

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**

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**SUBSTITUTE SENATE BILL 6751**

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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.