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**HOUSE BILL 1535**

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

**By** Representatives Schmick, Kilduff, Klippert, and Leavitt

AN ACT Relating to choice in service for individuals eligible to receive employment and day program services; amending RCW 71A.10.015, 71A.22.020, and 71A.12.020; reenacting and amending RCW 71A.10.020; adding a new section to chapter 71A.12 RCW; and declaring an emergency.

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

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

(1) The legislature recognizes the capacity of all persons, including those with developmental disabilities, to be personally and socially productive. The legislature finds that the public interest and the interest of individuals with developmental disabilities would best be served by the provision of a broad array of employment and day program services that:

(a) Promote active treatment as required by the centers for medicare and medicaid services in 42 C.F.R. Sec. 483.440;

(b) Support these persons in the community, as practicable;

(c) Include services provided by day training centers, as defined in RCW 71A.22.020; and

(d) Ensure autonomy, dignity, and choice.

(2) The legislature further recognizes the state's obligation to provide aid to persons with developmental disabilities through a uniform, coordinated system of services ((~~to enable them~~)) based on client choice and the individual's person-centered service plan. The state shall enable persons with developmental disabilities to achieve a greater measure of independence and fulfillment by providing individual choice of service and ((~~to enjoy~~)) enjoyment of all rights and privileges under the Constitution and laws of the United States and the state of Washington.

**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. This includes services provided by a day training center.

(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.

(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) "Day training center" has the same meaning as defined in RCW 71A.22.020.

**Sec.**  RCW 71A.22.020 and 1988 c 176 s 802 are each amended to read as follows:

As used in this chapter:

(1) "Day training center" means a facility equipped, supervised, managed, and operated at least three days per week by any person, association, or corporation on a nonprofit basis for the day-care, treatment, training, and maintenance of persons with developmental disabilities, and approved under this chapter and the standards under rules adopted by the secretary. Services provided by a day training center are habilitative services for the purposes of this title, and may not be considered community access services nor be subject to the nine-month transition period described in RCW 71A.12.290.

(2) "Group training home" means a facility equipped, supervised, managed, and operated on a full-time basis by any person, association, or corporation on a nonprofit basis for the full-time care, treatment, training, and maintenance of persons with developmental disabilities, and approved under this chapter and the standards under the rules adopted by the secretary.

**Sec.**  RCW 71A.12.020 and 1988 c 176 s 202 are each amended to read as follows:

(1) To the extent that state, federal, or other funds designated for services to persons with developmental disabilities are available, the secretary shall provide every eligible person with habilitative services suited to the person's needs, regardless of age or degree of developmental disability.

(2) The secretary shall provide persons who receive services with the opportunity for integration with nonhandicapped and less handicapped persons to the greatest extent possible.

(3) The secretary shall establish minimum standards for habilitative services. Consumers, parents and family members, advocates, service providers, appropriate professionals, and local government agencies shall be involved in the development of the standards.

(4) The secretary shall ensure that the needs and choices of each individual receiving employment and day program services are being met through the provision of habilitative services, as defined in RCW 71A.10.020, in an appropriate setting based upon the client's person-centered service plan, and appropriate to the client's needs.

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

(1) The department shall work with counties and stakeholders to strengthen and expand services provided by day training centers. This includes seeking funding from federal, local, and private sector sources for these services. Providing day training center services should emphasize choice for the clients so that clients are able to participate in activities that integrate them into their community and support independent living and skills.

(2) By July 1, 2019, the department shall amend its state plan and waiver services to include services provided by day training centers that are delivered in settings that are in compliance with the centers for medicare and medicaid services home and community based settings requirements.

(3) Subject to the availability of amounts appropriated for this specific purpose, by January 1, 2020, the department shall develop and administer a grant program to provide funding for counties that offer day training center services to eligible clients who are not currently receiving services in employment or day programs. The department must report to the appropriate committees of the legislature on the number of clients served, number of grants awarded, the amount of each grant, the number of monthly hours of services received by each client, and the counties that received grant funding.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

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