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HOUSE BILL 2802

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State of Washington                      52nd Legislature                      1992 Regular Session

By Representative Cooper

Read first time 01/28/92. Referred to Committee on Human Services.

1            AN ACT Relating to developmental disabilities; and amending RCW  
2 71A.10.050 and 71A.20.080.

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

4            **Sec. 1.** RCW 71A.10.050 and 1989 c 175 s 138 are each amended to  
5 read as follows:

6            (1) An applicant or recipient or former recipient of a  
7 developmental disabilities service under this title from the department  
8 of social and health services has the right to appeal the following  
9 department actions:

10            (a) A denial of an application for eligibility under RCW  
11 71A.16.040;

12            (b) An unreasonable delay in acting on an application for  
13 eligibility, for a service, or for an alternative service under RCW  
14 71A.18.040;

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

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

4 (e) A disagreement with an action of the secretary under RCW  
5 71A.10.060 or 71A.10.070;

6 (f) A decision to return a resident of ~~((an-[a]))~~ a habilitation  
7 center to the community; and

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

10 The adjudicative proceeding is governed by the Administrative  
11 Procedure Act, chapter 34.05 RCW.

12 (2) This subsection applies only to an adjudicative proceeding in  
13 which the department action appealed is a decision to return a resident  
14 of a habilitation center to the community. The resident or his or her  
15 representative may appeal on the basis of whether the specific  
16 placement decision is in the best interests of the resident. When the  
17 resident or his or her representative files an application for an  
18 adjudicative proceeding under this section ~~((the department has the  
19 burden of proving))~~ there is a rebuttable presumption that the specific  
20 placement decision is in the best interests of the resident.

21 (3) When the department takes any action described in subsection  
22 (1) of this section it shall give notice as provided by RCW 71A.10.060.  
23 The notice must include a statement advising the recipient of the right  
24 to an adjudicative proceeding and the time limits for filing an  
25 application for an adjudicative proceeding. Notice of a decision to  
26 return a resident of a habilitation center to the community under RCW  
27 71A.20.080 must also include a statement advising the recipient of the  
28 right to file a petition for judicial review of an adverse adjudicative  
29 order as provided in chapter 34.05 RCW.

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 grant placement on such  
7 terms and conditions as the secretary may deem advisable after  
8 consultation in the manner provided in RCW 71A.10.070. The secretary  
9 shall give written notice of the decision to return a resident to the  
10 community as provided in RCW 71A.10.060. The notice must include a  
11 statement advising the recipient of the right to an adjudicative  
12 proceeding under RCW 71A.10.050 and the time limits for filing an  
13 application for an adjudicative proceeding. The notice must also  
14 include a statement advising the recipient of the right to judicial  
15 review of an adverse adjudicative order as provided in chapter 34.05  
16 RCW.

17       A placement decision ~~((shall not))~~ may be implemented ~~((at any~~  
18 ~~level during any period))~~ during ~~((which))~~ an appeal ~~((can be taken or~~  
19 ~~while an appeal is pending and undecided, unless authorized by court~~  
20 ~~order so long as the appeal is being diligently pursued))~~ only if the  
21 department maintains space in the residential habilitation center for  
22 a resident who successfully appeals the secretary's action under this  
23 section.

24       The department of social and health services shall periodically  
25 evaluate at reasonable intervals the adjustment of the resident to the  
26 specific placement to determine whether the resident should be  
27 continued in the placement or returned to the institution or given a  
28 different placement.