

SENATE BILL No. 242

By Committee on Ways and Means

2-19

AN ACT concerning the developmental disabilities reform act; relating to intake and service referral functions and treatment and care service functions; amending K.S.A. 39-1801, 39-1803, 39-1804, 39-1805 and 39-1806 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 39-1801 is hereby amended to read as follows: 39-1801. The provisions of K.S.A. 1999 Supp. 39-1801 through 39-1810 *and amendments thereto* shall be known and may be cited as the developmental disabilities reform act.

Sec. 2. K.S.A. 39-1803 is hereby amended to read as follows: 39-1803. As used in the developmental disabilities reform act:

(a) "Adaptive behavior" means the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected of that person's age, cultural group and community.

~~(b) "Affiliate" means an entity or person that meets standards set out in rules and regulations adopted by the secretary relating to the provision of services and that contracts with a community developmental disabilities organization.~~

~~(c)~~ "Community services" means services provided to meet the needs of persons with developmental disabilities relating to work, living in the community, and individualized supports and services.

~~(d)~~ (c) "Community developmental disability organization" means any community mental retardation facility that is organized pursuant to K.S.A. 19-4001 through 19-4015 and amendments thereto *entity selected by the secretary to provide intake, referral and case management services, but the total number of entities so selected shall not exceed 13.*

~~(e)~~ (d) "Community service provider" means ~~a community developmental disability organization or affiliate thereof~~ *an entity or person that meets standards prescribed in rules and regulations adopted by the secretary relating to the provisions of services and that contracts with a community developmental disabilities organization.*

~~(f)~~ (e) "Developmental disability" means:

- (1) Mental retardation; or

1 (2) a severe, chronic disability, which:

2 (A) Is attributable to a mental or physical impairment, a combination
3 of mental and physical impairments or a condition which has received a
4 dual diagnosis of mental retardation and mental illness;

5 (B) is manifest before 22 years of age;

6 (C) is likely to continue indefinitely;

7 (D) results, in the case of a person five years of age or older, in a
8 substantial limitation in three or more of the following areas of major life
9 functioning: Self-care, receptive and expressive language development
10 and use, learning and adapting, mobility, self-direction, capacity for in-
11 dependent living and economic self-sufficiency;

12 (E) reflects a need for a combination and sequence of special inter-
13 disciplinary or generic care, treatment or other services which are lifelong,
14 or extended in duration and are individually planned and coordinated;
15 and

16 (F) does not include individuals who are solely and severely emo-
17 tionally disturbed or seriously or persistently mentally ill or have disabil-
18 ities solely as a result of the infirmities of aging.

19 ~~(g)~~ (f) "Institution" means state institution for the mentally retarded
20 as defined by subsection (c) of K.S.A. 76-12b01 and amendments thereto
21 or intermediate care facility for the mentally retarded of nine beds or
22 more as defined by subsection (a) (4) of K.S.A. 39-923 and amendments
23 thereto.

24 ~~(h)~~ (g) "Mental retardation" means substantial limitations in present
25 functioning that is manifested during the period from birth to age 18
26 years and is characterized by significantly subaverage intellectual func-
27 tioning existing concurrently with deficits in adaptive behavior including
28 related limitations in two or more of the following applicable adaptive
29 skill areas: Communication, self-care, home living, social skills, commu-
30 nity use, self-direction, health and safety, functional academics, leisure
31 and work.

32 ~~(i)~~ (h) "Secretary" means the secretary of social and rehabilitation
33 services.

34 Sec. 3. K.S.A. 39-1804 is hereby amended to read as follows: 39-
35 1804. (a) Except as otherwise specifically provided in this act and subject
36 to appropriations of federal and state funds, the secretary, after consul-
37 tation with representatives of community developmental disability organ-
38 izations, community service providers, families and consumer advocates,
39 shall implement and administer the provisions of the developmental dis-
40 abilities reform act in accordance with the following policies. Persons with
41 developmental disabilities shall:

42 (1) Be provided assistance to obtain food, housing, clothing and med-
43 ical care; protection from abuse, neglect and exploitation; and a range of

1 services and supports which assist in the determination of individual
2 needs; and

3 (2) receive assistance in determining their needs; be provided infor-
4 mation about all service options available to meet those needs; have co-
5 ordination of services delivered; be assisted and supported in living with
6 their families, or independently; be assisted in finding transportation to
7 support access to the community; and receive individually planned ha-
8 bilitation, education, training, employment and recreation subject to sup-
9 ports and services available in the community of their choice.

10 (b) To accomplish the policies set forth in subsection (a), the secre-
11 tary, subject to the provisions of appropriation acts, shall annually propose
12 and implement a plan including, but not limited to, financing thereof
13 which shall: (1) Provide for an organized network of community services
14 for persons with developmental disabilities; (2) maximize the availability
15 of federal resources to supplement state and local funding for such sys-
16 tems; and (3) reduce reliance on separate, segregated settings in institu-
17 tions or the community for persons with developmental disabilities.

18 (c) The secretary shall report to the legislature the number of persons
19 with developmental disabilities eligible to receive community services and
20 shall make a progress report on the implementation of the annual plans
21 and the progress made to accomplish a comprehensive community serv-
22 ices system for persons with developmental disabilities.

23 (d) The secretary shall prepare and submit budget estimates for the
24 department of social and rehabilitation services to the division of the
25 budget and the legislature and shall establish and implement policies and
26 procedures within the programs and activities of the department so that
27 funds for state-level programs and activities for persons who are devel-
28 opmentally disabled are allocated between services delivered in institu-
29 tions and community services.

30 (e) Subject to the provisions of this act and appropriation acts, the
31 secretary shall administer and disburse funds to each community devel-
32 opmental disability organization for the coordination ~~and~~ of the provision
33 of community services.

34 (f) The secretary shall establish procedures and systems to evaluate
35 the results and outcomes of the implementation of this act to assure the
36 attainment of maximum quality and efficient delivery of community
37 services.

38 Sec. 4. K.S.A. 39-1805 is hereby amended to read as follows: 39-
39 1805. (a) In addition to any other power and duty prescribed by law, and
40 subject to appropriations *and the provisions of the developmental disa-*
41 *bilities reform act*, a community developmental disability organization
42 shall have the power and duty to:

43 ~~(a)~~ (1) Directly or by subcontract, serve as a single point of application

1 or referral for services, and assist all persons with a developmental disa-
2 bility to have access to and an opportunity to participate in community
3 services, except in those circumstances in which the secretary determines,
4 subject to an immediate hearing before the district court located in the
5 county in which the person with a developmental disability resides, partici-
6 pation in community services is not the appropriate placement for such
7 person because such person is presently likely to cause harm to self or
8 others;

9 ~~(b)~~ (2) provide either directly or by subcontract, *intake and referral*
10 services to persons with a developmental disability, including, but not
11 limited to, eligibility determination; explanation of available services and
12 service providers; case management services, if requested; assistance in
13 establishing new providers, if requested; and advocacy for participation
14 in community services;

15 ~~(c)~~ (3) organize a council of community members, consumers or their
16 family members or guardians, and community service providers, com-
17 posed of a majority of consumers or their family members or guardians
18 who shall meet not less than quarterly to address systems issues, includ-
19 ing, but not limited to, planning and implementation of services; and
20 develop and implement a method by which consumer complaints, inter-
21 agency and other intrasystem disputes are resolved;

22 ~~(d)~~ (4) provide, directly or by subcontract, information about ~~affiliate~~
23 ~~and referral~~ *community* services to persons with a developmental disa-
24 bility whose particular needs can be met in the community or through
25 government; and

26 ~~(e)~~ (5) ensure that ~~affiliates~~ *community service providers* have the
27 option to review referrals and waiting lists on a periodic basis to contact
28 potential consumers with information concerning their services.

29 (b) *In no case shall a community developmental disability organiza-*
30 *tion provide treatment and care services for persons with developmental*
31 *disabilities.*

32 Sec. 5. K.S.A. 39-1806 is hereby amended to read as follows: 39-
33 1806. To carry out the provisions of this act, the secretary shall establish
34 after consultation with representatives of community developmental dis-
35 ability organizations ~~and affiliates thereof, and~~ *community service pro-*
36 *viders*, families and consumer advocates:

37 (a) A system of adequate and reasonable funding or reimbursement
38 for the delivery of community services that:

39 (1) For persons moving from institutions into the community, directs
40 funding to follow in an amount not less than that which is required to
41 reimburse community service providers for services as set forth in such
42 person's plan for transfer from the institution to community services in-
43 cluding expenses of relocation and initiation of services;

1 (2) consolidates federal and state funding sources;
2 (3) requires an independent, professional review of the rate struc-
3 tures on a biennial basis resulting in a recommendation to the legislature
4 regarding rate adjustments. Such recommendation shall be adequate to
5 support: (A) A system of employee compensation competitive with local
6 conditions; (B) training and technical support to attract and retain qual-
7 ified employees; (C) a quality assurance process which is responsive to
8 consumers' needs and which maintains the standards of quality service;
9 (D) risk management and insurance costs; and (E) program management
10 and coordination responsibilities;

11 (b) a system of quality assurance based on standards ~~set out~~ *pre-*
12 *scribed* in rules and regulations adopted by the secretary which insures
13 effective service delivery, fiscal accountability and networking coopera-
14 tion and which allows community service providers to present evidence
15 of attainment of national accreditation or compliance with state or federal
16 laws or rules and regulations, or both, to indicate compliance with such
17 standards; and

18 (c) a system of contracting that:

19 (1) Authorizes open and equitable negotiation between contracting
20 parties or their designated agent or agents;

21 (2) authorizes mediation by an independent entity chosen by the par-
22 ties to the contract in the event of contract disputes and if mediation is
23 not completed prior to the end of any existing contract, authorizes an
24 extension of time of such existing contract or entering into a temporary
25 contract;

26 (3) *separates the functions of client intake and service referral from*
27 *client treatment and care services;*

28 (4) requires achievement and maintenance of community services
29 standards by community service providers;

30 ~~(4)~~(5) includes compensation for community services which meet the
31 individualized needs of persons with developmental disabilities for com-
32 munity services; and

33 ~~(5)~~(6) requires community developmental disability organizations to
34 contract with those ~~affiliates~~ *community service providers* from whom a
35 person with a developmental disability chooses services.

36 Sec. 6. K.S.A. 39-1801, 39-1803, 39-1804, 39-1805 and 39-1806 are
37 hereby repealed.

38 Sec. 7. This act shall take effect and be in force from and after its
39 publication in the statute book.

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