
HOUSE BILL 1040

State of Washington

59th Legislature

2005 Regular Session

By Representative Sommers; by request of Office of Financial Management

Read first time 01/11/2005. Referred to Committee on Children & Family Services.

1 AN ACT Relating to the operations of residential habilitation
2 centers; amending RCW 28A.190.020, 71A.20.020, 72.05.010, 71A.10.050,
3 71A.20.080, and 43.21C.038; adding a new section to chapter 71A.20 RCW;
4 and repealing RCW 71A.20.030.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 71A.20 RCW
7 to read as follows:

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

10 (1) "Closure" means the discontinuation of services to clients by
11 a residential habilitation center.

12 (2) "Downsizing" means:

13 (a) The discontinuation of a category of services at the facility
14 by relinquishing a federal certification to provide services under
15 either nursing or intermediate care facility/mentally retarded
16 regulations;

17 (b) The closure of one or more residential housing units; or

18 (c) A planned reduction in the residential capacity of a
19 residential habilitation center.

1 **Sec. 2.** RCW 28A.190.020 and 1990 c 33 s 171 are each amended to
2 read as follows:

3 The term "residential school" as used in RCW 28A.190.020 through
4 28A.190.060, 72.01.200, 72.05.010 and 72.05.130, each as now or
5 hereafter amended, shall mean Green Hill school, Maple Lane school,
6 Naselle Youth Camp, Cedar Creek Youth Camp, Mission Creek Youth Camp,
7 Echo Glen, Lakeland Village, Rainier school, Yakima Valley school,
8 (~~Interlake school, Fircrest school,~~) Francis Haddon Morgan Center,
9 the Child Study and Treatment Center and Secondary School of Western
10 State Hospital, and such other schools, camps, and centers as are now
11 or hereafter established by the department of social and health
12 services for the diagnosis, confinement and rehabilitation of juveniles
13 committed by the courts or for the care and treatment of persons who
14 are exceptional in their needs by reason of mental and/or physical
15 deficiency: PROVIDED, That the term shall not include the state
16 schools for the deaf and blind or adult correctional institutions.

17 **Sec. 3.** RCW 71A.20.020 and 1994 c 215 s 1 are each amended to read
18 as follows:

19 To the extent funds are provided by the legislature, the following
20 residential habilitation centers are (~~permanently established~~)
21 authorized to provide services to persons with developmental
22 disabilities: Lakeland Village, located at Medical Lake, Spokane
23 county; Rainier School, located at Buckley, Pierce county; Yakima
24 Valley School, located at Selah, Yakima county; (~~Fircrest School,~~
25 ~~located at Seattle, King county;~~) and Frances Haddon Morgan Children's
26 Center, located at Bremerton, Kitsap county.

27 **Sec. 4.** RCW 72.05.010 and 1985 c 378 s 9 are each amended to read
28 as follows:

29 The purposes of RCW 72.05.010 through 72.05.210 are: To the extent
30 funds are provided by the legislature, to provide for every child with
31 behavior problems, mentally and physically handicapped persons, and
32 hearing and visually impaired children, within the purview of RCW
33 72.05.010 through 72.05.210, as now or hereafter amended, such care,
34 guidance and instruction, control and treatment as will best serve the
35 welfare of the child or person and society; to insure nonpolitical and
36 qualified operation, supervision, management, and control of the Green

1 Hill school, the Maple Lane school, the Naselle Youth Camp, the Mission
2 Creek Youth Camp, Echo Glen, the Cascadia Diagnostic Center, Lakeland
3 Village, Rainier school, the Yakima Valley school, (~~Interlake school,~~
4 ~~Firecrest school,~~) the Francis Haddon Morgan Center, the Child Study
5 and Treatment Center and Secondary School of Western State Hospital,
6 and like residential state schools, camps and centers hereafter
7 established, and to place them under the department of social and
8 health services except where specified otherwise; and to provide for
9 the persons committed or admitted to those schools that type of care,
10 instruction, and treatment most likely to accomplish their
11 rehabilitation and restoration to normal citizenship.

12 **Sec. 5.** RCW 71A.10.050 and 1989 c 175 s 138 are each amended to
13 read as follows:

14 (1) An applicant or recipient or former recipient of a
15 developmental disabilities service under this title from the department
16 of social and health services has the right to appeal the following
17 department actions:

18 (a) A denial of an application for eligibility under RCW
19 71A.16.040;

20 (b) An unreasonable delay in acting on an application for
21 eligibility, for a service, or for an alternative service under RCW
22 71A.18.040;

23 (c) A denial, reduction, or termination of a service;

24 (d) A claim that the person owes a debt to the state for an
25 overpayment;

26 (e) A disagreement with an action of the secretary under RCW
27 71A.10.060 or 71A.10.070;

28 (f) A decision to return a resident of (~~an [a]~~) a residential
29 habilitation center to the community, unless the transfer involved the
30 same category of residential services and was based upon a decision by
31 the legislature to downsize or close a residential habilitation center;
32 and

33 (g) A decision to change a person's placement from one category of
34 residential services to a different category of residential services.

35 The adjudicative proceeding is governed by the Administrative
36 Procedure Act, chapter 34.05 RCW.

1 (2) This subsection applies only to an adjudicative proceeding in
2 which the department action appealed is a decision to return a resident
3 of a habilitation center (~~(to the community)~~) as provided in subsection
4 (1)(f) of this section. The resident or his or her representative may
5 appeal on the basis of whether the specific placement decision is in
6 the best interests of the resident. When the resident or his or her
7 representative files an application for an adjudicative proceeding
8 under this section the department has the burden of proving that the
9 specific placement decision is in the best interests of the resident.

10 (3) When the department takes any action described in subsection
11 (1) of this section it shall give notice as provided by RCW 71A.10.060.
12 The notice must include a statement advising the recipient of the right
13 to an adjudicative proceeding and the time limits for filing an
14 application for an adjudicative proceeding. Notice of a decision to
15 return a resident of a habilitation center to the community under RCW
16 71A.20.080 must also include a statement advising the recipient of the
17 right to file a petition for judicial review of an adverse adjudicative
18 order as provided in chapter 34.05 RCW.

19 **Sec. 6.** RCW 71A.20.080 and 1989 c 175 s 143 are each amended to
20 read as follows:

21 (1) Whenever in the judgment of the secretary, the treatment and
22 training of any resident of a residential habilitation center has
23 progressed to the point that it is deemed advisable to return such
24 resident to the community, the secretary may grant placement on such
25 terms and conditions as the secretary may deem advisable after
26 consultation in the manner provided in RCW 71A.10.070. The secretary
27 shall give written notice of the decision to return a resident to the
28 community as provided in RCW 71A.10.060. The notice must include a
29 statement advising the recipient of the right to an adjudicative
30 proceeding under RCW 71A.10.050 and the time limits for filing an
31 application for an adjudicative proceeding. The notice must also
32 include a statement advising the recipient of the right to judicial
33 review of an adverse adjudicative order as provided in chapter 34.05
34 RCW.

35 (2) A placement decision shall not be implemented at any level
36 during any period during which an appeal can be taken or while an

1 appeal is pending and undecided, unless authorized by court order so
2 long as the appeal is being diligently pursued.

3 (3) The department of social and health services shall periodically
4 evaluate at reasonable intervals the adjustment of the resident to the
5 specific placement to determine whether the resident should be
6 continued in the placement or returned to the institution or given a
7 different placement.

8 (4) Subsection (2) of this section does not apply to decisions to
9 return a resident to the community based upon the legislative
10 downsizing or closure of a residential habilitation center.

11 **Sec. 7.** RCW 43.21C.038 and 1983 c 109 s 1 are each amended to read
12 as follows:

13 Nothing in RCW 43.21C.030(2)(c) shall be construed to require the
14 preparation of an environmental impact statement or the making of a
15 threshold determination for any decision or any action commenced
16 subsequent to September 1, 1982, pertaining to a plan, program, or
17 decision for the closure of a school or schools or for the school
18 closure portion of any broader policy, plan or program by a school
19 district board of directors, or pertaining to a decision by the
20 legislature to close a residential habilitation center.

21 NEW SECTION. **Sec. 8.** RCW 71A.20.030 (Facilities for Interlake
22 School) and 1988 c 176 s 703 are each repealed.

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