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**ENGROSSED SUBSTITUTE SENATE BILL 5536**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Braun, Keiser, Darneille, and Honeyford)

AN ACT Relating to intermediate care facilities for individuals with intellectual disability; reenacting and amending RCW 71A.10.020; adding a new section to chapter 71A.20 RCW; and creating a new section.

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

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

(1) Individuals with developmental disabilities should have access to a broad array of health, social, and supportive services that are designed to meet their individual preferences and needs.

(2) Intermediate care facilities play a critical role in the array of services for individuals with developmental disabilities by actively and continuously working with individuals to develop the skills they need to live in the least restrictive setting possible.

(3) As soon as an individual with developmental disabilities develops the skills that the individual needs to live in a community setting or the individual's health changes such that he or she can no longer benefit from the treatment provided by the intermediate care facility, the individual should be afforded the opportunity to transition to a community-based setting or nursing facility that more appropriately meets his or her individual preferences and needs.

(4) As the individual with developmental disabilities transitions from an intermediate care facility to a more appropriate service setting, there should be strong communication between all parties involved in the transition to mitigate stress and ensure a smooth transition.

**Sec.**  RCW 71A.10.020 and 2014 c 139 s 2 are each reenacted and amended to read as follows:

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

(1) "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.

(2) "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.

(3) "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 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.

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

(5) "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, which has continued or can be expected to continue indefinitely, and which constitutes a substantial limitation to the individual. By January 1, 1989, the department shall promulgate rules which define neurological or other conditions in a way that is not limited to intelligence quotient scores as the sole determinant of these conditions, and notify the legislature of this action.

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

(7) "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.

(8) "Legal representative" means a parent of a person who is under eighteen 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.

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

(10) "Residential habilitation center" means a state-operated facility for persons with developmental disabilities governed by chapter 71A.20 RCW and may be certified as an intermediate care facility for individuals with intellectual disability or licensed as a nursing home.

(11) "Respite services" means relief for families and other caregivers of people with disabilities, typically not to exceed ninety days, to include both in-home and out-of-home respite care on an hourly and daily basis, including twenty-four 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.

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

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

(14) "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.

(15) "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.

(16) "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.

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

(18) "Active treatment" means a continuous, aggressive, and consistently implemented program of specialized and generic training, treatment, and health or related services directed toward helping the client function with as much self-determination and independence as possible.

(19) "Intermediate care facility for individuals with intellectual disability" means an intermediate care facility for individuals with intellectual disability certified by Title XIX of the federal social security act to provide active treatment services for persons with developmental disabilities.

(20) "Nursing home" has the same meaning as defined in RCW 18.51.010.

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

(1) By January 1, 2020, or sooner, and quarterly thereafter, the department shall assess all residents receiving services from an intermediate care facility for individuals with intellectual disability to determine if the resident is benefiting from the active treatment.

(2) If the assessment determines that the resident is no longer benefiting from the active treatment provided by the intermediate care facility for individuals with intellectual disability, then the department shall work with the resident on transitioning the resident to an alternative setting that more appropriately meets the resident's needs.

(3) The department shall conduct the assessments within the department's appropriations.

(4) The department shall develop a plan to preserve supported living and expand state-operated living alternatives to ensure residents of residential habilitation centers can transition to these settings when necessary.

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