limited to, the mentally ill,
17 developmentally disabled, medically fragile, seriously emotionally or
18 behaviorally disabled, and physically impaired;

19 (5) Study and develop a plan for the children and youth in need of
20 long-term care or assistance to ensure the coordination of services
21 between the department's divisions and between other state agencies who
22 are involved with the child or youth;

23 (6) Study and develop guidelines for transitional services, between
24 long-term care programs, based on the person's age or mental, physical,
25 emotional, or medical condition; and

26 (7) Study and develop a statutory proposal for the emancipation of
27 minors and report its findings and recommendations to the legislature
28 by January 1, 1994.

29 ****NEW SECTION. Sec. 8. A new section is added to chapter 71A.20***
30 *RCW to read as follows:*

31 ***The secretary shall develop a plan by July 1, 1994, that will***
32 ***establish the July 1, 2001, size of each residential habilitation***
33 ***center. The plan shall include:***

34 ***(1) Specific criteria for admission to and continued residence in***
35 ***the residential habilitation centers consistent with the goal of***
36 ***delivering services to meet the needs of individuals with developmental***
37 ***disabilities in the least restrictive, most appropriate, and cost-***
38 ***effective setting;***

1 (2) *An estimate of the number of people meeting the public safety*
2 *or specialized care criteria who are expected to require admission to*
3 *or continued residence in state-operated care;*

4 (3) *A review of the service needs of each resident of the*
5 *developmental disabilities state institutions and the level of services*
6 *appropriate to maintain the person in the most normal and least*
7 *restrictive setting that is consistent with the person's needs;*

8 (4) *A plan for assuring safe and quality community care for current*
9 *residential habilitation center residents who do not meet residential*
10 *habilitation center placement criteria;*

11 (5) *Proposed uses for excess institutional grounds and buildings by*
12 *other governmental or private entities in ways that the proceeds will*
13 *benefit individuals with developmental disabilities; and*

14 (6) *Strategies to retrain and/or provide new jobs in developmental*
15 *disability community care or in other public service for any staff not*
16 *needed in residential habilitation centers.*

17 *Sec. 8 was vetoed, see message at end of chapter.

18 NEW SECTION. **Sec. 9.** Sections 1 through 3, 11, and 12 of this act
19 shall constitute a new chapter in Title 74 RCW.

20 NEW SECTION. **Sec. 10.** Section captions as used in this act
21 constitute no part of the law.

22 NEW SECTION. **Sec. 11.** If any part of this act is found to be in
23 conflict with federal requirements that are a prescribed condition to
24 the allocation of federal funds to the state, the conflicting part of
25 this act is inoperative solely to the extent of the conflict and with
26 respect to the agencies directly affected, and this finding does not
27 affect the operation of the remainder of this act in its application to
28 the agencies concerned. The rules under this act shall meet federal
29 requirements that are a necessary condition to the receipt of federal
30 funds by the state.

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

1 NEW SECTION. **Sec. 13.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of the
3 state government and its existing public institutions, and shall take
4 effect immediately.

 Passed the House April 25, 1993.

 Passed the Senate April 24, 1993.

 Approved by the Governor May 18, 1993, with the exception of
 certain items which were vetoed.

 Filed in Office of Secretary of State May 18, 1993.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval, as to section 8,
3 Substitute House Bill No. 2098, entitled:

4 "AN ACT Relating to options in long-term care;"

5 Section 8 of this legislation directs the Department of Social and
6 Health Services to develop a plan by July 1, 1994, which addresses the
7 size of each Residential Habilitation Center serving the
8 developmentally disabled. The plan must specify the criteria for
9 admission to or continued residence in each facility, an estimate of
10 the number of clients meeting public health or specialized services
11 criteria who are expected to require admission or continued residence,
12 a review of the service needs of each client currently residing in the
13 facilities, and the development of the community needs for clients not
14 meeting the admission criteria. The department must also propose uses
15 for excess buildings and grounds in a manner benefiting the
16 developmentally disabled and develop retraining or reemployment options
17 for displaced state employees.

18 This directive creates a substantial burden on the department and
19 would involve a level of evaluation whose fiscal requirement is beyond
20 that which could be absorbed. Additionally, the study would duplicate
21 existing evaluations of similar scope. Instead, I am directing the
22 Department of Social and Health Services to review the service needs of
23 the Residential Habilitation Center clients as part of the
24 institutions' restructuring in the 1993-95 biennium.

25 With the exception of section 8, Substitute House Bill No. 2098 is
26 approved."