

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 6751

Chapter 216, Laws of 1998

55th Legislature
1998 Regular Session

PERSONS WITH DEVELOPMENTAL DISABILITIES--CHOICE OF RESIDENCE AND
SERVICE

EFFECTIVE DATE: 3/30/98

Passed by the Senate March 12, 1998
YEAS 48 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House March 11, 1998
YEAS 98 NAYS 0

CLYDE BALLARD

**Speaker of the
House of Representatives**

Approved March 30, 1998

CERTIFICATE

I, Mike O Connell, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 6751** as passed by the Senate and the House of Representatives on the dates hereon set forth.

MIKE O'CONNELL

Secretary

FILED

March 30, 1998 - 2:55 p.m.

GARY LOCKE

Governor of the State of Washington

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 6751

AS RECOMMENDED BY CONFERENCE COMMITTEE

Passed Legislature - 1998 Regular Session

State of Washington 55th Legislature 1998 Regular Session

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Deccio, Wojahn, Wood, Franklin, Benton, Thibaudeau, Oke and Winsley)

Read first time 02/06/98.

1 AN ACT Relating to stabilizing long-term care for persons with
2 developmental disabilities living in the community and in residential
3 habilitation centers; amending RCW 71A.10.020, 71A.16.010, and
4 71A.16.030; adding a new section to chapter 71A.10 RCW; adding new
5 sections to chapter 71A.12 RCW; adding a new section to chapter 71A.20
6 RCW; providing an expiration date; and declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 71A.10 RCW
9 to read as follows:

10 It is the intent of the legislature to affirm its long-time
11 commitment to secure for eligible persons with developmental
12 disabilities in partnership with their families or legal guardians the
13 opportunity to choose where they live. Consistent with this
14 commitment, the legislature supports the existence of a complete
15 spectrum of options, including community support services and
16 residential habilitation centers.

17 The choice of service options must be supported by state policy,
18 whether the choice is residential habilitation centers or community
19 support services. The intent of the legislature is to ensure choice of

1 service options to persons with developmental disabilities allowing, to
2 the maximum extent possible, that they not have to leave their home or
3 community.

4 The legislature supports the respective roles that both residential
5 habilitation centers and community support services play in providing
6 options and resources for people with developmental disabilities and
7 their families who need services. The legislature recognizes that
8 services must ensure credibility, responsiveness, and reasonable
9 quality, whether they are state, county, or community funded.

10 **Sec. 2.** RCW 71A.10.020 and 1988 c 176 s 102 are each amended to
11 read 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 ((+2)) (3) "Developmental disability" means a disability
20 attributable to mental retardation, cerebral palsy, epilepsy, autism,
21 or another neurological or other condition of an individual found by
22 the secretary to be closely related to mental retardation or to require
23 treatment similar to that required for individuals with mental
24 retardation, 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 handicap 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 ((determinate
30 {determinant})) determinant of these conditions, and notify the
31 legislature of this action.

32 ((+3)) (4) "Eligible person" means a person who has been found by
33 the secretary under RCW 71A.16.040 to be eligible for services.

34 ((+4)) (5) "Habilitative services" means those services provided
35 by program personnel to assist persons in acquiring and maintaining
36 life skills and to raise their levels of physical, mental, social, and
37 vocational functioning. Habilitative services include education,
38 training for employment, and therapy.

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

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

9 (~~(7)~~) (8) "Residential habilitation center" means a state-
10 operated facility for persons with developmental disabilities governed
11 by chapter 71A.20 RCW.

12 (~~(8)~~) (9) "Secretary" means the secretary of social and health
13 services or the secretary's designee.

14 (~~(9)~~) (10) "Service" or "services" means services provided by
15 state or local government to carry out this title.

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

19 **Sec. 3.** RCW 71A.16.010 and 1988 c 176 s 401 are each amended to
20 read as follows:

21 (1) It is the intention of the legislature in this chapter to
22 establish a single point of referral for persons with developmental
23 disabilities and their families so that they may have a place of entry
24 and continuing contact for services authorized under this title to
25 persons with developmental disabilities. Eligible persons with
26 developmental disabilities, whether they live in the community or
27 residential habilitation centers, should have the opportunity to choose
28 where they live.

29 (2) Until June 30, 2003, and subject to subsection (3) of this
30 section, if there is a vacancy in a residential habilitation center,
31 the department shall offer admittance to the center to any eligible
32 adult, or eligible adolescent on an exceptional case-by-case basis,
33 with developmental disabilities if his or her assessed needs require
34 the funded level of resources that are provided by the center.

35 (3) The department shall not offer a person admittance to a
36 residential habilitation center under subsection (2) of this section
37 unless the department also offers the person appropriate community
38 support services listed in RCW 71A.12.040.

1 (4) Community support services offered under subsection (3) of this
2 section may only be offered using funds specifically designated for
3 this purpose in the state operating budget. When these funds are
4 exhausted, the department may not offer admittance to a residential
5 habilitation center, or community support services under this section.

6 (5) Nothing in this section shall be construed to create an
7 entitlement to state services for persons with developmental
8 disabilities.

9 (6) Subsections (2) through (6) of this section expire June 30,
10 2003.

11 **Sec. 4.** RCW 71A.16.030 and 1988 c 176 s 403 are each amended to
12 read as follows:

13 (1) The department will develop an outreach program to ensure that
14 any eligible person with developmental disabilities services in homes,
15 the community, and residential habilitation centers will be made aware
16 of these services. This subsection (1) expires June 30, 2003.

17 (2) The secretary shall establish a single procedure for persons to
18 apply for a determination of eligibility for services provided to
19 persons with developmental disabilities.

20 ~~((+2))~~ (3) Until June 30, 2003, the procedure set out under
21 subsection (1) of this section must require that all applicants and all
22 persons with developmental disabilities currently receiving services
23 from the division of developmental disabilities within the department
24 be given notice of the existence and availability of residential
25 habilitation center and community support services. For genuine choice
26 to exist, people must know what the options are. Available options
27 must be clearly explained, with services customized to fit the unique
28 needs and circumstances of developmentally disabled clients and their
29 families. Choice of providers and design of services and supports will
30 be determined by the individual in conjunction with the department.
31 When the person cannot make these choices, the person's legal guardian
32 may make them, consistent with chapter 11.88 or 11.92 RCW. This
33 subsection expires June 30, 2003.

34 (4) An application may be submitted by a person with a
35 developmental disability, by the legal representative of a person with
36 a developmental disability, or by any other person who is authorized by
37 rule of the secretary to submit an application.

1 NEW SECTION. **Sec. 5.** A new section is added to chapter 71A.12 RCW
2 to read as follows:

3 (1) The legislature recognizes that residential habilitation center
4 and community support services should be available to each eligible
5 person with developmental disabilities in our state within appropriated
6 funds.

7 (2) The legislature recognizes that there have been substantially
8 increasing demands for all of these services. Therefore, the
9 legislature believes that any reductions in the capacity of these
10 services could jeopardize a needed balance in the developmental
11 disabilities system. The legislature intends to stabilize the capacity
12 of community support services and residential habilitation center
13 services. The capacity of the residential habilitation centers shall
14 not be reduced below the capacity provided for in chapter 149, Laws of
15 1997, subject to budget direction from the governor or reductions
16 needed to adhere to an agreement with the federal department of justice
17 regarding Fircrest School. The capacity of community support services
18 shall not be reduced below the capacity provided for by the
19 appropriation specified in chapter 149, Laws of 1997, subject to budget
20 direction from the governor. If the direction from the governor
21 requires reductions in the division of developmental disabilities, the
22 budgets of both the residential habilitation centers and community
23 support services shall be considered.

24 (3) If such capacity is not needed for current clients of the
25 department, any vacancies that may occur in community support services
26 or residential habilitation center services shall be used to expand
27 services to eligible persons with developmental disabilities not now
28 receiving services. If a vacancy is created it will be made available
29 to any eligible individual who is seeking and desires the services of
30 a residential habilitation center under RCW 71A.16.010. If residential
31 habilitation center capacity is not being used for permanent residents,
32 the department shall make any residential habilitation center vacancies
33 available for respite care and any other services needed to care for
34 this population in residential habilitation centers, other than
35 permanent residents.

36 NEW SECTION. **Sec. 6.** A new section is added to chapter 71A.20 RCW
37 to read as follows:

1 As a means of implementing a choice-oriented system for people with
2 developmental disabilities, staff of residential habilitation centers
3 will continue to increase vocational and community access for current
4 residents. Likewise, specialized residential habilitation services
5 will be more easily accessed by community residents within available
6 funds.

7 NEW SECTION. **Sec. 7.** A new section is added to chapter 71A.12 RCW
8 to read as follows:

9 The department shall conduct an analysis whereby it identifies all
10 persons with developmental disabilities who are eligible for services
11 under Title 71A RCW, and whether they are served, unserved, or
12 underserved. The department will gather data on the services and
13 supports required by this population, their families or their
14 guardians, and the cost of providing these services. This analysis
15 will include assessing services such as those at residential
16 habilitation centers, those community support services listed in RCW
17 71A.12.040, and including, but not limited to, supported employment,
18 family support, post high school transition programs, crisis
19 intervention services, supports for persons who have a developmental
20 disability and also a mental illness, alternative uses for residential
21 habilitation centers, community vocational services, respite care,
22 specialized medical treatment, and appropriate placements for persons
23 with developmental disabilities who are also offenders. The assessment
24 shall be done with the participation of the developmental disabilities
25 stakeholders work group. The assessment will commence no later than
26 July 1, 1998.

27 The assessment data will not be used to determine or allocate
28 services for individual people. It will be used by the department,
29 with the participation of the developmental disabilities stakeholder
30 work group, to develop a long-term strategic plan. The plan will
31 include three phases, the first one beginning December 1, 1998; the
32 second beginning December 1, 2000; and the third beginning December 1,
33 2002. For each phase the department will provide incremental data and
34 assessment of programs, services, and funding for persons with
35 developmental disabilities and their families. For each phase the plan
36 must also include budget and statutory recommendations intended to
37 secure for all persons with developmental disabilities the opportunity
38 to choose where they live, and shall support the existence of a

1 complete spectrum of options including community support services, and
2 residential habilitation centers that are consistent with those needs.

3 NEW SECTION. **Sec. 8.** A new section is added to chapter 71A.12 RCW
4 to read as follows:

5 For the purposes of section 7 of this act, the developmental
6 disabilities stakeholder work group is the division of developmental
7 disabilities strategies for the future stakeholder work group
8 established by the secretary in 1997 to develop recommendations on
9 future directions and strategies for service delivery improvement,
10 resulting in an agreement on the directions the department should
11 follow in considering the respective roles of the residential
12 habilitation centers and community support services, including a focus
13 on the resources for people in need of services.

14 NEW SECTION. **Sec. 9.** Sections 1 and 5 through 8 of this act
15 expire June 30, 2003.

16 NEW SECTION. **Sec. 10.** This act is necessary for the immediate
17 preservation of the public peace, health, or safety, or support of the
18 state government and its existing public institutions, and takes effect
19 immediately.

Passed the Senate March 12, 1998.

Passed the House March 11, 1998.

Approved by the Governor March 30, 1998.

Filed in Office of Secretary of State March 30, 1998.