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SENATE BILL 5490

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State of Washington

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By Senators Niemi, L. Smith, Talmadge, Wojahn, M. Rasmussen, McAuliffe and Erwin

Read first time 02/01/93. Referred to Committee on Health & Human Services.

1 AN ACT Relating to developmental disabilities; amending RCW  
2 71A.10.015, 71A.10.020, 71A.10.050, 71A.10.060, 71A.10.070, 71A.12.010,  
3 71A.12.020, 71A.12.030, 71A.12.060, 71A.12.070, 71A.12.080, 71A.12.100,  
4 71A.12.120, 71.14A.020, 71A.14.030, 71A.14.040, 71A.14.050, 71A.14.060,  
5 71A.14.070, 71A.14.080, 71A.14.090, 71A.14.110, 71A.16.020, 71A.16.040,  
6 71A.16.050, 71A.18.010, 71A.18.020, 71A.18.040, and 71A.18.050; adding  
7 a new section to chapter 71A.12 RCW; adding new sections to chapter  
8 71A.14 RCW; adding a new section to chapter 71A.16 RCW; adding new  
9 sections to chapter 71A.20 RCW; creating a new section; and repealing  
10 RCW 71A.10.010, 71A.10.800, 71A.10.901, 71A.10.902, 71A.12.040,  
11 71A.12.050, and 71A.14.010.

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

13 **Sec. 1.** RCW 71A.10.015 and 1988 c 176 s 101 are each amended to  
14 read as follows:

15 The legislature recognizes the capacity of all persons, including  
16 those with developmental disabilities, to be personally and socially  
17 productive. The legislature further recognizes the state's obligation  
18 to provide aid to persons with developmental disabilities and their  
19 families through a uniform, coordinated system of locally administered

1 services to enable them to achieve a greater measure of independence  
2 and fulfillment and to enjoy all rights and privileges under the  
3 Constitution and laws of the United States and the state of Washington.  
4 The legislature recognizes that living in home and community-based  
5 settings is most conducive to personal growth and independence and is  
6 generally more cost-effective than institutional care. Toward this  
7 goal, the legislature intends to preserve, strengthen, and maintain  
8 families caring for their members with developmental disabilities.

9       **Sec. 2.** RCW 71A.10.020 and 1988 c 176 s 102 are each amended to  
10 read as follows:

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

13       (1) "Department" means the department of social and health  
14 services.

15       (2) "Developmental disability" means (~~(a disability attributable to~~  
16 ~~mental retardation, cerebral palsy, epilepsy, autism, or another~~  
17 ~~neurological or other condition of an individual found by the secretary~~  
18 ~~to be closely related to mental retardation or to require treatment~~  
19 ~~similar to that required for individuals with mental retardation, which~~  
20 ~~disability originates before the individual attains age eighteen, which~~  
21 ~~has continued or can be expected to continue indefinitely, and which~~  
22 ~~constitutes a substantial handicap to the individual. By January 1,~~  
23 ~~1989, the department shall promulgate rules which define neurological~~  
24 ~~or other conditions in a way that is not limited to intelligence~~  
25 ~~quotient scores as the sole determinate [determinant] of these~~  
26 ~~conditions, and notify the legislature of this action)) severe, chronic  
27 disability that (a) is attributable to a mental or physical impairment  
28 (or combination); (b) is manifested before age twenty-two years; (c) is  
29 likely to continue indefinitely; (d) results in a number of substantial  
30 functional limitations of activities of daily living or instrumental  
31 activities of daily living to be defined by the secretary in rule.  
32 Persons who received services on January 1, 1993, shall continue to be  
33 eligible to receive services as determined by individual service plan  
34 assessments performed under this title.~~

35       (3) "Early childhood development services" means services designed  
36 to ameliorate the effects of a developmental delay in a child under age  
37 three. Depending upon the child's assessed needs, such services may  
38 include audiology, communication disorders therapy, family counseling

1 and education, occupational therapy, physical therapy, psychological  
2 services, and special instruction.

3 ~~((+3))~~ (4) "Eligible person" means a person who has been found by  
4 the secretary or local support network under RCW 71A.16.040 to be  
5 eligible for services.

6 (5) "Family" means the unit that consists of an individual member  
7 with a developmental disability and one or more natural, adoptive, or  
8 foster parents, or siblings, or grandparents, or children, or  
9 guardians, regardless of where each member resides.

10 ~~((+4))~~ (6) "Habilitative services" means ~~((those))~~ services  
11 ~~((provided by program personnel))~~ to assist persons in acquiring and  
12 maintaining life skills and to raise their levels of physical, mental,  
13 social, and vocational functioning. Habilitative services include, but  
14 are not limited to, education, training for employment, ((and))  
15 therapy, and residential skills training and support.

16 ~~((+5))~~ (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 attorney  
20 in fact, or any other person who is authorized by law to act for  
21 another person.

22 ~~((+6))~~ (8) "Local support network" means one or more regional  
23 support networks according to chapter 71.24 RCW and either (a) having  
24 a resident population of not fewer than one hundred fifty thousand  
25 persons or (b) consisting of not fewer than three counties.

26 (9) "Notice" or "notification" of an action of the secretary means  
27 notice in compliance with RCW 71A.10.060.

28 ~~((+7))~~ (10) "Residential habilitation center" means a state-  
29 operated facility for persons with developmental disabilities governed  
30 by chapter 71A.20 RCW.

31 ~~((+8))~~ (11) "Residential setting" means a setting in which an  
32 individual or agency contracts with and is reimbursed by the department  
33 or a local support network to provide assistance with activities of  
34 daily living or instrumental activities of daily living. Such settings  
35 include but are not limited to adult family homes, assisted living  
36 facilities, children's foster homes, group homes, including state-  
37 operated living alternatives, intermediate care facilities for the  
38 mentally retarded, nursing homes, public and private psychiatric

1 hospitals, residential habilitation centers, and tenant support  
2 arrangements.

3 (12) "Secretary" means the secretary of social and health services  
4 or the secretary's designee.

5 ~~((+9))~~ (13) "Service" or "services" means ~~((services provided by~~  
6 ~~state or local government))~~ actions and activities undertaken to  
7 increase the independence of persons with developmental disabilities  
8 provided by the state in residential habilitation centers or by local  
9 support networks to carry out this title.

10 (14) "Therapeutic services" means occupational, physical,  
11 communication, respiratory, vision, behavior management, mental health,  
12 medication management, and other therapies to increase, maintain, or  
13 improve the functional capacities of individuals with developmental  
14 disabilities.

15 **Sec. 3.** RCW 71A.10.050 and 1989 c 175 s 138 are each amended to  
16 read as follows:

17 (1) An applicant or recipient or former recipient of a  
18 developmental disabilities service under this title from the department  
19 of social and health services or the local support network has the  
20 right to appeal the following department or local support network  
21 actions:

22 (a) A denial of an application for eligibility under RCW  
23 71A.16.040;

24 (b) An unreasonable delay in acting on an application for  
25 eligibility, for a service, or for an alternative service under RCW  
26 71A.18.040;

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

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

30 (e) A disagreement with an action of the secretary under RCW  
31 71A.10.060 or 71A.10.070;

32 (f) A decision to return a resident of ~~((an [a]))~~ a residential  
33 habilitation center to the community; and

34 (g) A decision to change a person's ~~((placement))~~ support from one  
35 ~~((category))~~ type of ~~((residential services to a different category of~~  
36 ~~residential services))~~ support to another.

37 The adjudicative proceeding is governed by the Administrative  
38 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 person  
3 who is a resident of a habilitation center as of the effective date of  
4 this act to the community. The resident or his or her representative  
5 may appeal on the basis of whether the specific placement decision is  
6 in 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 equal or  
10 greater value to the resident.

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

20 **Sec. 4.** RCW 71A.10.060 and 1989 c 175 s 139 are each amended to  
21 read as follows:

22 (1) Whenever this title requires the secretary to give notice, the  
23 secretary shall give notice to the person with a developmental  
24 disability and, except as provided in subsection (3) of this section,  
25 to at least one other person. The other person shall be the first  
26 person known to the secretary in the following order of priority:

27 (a) A legal representative of the person with a developmental  
28 disability;

29 (b) A parent of a person with a developmental disability who is  
30 eighteen years of age or older;

31 (c) Other kin of the person with a developmental disability, with  
32 preference to persons with the closest kinship;

33 (d) The Washington protection and advocacy system for the rights of  
34 persons with developmental disabilities, appointed in compliance with  
35 42 U.S.C. Sec. 6042; or

36 (e) A person who is not an employee of the department or of a  
37 person who contracts with the department under this title who, in the

1 opinion of the secretary, will be concerned with the welfare of the  
2 person.

3 (2) Notice to a person with a developmental disability shall be  
4 given in a way that the person is best able to understand. This can  
5 include reading or explaining the materials to the person.

6 (3) A person with a developmental disability may, ~~in ((writing)) a~~  
7 way that the person is best able, request the secretary to give notice  
8 only to that person. The secretary shall comply with that direction  
9 unless the secretary denies the request because the person may be at  
10 risk of losing rights if the secretary complies with the request. The  
11 secretary shall give notice as provided in subsections (1) and (2) of  
12 this section. On filing an application with the secretary within  
13 thirty days of receipt of the notice, the person who made the request  
14 has the right to an adjudicative proceeding under RCW 71A.10.050 on the  
15 secretary's decision.

16 (4) The giving of notice to a person under this title does not  
17 empower the person who is given notice to take any action or give any  
18 consent.

19 **Sec. 5.** RCW 71A.10.070 and 1989 c 175 s 140 are each amended to  
20 read as follows:

21 (1) Whenever this title places on the secretary the duty to  
22 consult, the secretary shall carry out that duty by consulting with the  
23 person with a developmental disability and, except as provided in  
24 subsection (2) of this section, with at least one other person. The  
25 other person shall be in order of priority:

26 (a) A legal representative of the person with a developmental  
27 disability;

28 (b) A parent of a person with a developmental disability who is  
29 eighteen years of age or older;

30 (c) Other kin of the person with a developmental disability, with  
31 preference to persons with the closest kinship;

32 (d) The Washington protection and advocacy system for the rights of  
33 persons with developmental disabilities, appointed in compliance with  
34 42 U.S.C. Sec. 6042; or

35 (e) Any other person who is not an employee of the department or of  
36 a person who contracts with the department under this title who, in the  
37 opinion of the secretary, will be concerned with the welfare of the  
38 person.

1 (2) A person with a developmental disability may, in ~~((writing))~~ a  
2 way that the person is best able, request the secretary to consult only  
3 with that person. The secretary shall comply with that direction  
4 unless the secretary denies the request because the person may be at  
5 risk of losing rights if the secretary complies with the request. The  
6 secretary shall give notice as provided in RCW 71A.10.060 when a  
7 request is denied. On filing an application with the secretary within  
8 thirty days of receipt of the notice, the person who made the request  
9 has the right to an adjudicative proceeding under RCW 71A.10.050 on the  
10 secretary's decision.

11 (3) Consultation with a person under this section does not  
12 authorize the person who is consulted to take any action or give any  
13 consent.

14 **Sec. 6.** RCW 71A.12.010 and 1988 c 176 s 201 are each amended to  
15 read as follows:

16 It is declared to be the policy of the state to authorize the  
17 secretary to ~~((develop and coordinate state))~~ encourage the local  
18 development and coordination of services for persons with developmental  
19 disabilities and their families; to encourage research and staff  
20 training for state and local personnel working with persons with  
21 developmental disabilities and their families; and to cooperate with  
22 communities to encourage the establishment and development of services  
23 to persons with developmental disabilities through locally administered  
24 and locally controlled programs.

25 The complexities of developmental disabilities require ~~((the))~~ that  
26 community services ~~((of))~~ be funded by many state departments ~~((as well~~  
27 ~~as those of))~~ in addition to services funded and supported within the  
28 community. Services should be planned ~~((and))~~, provided, and  
29 coordinated as a part of a ~~((continuum))~~ local support network. A  
30 pattern of facilities and services should be established, within  
31 appropriations designated for this purpose, which is sufficiently  
32 complete to meet the needs of each person with a developmental  
33 disability regardless of age or degree of handicap, and at each stage  
34 of the person's development.

35 **Sec. 7.** RCW 71A.12.020 and 1988 c 176 s 202 are each amended to  
36 read as follows:

1 (1) To the extent that state, federal, or other funds designated  
2 for services to persons with developmental disabilities are available,  
3 and consistent with the provisions of chapter . . . , Laws of 1993 (this  
4 act) the secretary shall work with interested local communities to  
5 provide every eligible person with habilitative services suited to the  
6 person's needs, regardless of age or degree of developmental  
7 disability.

8 (2) Consistent with the provisions of chapter . . . , Laws of 1993  
9 (this act) the secretary shall work with interested local communities  
10 to provide persons who receive services with the opportunity for  
11 integration with nonhandicapped and less handicapped persons to the  
12 greatest extent possible.

13 (3) The secretary shall establish minimum standards for  
14 habilitative services. Consumers, advocates, service providers,  
15 appropriate professionals, and local government agencies shall be  
16 involved in the development of the standards.

17 NEW SECTION. Sec. 8. A new section is added to chapter 71A.12 RCW  
18 to read as follows:

19 (1) The department is designated as the state developmental  
20 disabilities authority.

21 (2) The secretary shall provide for public, consumer, and licensed  
22 service provider participation in developing the state developmental  
23 disabilities program as provided in this title.

24 (3) The secretary shall be designated as the local support network  
25 if a local support network fails to meet state minimum standards or  
26 refuses to exercise responsibilities under chapter . . . , Laws of 1993  
27 (this act).

28 (4) The secretary shall:

29 (a) Assure that any local support network community developmental  
30 disabilities program prevent or reduce out-of-state, inappropriate out-  
31 of-home, inpatient, or institutional care by providing access to  
32 services under this chapter for the local support network's residents  
33 with developmental disabilities;

34 (i) Such programs shall provide:

35 (A) Early childhood intervention;

36 (B) Employment and community access services;

37 (C) Family support;

1 (D) Individual and family resource coordination, which includes  
2 providing information to individuals with developmental disabilities  
3 and their families concerning the availability of services and  
4 assisting them in obtaining appropriate services;  
5 (E) Information and referral;  
6 (F) Residential services or appropriate residential support for  
7 those receiving residential services as of January 1, 1993;  
8 (ii) Such programs may provide:  
9 (A) Architectural services;  
10 (B) Family counseling;  
11 (C) Health services and equipment;  
12 (D) Legal services;  
13 (E) Residential services or appropriate residential support for  
14 those needing, but not yet receiving, such services as of January 1,  
15 1993;  
16 (F) Therapy services and equipment; and  
17 (G) Transportation services;  
18 (b) Include services under this title in the standard contract or  
19 contracts which are in effect between the local support network and the  
20 state;  
21 (c) Develop standards for certification of providers and local  
22 support networks;  
23 (d) Certify local support networks that meet state minimum  
24 standards;  
25 (e) Periodically inspect certified local support networks at  
26 reasonable times and in a reasonable manner;  
27 (f) Adopt rules as are necessary to implement the department's  
28 responsibilities under this chapter pursuant to chapter 34.05 RCW;  
29 (g) In collaboration with local support networks, establish  
30 specific criteria in contract that shall be used to evaluate local  
31 support network performance. The criteria shall include reduction in  
32 the percentage of out-of-home care, reduction in the percentage of  
33 state and local inpatient hospital and other institutional care,  
34 reduction in the cost of persons served, and increased consumer  
35 employment and earnings;  
36 (h) Disburse the first funds for the local support networks that  
37 are ready to begin implementation within sixty days of approval of the  
38 biennial contract. The department must either approve or reject the  
39 biennial contract within sixty days of receipt;

1 (i) No later than two years after the creation of a local support  
2 network, allocate one hundred percent of available resources to local  
3 support networks created in a single grant distributed in accordance  
4 with chapter . . . , Laws of 1993 (this act);

5 (j) Notify local support networks of their allocation of available  
6 resources at least sixty days prior to the start of a new biennial  
7 contract period; and

8 (k) Deny funding allocations to local support networks based solely  
9 upon formal findings of noncompliance with the terms of the local  
10 support network's contract with the department. Written notice and at  
11 least thirty days for corrective action must precede any such action.  
12 In such cases, local support networks shall have full rights to appeal  
13 under chapter 34.05 RCW.

14 (5) Each certified local support network and service provider shall  
15 file with the secretary, on request, such data, statistics, schedules,  
16 and information as the secretary reasonably requires. A certified  
17 local support network or service provider that, without good cause,  
18 fails to furnish any data, statistics, schedules, or information as  
19 requested, or files fraudulent reports thereof, may have its  
20 certification revoked or suspended.

21 (6) The secretary may suspend, revoke, limit, or restrict a  
22 certification, or refuse to grant a certification for failure to  
23 conform to the law, applicable rules, or applicable standards, or  
24 failure to meet the minimum standards established pursuant to this  
25 section.

26 (7) Notwithstanding the existence or pursuit of any other remedy,  
27 the secretary may, in the manner provided by law, upon the advice of  
28 the attorney general who shall represent the secretary in the  
29 proceedings, maintain an action in the name of the state for an  
30 injunction or other process against any person or governmental unit to  
31 restrain or prevent the establishment, conduct, or operation of a local  
32 support network or service provider without certification under this  
33 chapter.

34 (8) The department, in consultation with affected parties, shall  
35 establish a distribution process that reflects local support network  
36 needs assessments based on the number of persons with developmental  
37 disabilities.

38 (9) The department of social and health services, in cooperation  
39 with the state congressional delegation, shall actively seek waivers of

1 federal requirements and such modifications of federal regulations as  
2 are necessary to allow federal medicaid reimbursement for services  
3 under this title. The department shall periodically report its efforts  
4 to the ways and means and health and human services committees of the  
5 senate and the appropriations and human services committees of the  
6 house of representatives.

7 (10) The state developmental disabilities authority may not  
8 determine the roles and responsibilities of local support networks as  
9 to each other by rule, except to assure that all duties required of  
10 local support networks are assigned and that a single authority has  
11 final responsibility for all available resources and performance under  
12 the local support network's contract with the secretary.

13 **Sec. 9.** RCW 71A.12.030 and 1988 c 176 s 203 are each amended to  
14 read as follows:

15 (1) The secretary ((is authorized)) shall encourage the development  
16 of a system of local support networks to provide, or arrange with  
17 others to provide, all services and facilities that are necessary or  
18 appropriate to accomplish the purposes of this title, and to take all  
19 actions that are necessary or appropriate to accomplish the purposes of  
20 this title, except for those duties specifically reserved for the state  
21 according to this title. The secretary shall adopt rules under the  
22 administrative procedure act, chapter 34.05 RCW, as are appropriate to  
23 carry out this title.

24 (2) By December 1 of each year, the secretary shall approve local  
25 support networks requested by regional support networks. Regional  
26 support networks seeking to be approved as a local support network by  
27 January 1 of any year shall submit their intentions by October 30 of  
28 the previous year along with preliminary plans. The secretary shall  
29 assume all local support network duties not otherwise assigned under  
30 this title.

31 The implementation of local support networks, or the secretary's  
32 assumption of all responsibilities under this title, shall be included  
33 in all state and federal plans affecting the state developmental  
34 disabilities program including at least those required by this chapter,  
35 the medicaid program, and any other federal program that provides  
36 funding for this program. Nothing in these plans shall be inconsistent  
37 with the intent and requirements of this chapter.

1       **Sec. 10.** RCW 71A.12.060 and 1988 c 176 s 206 are each amended to  
2 read as follows:

3       Except as may be specifically contracted with local support  
4 networks, the secretary is authorized to pay for all or a portion of  
5 the costs of care, support, and training of residents of a residential  
6 habilitation center who are placed in community residential programs  
7 under this section and RCW 71A.12.070 and 71A.12.080.

8       **Sec. 11.** RCW 71A.12.070 and 1988 c 176 s 207 are each amended to  
9 read as follows:

10       All payments made by the secretary or by a local support network  
11 under RCW 71A.12.060 shall, insofar as reasonably possible, be  
12 supplementary to payments to be made for the costs of care, support,  
13 and training in a community residential program by the estate of such  
14 resident of the residential habilitation center, or from any resource  
15 which such resident may have, or become entitled to, from any public,  
16 federal, or state agency. ((Payments by the secretary under this title  
17 may, in the secretary's discretion, be paid directly to community  
18 residential programs, or to counties having created developmental  
19 disability boards under chapter 71A.14 RCW.))

20       **Sec. 12.** RCW 71A.12.080 and 1988 c 176 s 208 are each amended to  
21 read as follows:

22       (1) The secretary with advice from the local support networks shall  
23 adopt rules ((concerning)) affirming the eligibility of all residents  
24 of residential habilitation centers for placement in the least  
25 restrictive community residential ((programs)) setting or community  
26 supports under this title((?)). The secretary shall make such  
27 placements to the most cost-effective available program consistent with  
28 this title. Nothing in this title shall preclude the secretary from  
29 making supervised placements where it is necessary to assure public  
30 safety, to provide specialized diagnoses of developmental disabilities,  
31 or provide for specialized support including specialized respite care  
32 that cannot be provided cost-effectively through family support or  
33 other nonfacility based services.

34       (2) The secretary shall adopt rules concerning the determination of  
35 the ability according to supplemental security income (SSI) criteria of  
36 ((such)) persons living in residential habilitation centers or  
37 community residential programs or their estates to pay all or a portion

1 of the cost of care, support, and training; the manner and method of  
2 licensing or certification and inspection and approval of such  
3 community residential programs for placement under this title; and  
4 procedures for the payment of costs of care, maintenance, and training  
5 in community residential programs. The rules shall include standards  
6 for care, maintenance, and training to be met by such community  
7 residential programs.

8 ((+2)) (3) The secretary shall coordinate state activities and  
9 resources relating to placement in community residential programs to  
10 help efficiently expend state and local resources and, to the extent  
11 designated funds are available, create an effective community  
12 residential program.

13 **Sec. 13.** RCW 71A.12.100 and 1988 c 176 s 210 are each amended to  
14 read as follows:

15 Consistent with the general powers of the secretary and the intent  
16 of chapter . . . ., Laws of 1993 (this act) regarding the encouragement  
17 of local services network development and whether or not a particular  
18 person with a developmental disability is involved, the secretary may:

19 (1) Provide information to the public on developmental disabilities  
20 and available services;

21 (2) Engage in research concerning developmental disabilities and  
22 the habilitation of persons with developmental disabilities, and  
23 cooperate with others who do such research;

24 (3) Provide consultant services to public and private agencies to  
25 promote and coordinate services to persons with developmental  
26 disabilities;

27 (4) Provide training for persons in state or local governmental  
28 agencies, including local support networks, or with private entities  
29 who come in contact with persons with developmental disabilities or who  
30 have a role in the care or habilitation of persons with developmental  
31 disabilities.

32 **Sec. 14.** RCW 71A.12.120 and 1988 c 176 s 212 are each amended to  
33 read as follows:

34 (1) The governor may take whatever action is necessary to enable  
35 the state to participate in the manner set forth in this title in any  
36 programs provided by any federal law and to designate state agencies  
37 authorized to administer within this state the several federal acts

1 providing federal moneys to assist in providing services and training  
2 at the state or local level for persons with developmental disabilities  
3 and for persons who work with persons with developmental disabilities.

4 (2) Designated state agencies may apply for and accept and disburse  
5 federal grants, matching funds, or other funds or gifts or donations  
6 from any source available (~~for use by the state or by local~~  
7 ~~government~~) to local support networks to provide more adequate  
8 services for and habilitation of persons with developmental  
9 disabilities.

10 NEW SECTION. **Sec. 15.** A new section is added to chapter 71A.14  
11 RCW to read as follows:

12 (1) The local support network shall:

13 (a) Contract as needed with certified service providers to provide  
14 services and supports according to the provisions of chapter . . . ,  
15 Laws of 1993 (this act). The local support network may, in the absence  
16 of a certified service provider entity, become a certified service  
17 provider entity pursuant to minimum standards required for  
18 certification by the department for the purpose of providing services  
19 not available from certified service providers;

20 (b) Operate as a service provider if it deems that doing so is more  
21 efficient and cost-effective than contracting for services. When doing  
22 so, the local support network shall comply with rules adopted by the  
23 secretary that shall provide measurements to determine when a local  
24 support network provided service is more efficient and cost-effective;

25 (c) Monitor and perform biennial fiscal audits of certified service  
26 providers who have contracted with the local support network to provide  
27 services required by this chapter. The monitoring and audits shall be  
28 performed by means of a formal process that insures that the certified  
29 service providers and professionals designated in this subsection meet  
30 the terms of their contracts, including the minimum standards of  
31 service delivery as established by the department;

32 (d) Coordinate services for eligible persons who are in jeopardy of  
33 becoming patients at a state or local mental hospital or a residential  
34 habilitation center;

35 (e) Within three months of recognition, submit an overall two-year  
36 operating and capital plan, timeline, and budget and after two years  
37 submit an overall six-year operating and capital plan, timeline, and  
38 budget and submit progress reports and an updated two-year plan

1 biennially thereafter, within available resources to administer and  
2 provide for the availability of all services under chapter . . . , Laws  
3 of 1993 (this act) as have been mutually agreed to by the secretary and  
4 the local support network;

5 (f) Assume all duties that prior to chapter . . . , Laws of 1993  
6 (this act) were assigned to county authorities by this title;

7 (g) Assume all duties specified in their plans and joint operating  
8 agreements through biennial contractual agreements with the secretary.  
9 Such contracts may include agreements to provide periods of stable  
10 community living and work or other day activities for specific  
11 developmentally disabled persons who have resided at state or local  
12 mental hospitals or residential habilitation centers.

13 (2) The local support network may:

14 (a) Receive technical assistance from the housing trust fund and  
15 may identify and submit projects for housing and housing support  
16 services to the housing trust fund established under chapter 43.185  
17 RCW. Projects identified or submitted under this subsection must be  
18 fully integrated with the local support network six-year operating and  
19 capital plan, timeline, and budget required by subsection (1) of this  
20 section.

21 (b) Request that any state-owned land, building, facility, or other  
22 capital asset that was ever purchased, deeded, given, or placed in  
23 trust for the care of the developmentally disabled and that is within  
24 the boundaries of a local support network be made available to support  
25 the operations of the local support network. State agencies managing  
26 such capital assets shall give first priority to requests for their use  
27 pursuant to this chapter.

28 NEW SECTION. **Sec. 16.** A new section is added to chapter 71A.14  
29 RCW to read as follows:

30 The local support networks shall make satisfactory showing to the  
31 secretary that state funds shall in no case be used to replace local  
32 funds from any source being used to finance developmental disabilities  
33 services prior to January 1, 1993.

34 NEW SECTION. **Sec. 17.** A new section is added to chapter 71A.14  
35 RCW to read as follows:

36 In order to establish eligibility for funding under this chapter,  
37 any local support network or networks seeking to obtain federal funds

1 for the support of any aspect of a community developmental disabilities  
2 program as defined in this chapter shall submit program plans to the  
3 secretary for prior review and approval before such plans are submitted  
4 to any federal agency.

5 NEW SECTION. **Sec. 18.** A new section is added to chapter 71A.14  
6 RCW to read as follows:

7 The local support network may accept and expend gifts and grants  
8 received from private, county, and state sources, and any federal funds  
9 received through a state agency. The local support networks shall  
10 recommend to the legislature incentives to encourage private gifts and  
11 contributions.

12 **Sec. 19.** RCW 71A.14.020 and 1988 c 176 s 302 are each amended to  
13 read as follows:

14 (1) The county governing authority of any county may appoint a  
15 developmental disability board to plan services for persons with  
16 developmental disabilities, to provide directly or indirectly a  
17 continuum of care and services to persons with developmental  
18 disabilities within the county or counties served by the community  
19 board. The governing authorities of more than one county by joint  
20 action may appoint a single developmental disability board. Nothing in  
21 this section shall prohibit a county or counties from combining the  
22 developmental disability board with another county board, such as a  
23 mental health board.

24 (2) Members appointed to the board shall include but not be limited  
25 to representatives of public, private, or voluntary agencies,  
26 representatives of local governmental units, and citizens knowledgeable  
27 about developmental disabilities or interested in services to persons  
28 with developmental disabilities in the community.

29 (3) The board shall consist of not less than nine nor more than  
30 fifteen members.

31 (4) Members shall be appointed for terms of three years and until  
32 their successors are appointed and qualified.

33 (5) The members of the developmental disability board shall not be  
34 compensated for the performance of their duties as members of the  
35 board, but may be paid subsistence rates and mileage in the amounts  
36 prescribed by RCW 42.24.090. If a county or group of counties  
37 participates in a local support network, this section does not apply.

1        This section shall expire on July 1, 1997.

2        **Sec. 20.** RCW 71A.14.030 and 1988 c 176 s 303 are each amended to  
3 read as follows:

4        Pursuant to RCW 71A.14.040 the secretary shall work with the county  
5 governing authorities and developmental disability boards who apply for  
6 state funds to coordinate and provide local services for persons with  
7 developmental disabilities and their families. The secretary is  
8 authorized to (~~promulgate~~) adopt rules establishing the eligibility  
9 of each county and the developmental disability board for state funds  
10 to be used for the work of the board in coordinating and providing  
11 services to persons with developmental disabilities and their families.  
12 An application for state funds shall be made by the board with the  
13 approval of the county governing (~~authority~~) authorities, or by the  
14 county governing authority on behalf of the board. If a county or  
15 group of counties participates in a local support network, this section  
16 does not apply.

17        This section shall expire on July 1, 1997.

18        **Sec. 21.** RCW 71A.14.040 and 1988 c 176 s 304 are each amended to  
19 read as follows:

20        The secretary shall review the applications (~~from the county~~  
21 ~~governing authority~~) made under RCW 71A.14.030. The secretary may  
22 approve an application if it meets the requirements of this chapter and  
23 the rules (~~promulgated~~) adopted by the secretary. The secretary  
24 shall (~~promulgate~~) adopt rules to assist in determining the amount of  
25 the grant. In (~~promulgating~~) adopting the rules, the secretary shall  
26 consider the population of the area served, the needs of the area, and  
27 the ability of the community to provide funds for the developmental  
28 disability program provided in this title. If a county or group of  
29 counties participates in a local support network, this section does not  
30 apply.

31        This section shall expire on July 1, 1997.

32        **Sec. 22.** RCW 71A.14.050 and 1988 c 176 s 305 are each amended to  
33 read as follows:

34        The department may require by rule that in order to be eligible for  
35 state funds, the county and the developmental disability board shall  
36 provide the following indirect services to the community:

1 (1) Serve as an informational and referral agency within the  
2 community for persons with developmental disabilities and their  
3 families;

4 (2) Coordinate all local services for persons with developmental  
5 disabilities and their families to insure the maximum utilization of  
6 all available services;

7 (3) Prepare comprehensive plans for present and future development  
8 of services and for reasonable progress toward the coordination of all  
9 local services to persons with developmental disabilities. If a county  
10 or group of counties participates in a local support network, this  
11 section does not apply.

12 This section shall expire on July 1, 1997.

13 **Sec. 23.** RCW 71A.14.060 and 1988 c 176 s 306 are each amended to  
14 read as follows:

15 The secretary by rule may authorize the county and the  
16 developmental disability board to provide any service for persons with  
17 developmental disabilities that the department is authorized to  
18 provide, except for operating residential habilitation centers under  
19 chapter 71A.20 RCW. If a county or group of counties participates in  
20 a local support network, this section does not apply.

21 This section shall expire on July 1, 1997.

22 **Sec. 24.** RCW 71A.14.070 and 1988 c 176 s 307 are each amended to  
23 read as follows:

24 In order for the developmental disability board or local support  
25 network to plan, coordinate, and provide required services for persons  
26 with developmental disabilities, the county governing authority and the  
27 board or local support network shall be eligible to obtain such  
28 confidential information from public or private schools and the  
29 department as is necessary to accomplish the purposes of this chapter.  
30 Such information shall be kept in accordance with state law and rules  
31 (~~promulgated~~) adopted by the secretary under chapter 34.05 RCW to  
32 permit the use of the information to coordinate and plan services. All  
33 persons permitted to have access to or to use such information shall  
34 sign an oath of confidentiality, substantially as follows:

35 "As a condition of obtaining information from (fill in facility,  
36 agency, or person) I, . . . ., agree not to divulge, publish, or

1 otherwise make known to unauthorized persons or the public any  
2 information obtained in the course of using such confidential  
3 information, where release of such information may possibly make the  
4 person who received such services identifiable. I recognize that  
5 unauthorized release of confidential information may subject me to  
6 civil liability under state law."

7 **Sec. 25.** RCW 71A.14.080 and 1988 c 176 s 308 are each amended to  
8 read as follows:

9 The county governing authority and the developmental disability  
10 board or local support network created under ((RCW 71A.14.020)) chapter  
11 . . . , Laws of 1993 (this act) are authorized to receive and spend  
12 funds received from the state under this chapter, or any federal funds  
13 received through any state agency, or any gifts or donations received  
14 ((by it)) for the benefit of persons with developmental disabilities.

15 **Sec. 26.** RCW 71A.14.090 and 1988 c 176 s 309 are each amended to  
16 read as follows:

17 ((RCW 71A.12.120 authorizes)) Local governments and local support  
18 networks are authorized to participate in federal programs for persons  
19 with developmental disabilities.

20 **Sec. 27.** RCW 71A.14.110 and 1988 c 176 s 311 are each amended to  
21 read as follows:

22 Any county or city within a county either of which is situated on  
23 the state boundaries or any local support network that is situated on  
24 the state boundaries is authorized to contract for developmental  
25 disability services with a county situated in either the states of  
26 Oregon or Idaho, which county is located on boundaries with the state  
27 of Washington.

28 **Sec. 28.** RCW 71A.16.020 and 1988 c 176 s 402 are each amended to  
29 read as follows:

30 (1) A person is eligible for services under this title if the  
31 ((secretary)) local support network finds that the person has a  
32 developmental disability as defined in RCW 71A.10.020(2).

33 (2) The secretary may adopt rules further defining and implementing  
34 the criteria in the definition of "developmental disability" under RCW  
35 71A.10.020(2).

1       **Sec. 29.** RCW 71A.16.040 and 1989 c 175 s 141 are each amended to  
2 read as follows:

3       (1) On receipt of an application for services submitted under RCW  
4 71A.16.030, the ~~((secretary))~~ local support network in a timely manner  
5 shall make a written determination as to whether the applicant is  
6 eligible for services provided under this title for persons with  
7 developmental disabilities.

8       (2) The ~~((secretary))~~ local support network shall give notice of  
9 the ~~((secretary's))~~ local support network's determination on  
10 eligibility to the person who submitted the application and to the  
11 applicant, if the applicant is a person other than the person who  
12 submitted the application for services. The notice shall also include  
13 a statement advising the recipient of the right to an adjudicative  
14 proceeding under RCW 71A.10.050 and the right to judicial review of the  
15 ~~((secretary's))~~ local support network's final decision.

16       (3) Having determined eligibility, the local support network shall  
17 establish the level of financial responsibility, if any, according to  
18 chapter . . . , Laws of 1993 (this act) and notify the applicant and the  
19 applicant's family, if the applicant is under the age of eighteen, of  
20 this determination.

21       (4) The secretary may establish rules for redetermination of  
22 eligibility for services under this title.

23       **Sec. 30.** RCW 71A.16.050 and 1988 c 176 s 405 are each amended to  
24 read as follows:

25       The determination made under this chapter is only as to whether a  
26 person is eligible for services. After the ~~((secretary))~~ local support  
27 network has determined under this chapter that a person is eligible for  
28 services, the ~~((secretary))~~ local support network shall make ~~((a~~  
29 ~~determination as to what services are appropriate for the person))~~ an  
30 assessment of the person's support needs in consultation with the  
31 family, if appropriate, which may vary with support capabilities. In  
32 no case may the local support network restrict access to early  
33 childhood development services it determines are needed. However, in  
34 order to operate within appropriated funding levels, the local support  
35 network may restrict access to certain other specialized or intensive  
36 services in order to maximize basic support services for a larger  
37 number of individuals with developmental disabilities.

1 NEW SECTION. **Sec. 31.** A new section is added to chapter 71A.16

2 RCW to read as follows:

3 (1) For eligible persons under the age of eighteen:

4 (a) Early childhood development services shall be provided free of  
5 charge without regard to family income;

6 (b) Family support services shall be provided free of charge for  
7 families whose gross income is less than one hundred eighty-five  
8 percent of the federal poverty level adjusted for family size; and

9 (c) Family support services shall be provided on a sliding fee  
10 scale to be established by the secretary in rule for families whose  
11 gross income is between one hundred eighty-five percent of the federal  
12 poverty level, adjusted for family size, and one hundred fifty percent  
13 of the state median income adjusted for family size. A family's total  
14 payments and out-of-pocket medical expenses for the eligible individual  
15 may not exceed five percent of the gross family income.

16 (2) For eligible persons age eighteen and over:

17 (a) Developmental disability services shall be provided free of  
18 charge if the gross income of the eligible person, his or her spouse,  
19 and children is less than one hundred eighty-five percent of the  
20 federal poverty level adjusted for family size;

21 (b) Developmental disability services shall be provided on a  
22 sliding fee scale to be established by the secretary in rule for  
23 individuals whose gross family income is between one hundred eighty-  
24 five percent of the federal poverty level, adjusted for family size,  
25 and one hundred fifty percent of the state median income adjusted for  
26 family size. A family's total payments and out-of-pocket medical  
27 expenses for the eligible individual may not exceed five percent of the  
28 gross family income; and

29 (c) There shall be no financial responsibility on the part of  
30 parents or any relatives other than a spouse or minor children of the  
31 individual with developmental disabilities.

32 **Sec. 32.** RCW 71A.18.010 and 1988 c 176 s 501 are each amended to  
33 read as follows:

34 The ~~((secretary may))~~ local support network shall produce and  
35 maintain in collaboration with the individual and his or her family an  
36 individual service plan for each eligible person which may vary with  
37 support capabilities. In no case may the local support network  
38 restrict access to early childhood development services it determines

1 are needed. However, in order to operate within appropriated funding  
2 levels, the local support network may restrict access to certain other  
3 specialized or intensive services in order to maximize basic support  
4 services to a larger number of individuals with developmental  
5 disabilities. An individual service plan is a plan that identifies the  
6 needs of a person and his or her family for services and determines  
7 what services will be in the best interests of the person ((and)), will  
8 meet the person's needs, and support the person in the least  
9 restrictive setting.

10 **Sec. 33.** RCW 71A.18.020 and 1988 c 176 s 601 are each amended to  
11 read as follows:

12 ~~((The secretary may))~~ Local support networks shall provide ((a  
13 service to a person eligible under this title if funds are available.  
14 If there is an individual service plan, the secretary shall consider  
15 the need for services as provided in that plan)) early childhood  
16 development services as required in chapter . . . , Laws of 1993 (this  
17 act) to all eligible children under age seven as determined in the  
18 individual service plan required under RCW 71A.18.010. Within  
19 available funds local support networks shall provide family support  
20 services as identified in individual service plans. The local support  
21 network may provide limits on family support services in order to  
22 assure an equitable distribution of funds.

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

25 (1) A person who is receiving a service under this title or the  
26 person's legal representative may request the ~~((secretary))~~ local  
27 support network to authorize a service that is available under this  
28 title in place of a service that the person is presently receiving.

29 (2) The ~~((secretary))~~ local support network upon receiving a  
30 request for change of service shall consult in the same manner as that  
31 provided for the secretary in RCW 71A.10.070 and within ninety days  
32 shall determine whether the following criteria are met:

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

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

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

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

4 (3) If the requested alternative service meets all of the criteria  
5 of subsection (2) of this section, the service shall be authorized as  
6 soon as reasonable, but not later than one hundred twenty days after  
7 completion of the determination process, unless the ((secretary)) local  
8 support network determines that:

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

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

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

14 (4) The ((secretary)) local support network shall give notice ((as  
15 provided)) in the same manner as that provided to the secretary in RCW  
16 71A.10.060 of the grant of a request for a change of service. The  
17 ((secretary)) local support network shall give notice ((as provided))  
18 in the same manner as that provided to the secretary in RCW 71A.10.060  
19 of denial of a request for change of service and of the right to an  
20 adjudicative proceeding.

21 (5) When the secretary has changed service from a residential  
22 habilitation center to a setting other than a residential habilitation  
23 center, the secretary shall reauthorize service at the residential  
24 habilitation center if the ((secretary)) local support network in  
25 reevaluating the needs of the person finds that the person needs  
26 service in a residential habilitation center.

27 (6) If the ((secretary)) local support network determines that  
28 current appropriations are sufficient to deliver additional services  
29 without reducing services to persons who are presently receiving  
30 services, the ((secretary)) local support network is authorized to give  
31 persons notice in the same manner as that provided under RCW 71A.10.060  
32 that they may request the services as new services or as changes of  
33 services under this section.

34 **Sec. 35.** RCW 71A.18.050 and 1988 c 176 s 604 are each amended to  
35 read as follows:

36 (1) When considering the discontinuance of a service that is being  
37 provided to a person, the ((secretary)) local support network shall  
38 consult ((as)) in the same manner as that required in RCW 71A.10.070.

1 (2) The discontinuance of a service under this section does not  
2 affect the person's eligibility for services. Other services may be  
3 provided or the same service may be restored when it is again available  
4 or when it is again needed.

5 (3) Except when the service is discontinued at the request of the  
6 person receiving the service or that person's legal representative, the  
7 ((secretary)) local support network shall give notice ((as)) in the  
8 same manner as that required in RCW 71A.10.060.

9 NEW SECTION. Sec. 36. A new section is added to chapter 71A.20  
10 RCW to read as follows:

11 There is established on the grounds of the Rainier School, located  
12 at Buckley, Washington, a secure, specialized, separately located  
13 program for not more than forty-eight individuals with developmental  
14 disabilities who have been committed under chapter 71.05 RCW.

15 NEW SECTION. Sec. 37. A new section is added to chapter 71A.20  
16 RCW to read as follows:

17 (1) It is the intent of the legislature that the residential  
18 habilitation centers shall develop into specialized resources to assure  
19 public safety, provide assessments and treatment plans for specialized  
20 disabling conditions, or provide specialized support, including  
21 specialized respite care, that cannot be provided cost-effectively  
22 through family support or other community-based services.

23 (2) The secretary and the local support networks shall develop a  
24 plan by July 1, 1994, that will establish the July 1, 2001, size of  
25 each residential habilitation center. The plan shall include:

26 (a) Specific criteria for admission to and continued residence in  
27 the residential habilitation centers consistent with the purposes  
28 stated in this section;

29 (b) An estimate of the number of people meeting the public safety  
30 or specialized care criteria who are expected to require admission to  
31 or continued residence in state-operated care;

32 (c) A review of the service needs of each resident of the  
33 developmental disabilities state institutions and identify the level of  
34 services appropriate to maintain the person in the most normal and  
35 least restrictive setting that is consistent with the person's needs.

1 (d) A plan for assuring safe and high quality community care for  
2 current residential habilitation center residents who do not meet  
3 residential habilitation center placement criteria;

4 (e) Proposed uses for excess institutional grounds and buildings by  
5 other governmental or private entities in ways that the proceeds will  
6 benefit the developmentally disabled; and

7 (f) Strategies to retrain and/or provide new jobs in developmental  
8 disability community care or in other public service for any staff not  
9 needed in residential habilitation centers.

10 NEW SECTION. **Sec. 38.** The following acts or parts of acts are  
11 each repealed:

12 (1) RCW 71A.10.010 and 1988 c 176 s 1;

13 (2) RCW 71A.10.800 and 1988 c 176 s 1008;

14 (3) RCW 71A.10.901 and 1988 c 176 s 1004;

15 (4) RCW 71A.10.902 and 1988 c 176 s 1001;

16 (5) RCW 71A.12.040 and 1988 c 176 s 204;

17 (6) RCW 71A.12.050 and 1988 c 176 s 205; and

18 (7) RCW 71A.14.010 and 1988 c 176 s 301.

19 NEW SECTION. **Sec. 39.** The code reviser shall rename the chapter  
20 heading of chapter 71A.12 RCW to read "State Responsibilities."

21 NEW SECTION. **Sec. 40.** If any provision of this act or its  
22 application to any person or circumstance is held invalid, the  
23 remainder of the act or the application of the provision to other  
24 persons or circumstances is not affected.

--- END ---