

## HOUSE BILL No. 2319

By Committee on Appropriations

2-7

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9 AN ACT concerning the developmental disabilities reform act; relating  
10 to intake and service referral functions and treatment and care service  
11 functions; amending K.S.A. 39-1801, 39-1803, 39-1804, 39-1805 and  
12 39-1806 and repealing the existing sections.  
13

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

15 Section 1. K.S.A. 39-1801 is hereby amended to read as follows: 39-  
16 1801. The provisions of K.S.A. 39-1801 through 39-1810, *and amend-*  
17 *ments thereto*, shall be known and may be cited as the developmental  
18 disabilities reform act.

19 Sec. 2. K.S.A. 39-1803 is hereby amended to read as follows: 39-  
20 1803. As used in the developmental disabilities reform act:

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

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

29 (c) "Community services" means services provided to meet the needs  
30 of persons with developmental disabilities relating to work, living in the  
31 community, and individualized supports and services. *Community serv-*  
32 *ices include residential services, day services, supports in the natural fam-*  
33 *ily home and targeted case management.*

34 (d) "Community developmental disability organization" means *prior*  
35 *to June 30, 2008*, any community mental retardation facility that is organ-  
36 ized pursuant to K.S.A. 19-4001 through 19-4015, and amendments  
37 thereto, *and on or after June 30, 2008, any entity, or division of county*  
38 *government, selected by the secretary to provide for a specified region,*  
39 *intake, referral and other administrative functions as required under this*  
40 *act.*

41 (e) "Community service provider" means ~~a community developmen-~~  
42 ~~tal disability organization or affiliate thereof~~ *an entity or person that meets*  
43 *standards prescribed in rules and regulations adopted by the secretary*

1 *relating to the provision of community services and that contracts with a*  
2 *community developmental disabilities organization, except that on and*  
3 *after June 30, 2008, a community service provider shall not be a com-*  
4 *munity developmental disability organization.*

5 (f) “Developmental disability” means:

6 (1) Mental retardation; or

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

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

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

12 (C) is likely to continue indefinitely;

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

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

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

25 (g) “Institution” means state institution for the mentally retarded as  
26 defined by subsection (c) of K.S.A. 76-12b01 and amendments thereto  
27 or intermediate care facility for the mentally retarded of nine beds or  
28 more as defined by subsection (a) (4) of K.S.A. 39-923 and amendments  
29 thereto.

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

38 (i) “Secretary” means the secretary of social and rehabilitation  
39 services.

40 Sec. 3. K.S.A. 39-1804 is hereby amended to read as follows: 39-  
41 1804. (a) Except as otherwise specifically provided in this act and subject  
42 to appropriations of federal and state funds, the secretary, after consul-  
43 tation with representatives of community developmental disability organ-

1 izations, community service providers, families and consumer advocates,  
2 shall implement and administer the provisions of the developmental dis-  
3 abilities reform act in accordance with the following policies. Persons with  
4 developmental disabilities shall:

5 (1) Be provided assistance to obtain food, housing, clothing and med-  
6 ical care; protection from abuse, neglect and exploitation; and a range of  
7 services and supports which assist in the determination of individual  
8 needs; and

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

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

24 (c) The secretary shall report to the legislature the number of persons  
25 with developmental disabilities eligible to receive community services and  
26 shall make a progress report on the implementation of the annual plans  
27 and the progress made to accomplish a comprehensive community serv-  
28 ices system for persons with developmental disabilities.

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

36 (e) Subject to the provisions of this act and appropriation acts, the  
37 secretary shall administer and disburse funds to each community devel-  
38 opmental disability organization for the coordination ~~and~~ of the provision  
39 of community services. *Subject to the provisions of the developmental*  
40 *disabilities reform act and appropriations acts, a community develop-*  
41 *mental disability organization which is a community developmental dis-*  
42 *ability organization on the effective date of this act and which is a com-*  
43 *munity service provider on the effective date of this act may continue as*

1 a community service provider until June 30, 2008. If the local county  
2 commission or commissions of such community service provider present  
3 a plan to the secretary either for creating a new community developmental  
4 disability organization that does not provide services, or realigning with  
5 an existing community developmental disability organization that does  
6 not provide community services, and such plan is approved by the sec-  
7 retary on or before June 30, 2007, the new or realigned community de-  
8 velopmental disability organization shall receive for such action a start  
9 up funds grant in an amount specified by appropriation act.

10 (f) The secretary shall establish procedures and systems to evaluate  
11 the results and outcomes of the implementation of this act to assure the  
12 attainment of maximum quality and efficient delivery of community  
13 services.

14 (g) For any county which on or after June 30, 2008, has not selected  
15 a community developmental disability organization that does not provide  
16 community services, the secretary, in consultation with the local county  
17 commission, shall assign the county to a community developmental disa-  
18 bility organization area.

19 Sec. 4. K.S.A. 39-1805 is hereby amended to read as follows: 39-  
20 1805. In addition to any other power and duty prescribed by law, and  
21 subject to appropriations; *and the provisions of the developmental disa-*  
22 *bilities reform act*, a community developmental disability organization  
23 shall have the power and duty to:

24 (a) Directly or by subcontract, serve as a single point of application  
25 or referral for services, and assist all persons with a developmental disa-  
26 bility to have access to and an opportunity to participate in community  
27 services, except in those circumstances in which the secretary determines,  
28 subject to an immediate hearing before the district court located in the  
29 county in which the person with a developmental disability resides, par-  
30 ticipation in community services is not the appropriate placement for such  
31 person because such person is presently likely to cause harm to self or  
32 others;

33 (b) provide either directly or by subcontract, *administrative* services  
34 to persons with a developmental disability, including, but not limited to,  
35 eligibility determination; explanation of available services and service pro-  
36 viders; case management services, if requested; assistance in establishing  
37 new providers, if requested; *quality control and an annual review of serv-*  
38 *ices* and advocacy for participation in community services;

39 (c) organize a council of community members, consumers or their  
40 family members or guardians, and community service providers, com-  
41 posed of a majority of consumers or their family members or guardians  
42 who shall meet not less than quarterly to address systems issues, includ-  
43 ing, but not limited to, planning and implementation of services; and

1 develop and implement a method by which consumer complaints, inter-  
2 agency and other intrasystem disputes are resolved;

3 (d) provide, directly or by subcontract, *impartial* information about  
4 ~~affiliate and referral~~ *community services and local community service pro-*  
5 *viders* to persons with a developmental disability whose particular needs  
6 can be met in the community or through government; and

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

10 (f) *On and after June 30, 2008, no community developmental disa-*  
11 *bility organization shall provide community services for persons with de-*  
12 *velopmental disabilities. The secretary shall develop by rule and regula-*  
13 *tion requirements to ensure the governing board and directors of a*  
14 *community developmental disability organization are not affiliated with*  
15 *or otherwise have financial interest in any community service provider,*  
16 *except that a consumer, or a guardian of family member of a consumer,*  
17 *may serve on the governing board of a community developmental disa-*  
18 *bility organization.*

19 Sec. 5. K.S.A. 39-1806 is hereby amended to read as follows: 39-  
20 1806. To carry out the provisions of this act, the secretary shall establish  
21 after consultation with representatives of community developmental dis-  
22 ability organizations and ~~affiliates thereof~~ *community service providers,*  
23 and families and consumer advocates:

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

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

31 (2) consolidates federal and state funding sources;

32 (3) requires an independent, professional review of the rate struc-  
33 tures on a biennial basis resulting in a recommendation to the legislature  
34 regarding rate adjustments. Such recommendation shall be adequate to  
35 support: (A) A system of employee compensation competitive with local  
36 conditions; (B) training and technical support to attract and retain qual-  
37 ified employees; (C) a quality assurance process which is responsive to  
38 consumers' needs and which maintains the standards of quality service;  
39 (D) risk management and insurance costs; and (E) program management  
40 and coordination responsibilities;

41 (b) a system of quality assurance based on standards set out in rules  
42 and regulations adopted by the secretary which insures effective service  
43 delivery, fiscal accountability and networking cooperation and which al-

- 1 lows community service providers to present evidence of attainment of  
2 national accreditation or compliance with state or federal laws or rules  
3 and regulations, or both, to indicate compliance with such standards; and  
4 (c) a system of contracting that:
- 5 (1) Authorizes open and equitable negotiation between contracting  
6 parties or their designated agent or agents;
- 7 (2) authorizes mediation by an independent entity chosen by the par-  
8 ties to the contract in the event of contract disputes and if mediation is  
9 not completed prior to the end of any existing contract, authorizes an  
10 extension of time of such existing contract or entering into a temporary  
11 contract;
- 12 (3) requires achievement and maintenance of community services  
13 standards by community service providers;
- 14 (4) includes compensation for community services which meet the  
15 individualized needs of persons with developmental disabilities for com-  
16 munity services; ~~and~~
- 17 (5) requires community developmental disability organizations to  
18 contract with those ~~affiliates~~ *affiliate community service providers* from  
19 whom a person with a developmental disability chooses services; *and*  
20 (6) *on and after June 30, 2008, separates the administrative functions*  
21 *of a community developmental disability organization from the provision*  
22 *of community services.*
- 23 Sec. 6. K.S.A. 39-1801, 39-1803, 39-1804, 39-1805 and 39-1806 are  
24 hereby repealed.
- 25 Sec. 7. This act shall take effect and be in force from and after its  
26 publication in the statute book.