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SENATE BILL 6765

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State of Washington

56th Legislature

2000 Regular Session

By Senators Kline, Winsley, Wojahn, McDonald, Bauer and Costa

Read first time 01/26/2000. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to services and community placement for persons  
2 with developmental disabilities; amending RCW 71A.20.080 and  
3 71A.12.010; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that the United States  
6 supreme court has provided a clear legal framework directing states to  
7 enable individuals with developmental disabilities to live in community  
8 settings. In June of 1999, the United States supreme court, in the  
9 case of *Olmstead v. L.C.* ruled that it is a form of discrimination  
10 under the Americans with disabilities act when states fail to find  
11 placements for individuals with disabilities who are able and desire to  
12 live in a community setting, thus causing them to remain in an  
13 institutional setting. In making its ruling the court said,  
14 "institutional placement of persons who can handle and benefit from  
15 community settings perpetuates unwarranted assumptions that persons so  
16 isolated are incapable or unworthy of participating in community life."  
17 It is therefore the intent of the legislature, in compliance with the  
18 supreme court's decision, to make sure that persons with developmental  
19 disabilities are given every opportunity to live in community settings.

1       **Sec. 2.** RCW 71A.20.080 and 1989 c 175 s 143 are each amended to  
2 read as follows:

3       Whenever in the judgment of the secretary, the treatment and  
4 training of any resident of a residential habilitation center has  
5 progressed to the point that it is deemed advisable to return such  
6 resident to the community, the secretary (~~(may)~~) shall grant placement  
7 on such terms and conditions as the secretary may deem advisable after  
8 consultation in the manner provided in RCW 71A.10.070. A team of  
9 skilled evaluators, including at least one regional case manager, shall  
10 annually assess each resident to determine if he or she can be  
11 supported in a community setting in accordance with RCW 71A.10.015.  
12 The secretary shall give written notice of the decision to return a  
13 resident to the community as provided in RCW 71A.10.060 or a decision  
14 to keep the resident in the residential habilitation center. The  
15 notice must include a statement advising the recipient of the right to  
16 an adjudicative proceeding under RCW 71A.10.050 and the time limits for  
17 filing an application for an adjudicative proceeding. The notice must  
18 also include a statement advising the recipient of the right to  
19 judicial review of an adverse adjudicative order as provided in chapter  
20 34.05 RCW.

21       A placement decision shall not be implemented at any level during  
22 any period during which an appeal can be taken or while an appeal is  
23 pending and undecided, unless authorized by court order so long as the  
24 appeal is being diligently pursued.

25       The department of social and health services shall (~~(periodically)~~)  
26 annually evaluate (~~(at reasonable intervals)~~) the adjustment of the  
27 resident to the specific placement (~~(to determine whether the resident~~  
28 ~~should be continued in the placement or returned to the institution or~~  
29 ~~given a different placement)~~), whether in a residential habilitation  
30 center or in a community setting. The evaluation shall include regular  
31 on-site visits to observe the resident's living situation and all  
32 supports, including health services and vacation or day programs. Any  
33 person who is found to be in a setting that is unsafe or inappropriate  
34 shall be promptly transferred to a setting where his or her needs will  
35 be met.

36       **Sec. 3.** RCW 71A.12.010 and 1988 c 176 s 201 are each amended to  
37 read as follows:

38       It is declared to be the policy of the state to authorize the

1 secretary to develop and coordinate state services for persons with  
2 developmental disabilities; to ((encourage)) require research and staff  
3 training for state and local personnel working with persons with  
4 developmental disabilities; and to cooperate with communities to  
5 encourage the establishment and development of services to persons with  
6 developmental disabilities through locally administered and locally  
7 controlled programs.

8       The complexities of developmental disabilities require the services  
9 of many state departments as well as those of the community. Services  
10 should be planned and provided as a part of a continuum. A pattern of  
11 facilities and services should be established, within appropriations  
12 designated for this purpose, which is sufficiently complete to meet the  
13 needs of each person with a developmental disability regardless of age  
14 or degree of handicap, and at each stage of the person's development.  
15 All services shall be adequately monitored annually for safety and  
16 quality.

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