
HOUSE BILL 2096

State of Washington 62nd Legislature 2011 Regular Session

By Representatives Green, Kagi, Darneille, and Roberts

Read first time 04/14/11. Referred to Committee on Ways & Means.

1 AN ACT Relating to transition services for people with
2 developmental disabilities; amending RCW 71A.10.020, 71A.20.010,
3 71A.20.020, 71A.18.040, and 71A.20.080; adding new sections to chapter
4 71A.20 RCW; creating new sections; providing an effective date; and
5 declaring an emergency.

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

7 NEW SECTION. **Sec. 1.** The legislature finds that:

8 (1) A developmental disability is a natural part of human life and
9 the presence of a developmental disability does not diminish a person's
10 rights or the opportunity to participate in the life of the local
11 community;

12 (2) In Washington state, people living in residential habilitation
13 centers and their families are satisfied with the services they
14 receive, and deserve to continue receiving services that meet their
15 needs when moving to a community setting;

16 (3) People with disabilities, including residential habilitation
17 center residents, should be provided genuine choices as to where they
18 can live, including the most integrated setting possible; and

1 (4) In a time of fiscal restraint, the state should consider the
2 needs of all persons with developmental disabilities and spend its
3 limited resources in a manner that serves more people, while not
4 compromising the care people require.

5 NEW SECTION. **Sec. 2.** It is the intent of the legislature that:

6 (1) Community-based residential services supporting people with
7 developmental disabilities should be available in the most integrated
8 setting appropriate to individual needs; and

9 (2) An extensive transition planning and placement process should
10 be used to ensure that people moving from a residential habilitation
11 center to a community setting have the services and supports needed to
12 meet their assessed health and welfare needs.

13 **Sec. 3.** RCW 71A.10.020 and 2010 c 94 s 21 are each amended to read
14 as follows:

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

17 (1) "Community residential support services," or "community support
18 services," and "in-home services" means one or more of the services
19 listed in RCW 71A.12.040.

20 (2) "Crisis stabilization services" means services provided to
21 persons with developmental disabilities who are experiencing behaviors
22 that jeopardize the safety and stability of their current living
23 situation. Crisis stabilization services include:

24 (a) Temporary intensive services and supports, not to exceed sixty
25 days, to prevent psychiatric hospitalization, institutional placement
26 or other out-of-home placement; and

27 (b) Services designed to stabilize the person and strengthen their
28 current living situation so the person may continue to safely reside in
29 the community during and beyond the crisis period.

30 (3) "Department" means the department of social and health
31 services.

32 ((+3)) (4) "Developmental disability" means a disability
33 attributable to intellectual disability, cerebral palsy, epilepsy,
34 autism, or another neurological or other condition of an individual
35 found by the secretary to be closely related to an intellectual
36 disability or to require treatment similar to that required for

1 individuals with intellectual disabilities, which disability originates
2 before the individual attains age eighteen, which has continued or can
3 be expected to continue indefinitely, and which constitutes a
4 substantial limitation to the individual. By January 1, 1989, the
5 department shall promulgate rules which define neurological or other
6 conditions in a way that is not limited to intelligence quotient scores
7 as the sole determinant of these conditions, and notify the legislature
8 of this action.

9 ((+4)) (5) "Eligible person" means a person who has been found by
10 the secretary under RCW 71A.16.040 to be eligible for services.

11 ((+5)) (6) "Habilitative services" means those services provided
12 by program personnel to assist persons in acquiring and maintaining
13 life skills and to raise their levels of physical, mental, social, and
14 vocational functioning. Habilitative services include education,
15 training for employment, and therapy.

16 ((+6)) (7) "Legal representative" means a parent of a person who
17 is under eighteen years of age, a person's legal guardian, a person's
18 limited guardian when the subject matter is within the scope of the
19 limited guardianship, a person's attorney-at-law, a person's
20 attorney-in-fact, or any other person who is authorized by law to act
21 for another person.

22 ((+7)) (8) "Notice" or "notification" of an action of the
23 secretary means notice in compliance with RCW 71A.10.060.

24 ((+8)) (9) "Residential habilitation center" means a state-
25 operated facility for persons with developmental disabilities governed
26 by chapter 71A.20 RCW.

27 ((+9)) (10) "Respite services" means relief for families and other
28 caregivers of people with disabilities to include both in-home and out-
29 of-home respite care on an hourly and daily basis, including twenty-
30 four hour care for several consecutive days. Respite care workers
31 provide supervision, companionship, and personal care services
32 temporarily replacing those provided by the primary caregiver of the
33 person with disabilities. Respite care may include other services
34 needed by the client, including medical care which must be provided by
35 a licensed health care practitioner.

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

1 ((+10)) (12) "Service" or "services" means services provided by
2 state or local government to carry out this title.

3 ((+11)) (13) "State-operated living alternative" means community
4 residential services and housing which may include assistance with
5 activities of daily living, behavioral, habilitative, interpersonal,
6 protective, nursing, and mobility supports to individuals who have been
7 assessed by the department as meeting state and federal requirements
8 for eligibility in home and community-based waiver programs for
9 individuals with developmental disabilities. State-operated living
10 alternatives are operated and staffed with state employees in a house
11 owned by or leased to the state.

12 (14) "Supported living" means community residential services and
13 housing which may include assistance with activities of daily living,
14 behavioral, habilitative, interpersonal, protective, nursing, and
15 mobility supports provided to individuals with disabilities who have
16 been assessed by the department as meeting state and federal
17 requirements for eligibility in home and community-based waiver
18 programs for individuals with developmental disabilities. Supported
19 living services are provided under contracts with private agencies or
20 with individuals who are not state employees.

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

24 **Sec. 4.** RCW 71A.20.010 and 1988 c 176 s 701 are each amended to
25 read as follows:

26 (1) This chapter covers the operation of residential habilitation
27 centers. The selection of persons to be served at the centers is
28 governed by chapters 71A.16 and 71A.18 RCW. The purposes of this
29 chapter are: To provide for those ~~((children and adults))~~ persons who
30 are exceptional in their needs for care, treatment, and education by
31 reason of developmental disabilities, residential care designed to
32 develop their individual capacities to their optimum; to provide for
33 admittance, withdrawal and discharge from state residential
34 habilitation centers upon application; and to insure a comprehensive
35 program for the education, guidance, care, treatment, and
36 rehabilitation of all persons admitted to residential habilitation
37 centers.

1 (2) Effective July 1, 2012, no person under the age of twenty-one
2 years may be admitted to receive services at a residential habilitation
3 center, unless such admission is limited to the provision of short-term
4 respite or crisis stabilization services.

5 **Sec. 5.** RCW 71A.20.020 and 1994 c 215 s 1 are each amended to read
6 as follows:

7 Except as provided in section 6 of this act, the following
8 residential habilitation centers are permanently established to provide
9 services to persons with developmental disabilities: Lakeland Village,
10 located at Medical Lake, Spokane county; Rainier School, located at
11 Buckley, Pierce county; Yakima Valley School, located at Selah, Yakima
12 county; Fircrest School, located at Seattle, King county; and Frances
13 Haddon Morgan Children's Center, located at Bremerton, Kitsap county.

14 NEW SECTION. **Sec. 6.** (1) On December 31, 2011, the department
15 shall begin operation of two houses located on the grounds of the
16 Frances Haddon Morgan center as state-operated living alternatives. On
17 December 30, 2011, Frances Haddon Morgan center shall cease to operate
18 as a residential habilitation center. Placements shall be arranged for
19 current Frances Haddon Morgan center residents as provided in this
20 section and section 7 of this act.

21 (2) To assure the successful transition of Frances Haddon Morgan
22 center residents, the department:

23 (a) Shall use the person-centered discharge planning approach
24 described in section 7 of this act to assist each person transitioning
25 to another care setting;

26 (b) Shall establish additional state-operated living alternatives
27 in other locations if needed to provide community residential services
28 to former residential habilitation center residents who prefer a state-
29 operated living alternative. The department shall offer residential
30 habilitation center employees opportunities to work in state-operated
31 living alternatives as they are established;

32 (c) May use existing supported living program capacity in the
33 community for former residential habilitation center residents who
34 prefer a supported living program;

35 (d) Shall establish crisis stabilization and respite services for

1 individuals with developmental disabilities requiring such services;
2 and

3 (e) May establish regional or mobile specialty services, such as
4 dental care, physical therapy, occupational therapy, and specialized
5 nursing care, which can be made available to former residents of
6 residential habilitation centers, and, with available funds, other
7 individuals with developmental disabilities residing in the community.

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

10 The department shall:

11 (1) Within sixty days of admission to a residential habilitation
12 center, ensure that each resident's individual habilitation plan
13 includes a plan for discharge to the community;

14 (2) Use a person-centered approach in developing the discharge plan
15 to assess the resident's needs and identify services the resident
16 requires to successfully transition to the community, including:

17 (a) Engaging families and guardians of residents by offering
18 family-to-family mentoring provided by parents who themselves
19 experienced moving a child with developmental disabilities from an
20 institution to the community. The department shall contract with the
21 developmental disabilities council to provide mentoring services;

22 (b) Employees of the residential habilitation centers and the
23 department providing transition planning for residents. To strengthen
24 continuity of care for residents leaving residential habilitation
25 centers, the department shall provide opportunities for residential
26 habilitation center employees to obtain employment in state-operated
27 living alternatives;

28 (c) Providing choice of community living options and providers,
29 consistent with federal requirements, including offering to place, with
30 the consent of the resident or his or her guardian, each resident of
31 the residential habilitation center on the appropriate home and
32 community-based waiver, as authorized under 42 U.S.C. Sec. 1396n, and
33 provide continued access to the services that meet his or her assessed
34 needs;

35 (d) Providing residents and their families or guardians
36 opportunities to visit state-operated living alternatives and supported
37 living options in the community;

1 (e) Offering residents leaving a residential habilitation center a
2 "right to return" to a residential habilitation center during the first
3 year following their move;

4 (f) Addressing services in addition to those that will be provided
5 by residential services providers that are necessary to address the
6 resident's assessed needs, including:

7 (i) Medical services;

8 (ii) Nursing services;

9 (iii) Dental care;

10 (iv) Behavioral and mental health supports;

11 (v) Employment or other day support; and

12 (vi) Transportation or other supports needed to assist family and
13 friends in maintaining regular contact with the resident;

14 (3) Assure that, prior to discharge from a residential habilitation
15 center, clients continue to be eligible for services for which they
16 have an assessed need;

17 (4) Maximize federal funding for transitioning clients through the
18 roads to community living grant;

19 (5) Limit the ability of a state-operated living alternative to
20 reject clients;

21 (6) Use any savings achieved through efficiencies to extend
22 services, including crisis stabilization and respite services, to
23 people with developmental disabilities currently receiving limited or
24 no services; and

25 (7)(a) Employ the quality assurance for people moving process to
26 monitor the adjustment of each resident who leaves a residential
27 habilitation center; and

28 (b) Convene a work group to review findings from the quality
29 assurance for people moving process and provide feedback on the
30 transition process. The work group shall include representatives of
31 the developmental disabilities council, disability rights Washington,
32 University of Washington center for human development and disability,
33 providers, and families and advocates of persons with disabilities.

34 **Sec. 8.** RCW 71A.18.040 and 1989 c 175 s 142 are each amended to
35 read as follows:

36 (1) A person who is receiving a service under this title or the

1 person's legal representative may request the secretary to authorize a
2 service that is available under this title in place of a service that
3 the person is presently receiving.

4 (2) The secretary upon receiving a request for change of service
5 shall consult in the manner provided in RCW 71A.10.070 and within
6 ninety days shall determine whether the following criteria are met:

7 (a) The alternative plan proposes a less dependent program than the
8 person is participating in under current service;

9 (b) The alternative service is appropriate under the goals and
10 objectives of the person's individual service plan;

11 (c) The alternative service is not in violation of applicable state
12 and federal law; and

13 (d) The service can reasonably be made available.

14 (3) If the requested alternative service meets all of the criteria
15 of subsection (2) of this section, the service shall be authorized as
16 soon as reasonable, but not later than one hundred twenty days after
17 completion of the determination process, unless the secretary
18 determines that:

19 (a) The alternative plan is more costly than the current plan;

20 (b) Current appropriations are not sufficient to implement the
21 alternative service without reducing services to existing clients; or

22 (c) Providing alternative service would take precedence over other
23 priorities for delivery of service.

24 (4) The secretary shall give notice as provided in RCW 71A.10.060
25 of the grant of a request for a change of service. The secretary shall
26 give notice as provided in RCW 71A.10.060 of denial of a request for
27 change of service and of the right to an adjudicative proceeding.

28 (5) When the secretary has changed service from a residential
29 habilitation center to a setting other than a residential habilitation
30 center, the secretary shall reauthorize service at the residential
31 habilitation center if the secretary in reevaluating the needs of the
32 person finds that the person needs service in a residential
33 habilitation center.

34 A person who has moved from a residential habilitation center that
35 has closed to a community-based setting shall be offered a right to
36 return to a residential habilitation center during the first year
37 following their move to the community.

1 (6) If the secretary determines that current appropriations are
2 sufficient to deliver additional services without reducing services to
3 persons who are presently receiving services, the secretary is
4 authorized to give persons notice under RCW 71A.10.060 that they may
5 request the services as new services or as changes of services under
6 this section.

7 **Sec. 9.** RCW 71A.20.080 and 1989 c 175 s 143 are each amended to
8 read as follows:

9 (1) Whenever in the judgment of the secretary, the treatment and
10 training of any resident of a residential habilitation center has
11 progressed to the point that it is deemed advisable to return such
12 resident to the community, the secretary may grant placement on such
13 terms and conditions as the secretary may deem advisable after
14 consultation in the manner provided in RCW 71A.10.070. The secretary
15 shall give written notice of the decision to return a resident to the
16 community as provided in RCW 71A.10.060. The notice must include a
17 statement advising the recipient of the right to an adjudicative
18 proceeding under RCW 71A.10.050 and the time limits for filing an
19 application for an adjudicative proceeding. The notice must also
20 include a statement advising the recipient of the right to judicial
21 review of an adverse adjudicative order as provided in chapter 34.05
22 RCW.

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

27 ~~((The department of social and health services shall periodically
28 evaluate at reasonable intervals the adjustment of the resident to the
29 specific placement to determine whether the resident should be
30 continued in the placement or returned to the institution or given a
31 different placement.))~~

32 NEW SECTION. **Sec. 10.** A new section is added to chapter 71A.20
33 RCW to read as follows:

34 Beginning November 1, 2012, and annually thereafter, the department
35 shall submit information to the appropriate committees of the

1 legislature regarding persons who have transitioned from residential
2 habilitation centers to the community, including:

3 (1) Progress toward meeting the requirements of this act;

4 (2) Client and guardian satisfaction with services;

5 (3) Stability of placement and provider turnover, including
6 information on returns to a residential habilitation center under
7 section 7(2)(e) of this act;

8 (4) Safety and health outcomes;

9 (5) Types of services received by clients transitioned to the
10 community; and

11 (6) Continued accessibility of former residents to family.

12 NEW SECTION. **Sec. 11.** If any provision of this act or its
13 application to any person or circumstance is held invalid, the
14 remainder of the act or the application of the provision to other
15 persons or circumstances is not affected.

16 NEW SECTION. **Sec. 12.** If any part of this act is found to be in
17 conflict with federal requirements that are a prescribed condition to
18 the allocation of federal funds to the state, the conflicting part of
19 this act is inoperative solely to the extent of the conflict and with
20 respect to the agencies directly affected, and this finding does not
21 affect the operation of the remainder of this act in its application to
22 the agencies concerned. Rules adopted under this act must meet federal
23 requirements that are a necessary condition to the receipt of federal
24 funds by the state.

25 NEW SECTION. **Sec. 13.** Section 7 of this act is necessary for the
26 immediate preservation of the public peace, health, or safety, or
27 support of the state government and its existing public institutions,
28 and takes effect June 30, 2011.

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