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**SENATE BILL 5536**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senators Braun, Keiser, Darneille, and Honeyford

Read first time 01/23/19. Referred to Committee on Health & Long Term Care.

1 AN ACT Relating to intermediate care facilities for individuals  
2 with intellectual disability; reenacting and amending RCW 71A.10.020;  
3 adding a new section to chapter 71A.20 RCW; and creating a new  
4 section.

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

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

7 (1) Individuals with developmental disabilities should have  
8 access to a broad array of health, social, and supportive services  
9 that are designed to meet their individual preferences and needs.

10 (2) Intermediate care facilities play a critical role in the  
11 array of services for individuals with developmental disabilities by  
12 actively and continuously working with individuals to develop the  
13 skills they need to live in the least restrictive setting possible.

14 (3) As soon as an individual with developmental disabilities  
15 develops the skills that the individual needs to live in a community  
16 setting or the individual's health changes such that he or she can no  
17 longer benefit from the treatment provided by the intermediate care  
18 facility, the individual should be afforded the opportunity to  
19 transition to a community-based setting or nursing facility that more  
20 appropriately meets his or her individual preferences and needs.

1 (4) As the individual with developmental disabilities transitions  
2 from an intermediate care facility to a more appropriate service  
3 setting, there should be strong communication between all parties  
4 involved in the transition to mitigate stress and ensure a smooth  
5 transition.

6 **Sec. 2.** RCW 71A.10.020 and 2014 c 139 s 2 are each reenacted and  
7 amended to read as follows:

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

10 (1) "Assessment" means an evaluation is provided by the  
11 department to determine:

12 (a) If the individual meets functional and financial criteria for  
13 medicaid services; and

14 (b) The individual's support needs for service determination.

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

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

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

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

28 (4) "Department" means the department of social and health  
29 services.

30 (5) "Developmental disability" means a disability attributable to  
31 intellectual disability, cerebral palsy, epilepsy, autism, or another  
32 neurological or other condition of an individual found by the  
33 secretary to be closely related to an intellectual disability or to  
34 require treatment similar to that required for individuals with  
35 intellectual disabilities, which disability originates before the  
36 individual attains age eighteen, which has continued or can be  
37 expected to continue indefinitely, and which constitutes a  
38 substantial limitation to the individual. By January 1, 1989, the  
39 department shall promulgate rules which define neurological or other

1 conditions in a way that is not limited to intelligence quotient  
2 scores as the sole determinant of these conditions, and notify the  
3 legislature of this action.

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

6 (7) "Habilitative services" means those services provided by  
7 program personnel to assist persons in acquiring and maintaining life  
8 skills and to raise their levels of physical, mental, social, and  
9 vocational functioning. Habilitative services include education,  
10 training for employment, and therapy.

11 (8) "Legal representative" means a parent of a person who is  
12 under eighteen years of age, a person's legal guardian, a person's  
13 limited guardian when the subject matter is within the scope of the  
14 limited guardianship, a person's attorney-at-law, a person's  
15 attorney-in-fact, or any other person who is authorized by law to act  
16 for another person.

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

19 (10) "Residential habilitation center" means a state-operated  
20 facility for persons with developmental disabilities governed by  
21 chapter 71A.20 RCW and certified as an intermediate care facility for  
22 individuals with intellectual disability or licensed as a nursing  
23 home.

24 (11) "Respite services" means relief for families and other  
25 caregivers of people with disabilities, typically not to exceed  
26 ninety days, to include both in-home and out-of-home respite care on  
27 an hourly and daily basis, including twenty-four hour care for  
28 several consecutive days. Respite care workers provide supervision,  
29 companionship, and personal care services temporarily replacing those  
30 provided by the primary caregiver of the person with disabilities.  
31 Respite care may include other services needed by the client,  
32 including medical care which must be provided by a licensed health  
33 care practitioner.

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

36 (13) "Service" or "services" means services provided by state or  
37 local government to carry out this title.

38 (14) "Service request list" means a list of eligible persons who  
39 have received an assessment for service determination and their

1 assessment shows that they meet the eligibility requirements for the  
2 requested service but were denied access due to funding limits.

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

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

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

25 (18) "Active treatment" means a continuous, aggressive, and  
26 consistently implemented program of specialized and generic training,  
27 treatment, and health or related services directed toward helping the  
28 client function with as much self-determination and independence as  
29 possible.

30 (19) "Intermediate care facility for individuals with  
31 intellectual disability" means an intermediate care facility for  
32 individuals with intellectual disability certified by Title XIX of  
33 the federal social security act to provide active treatment services  
34 for persons with developmental disabilities.

35 (20) "Nursing home" has the same meaning as defined in RCW  
36 18.51.010.

37 NEW SECTION. Sec. 3. A new section is added to chapter 71A.20  
38 RCW to read as follows:

1           (1) By January 1, 2020, or sooner, and every ninety days  
2 thereafter, the department shall assess all residents receiving  
3 services from an intermediate care facility for individuals with  
4 intellectual disability to determine if the resident is benefiting  
5 from the active treatment.

6           (2) If the assessment determines that the resident is no longer  
7 benefiting from the active treatment provided by the intermediate  
8 care facility for individuals with intellectual disability, then the  
9 department shall work with the resident on transitioning the resident  
10 to an alternative setting that more appropriately meets the  
11 resident's needs.

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