

SENATE BILL No. 383

By Committee on Ways and Means

1-18

9 AN ACT concerning the developmental disabilities reform act; relating
10 to provision of certain services; amending K.S.A. 39-1804, 39-1805,
11 39-1806 and 39-1807 and repealing the existing sections.
12

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

14 Section 1. K.S.A. 39-1804 is hereby amended to read as follows: 39-
15 1804. (a) Except as otherwise specifically provided in this act and subject
16 to appropriations of federal and state funds, the secretary, after consul-
17 tation with representatives of community developmental disability organ-
18 izations, community service providers, families and consumer advocates,
19 shall implement and administer the provisions of the developmental dis-
20 abilities reform act in accordance with the following policies. Persons with
21 developmental disabilities shall:

22 (1) Be provided assistance to obtain food, housing, clothing, *trans-*
23 *portation* and medical care; protection from abuse, neglect and exploi-
24 tation; and a range of services and supports which ~~assist in the determi-~~
25 ~~nation of~~ *including communication accommodations in order to determine*
26 *and address* individual needs; and

27 (2) receive assistance in determining their needs; be provided infor-
28 mation about all service options available to meet those needs; have co-
29 ordination of services delivered; be assisted and supported in living with
30 their families, or independently; be assisted in ~~finding~~ *obtaining* trans-
31 portation to support access to the community; and receive individually
32 planned habilitation, education, training, employment and recreation sub-
33 ject to supports and services available in the community of their choice.

34 (b) To accomplish the policies set forth in subsection (a), the secre-
35 tary, subject to the provisions of appropriation acts, shall annually propose
36 and implement a plan including, but not limited to, financing thereof
37 which shall: (1) Provide for an organized network of community services
38 for persons with developmental disabilities; (2) maximize the availability
39 of federal resources to supplement state and local funding for such sys-
40 tems; ~~and~~ (3) reduce reliance on separate, segregated settings in institu-
41 tions or the community for persons with developmental disabilities; *and*
42 *(4) fund programs equitably to ensure that the level of support services*
43 *available in the community is equivalent to support services provided in*

1 *state institutions, if appropriate, and with equal or higher quality.*

2 (c) The secretary shall report *annually* to the legislature the number
3 of persons with developmental disabilities eligible to receive community
4 services and shall make a progress report on the implementation of the
5 annual plans and the progress made to accomplish *and sustain* a com-
6 prehensive community services system for persons with developmental
7 disabilities. *This report shall include the number of individuals who are*
8 *waiting for some or all of the services they require to allow them to live*
9 *successfully and with the highest possible level of independence in the*
10 *community of their choice.*

11 (d) The secretary shall prepare and submit budget estimates for the
12 department of social and rehabilitation services to the division of the
13 budget and the legislature and shall establish and implement policies and
14 procedures within the programs and activities of the department so that
15 funds for state-level programs and activities for persons who are devel-
16 opmentally disabled are allocated *equally* between services delivered in
17 institutions and community services. *The budget estimates should ensure*
18 *that support services are funded appropriately whether they are located*
19 *in state institutions or community settings, and that direct-support pro-*
20 *fessionals employed by community programs earn wages commensurate*
21 *with their level of responsibility and with the wages for comparable po-*
22 *sitions in state institutions. Additionally, the report shall detail the types*
23 *of services made available in state institutions that are not provided for*
24 *individuals who wish to receive community supports and any plans to*
25 *expand those services to the community to remove potential barriers to*
26 *community inclusion.*

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

31 (f) The secretary shall establish procedures and systems to evaluate
32 the results and outcomes of the implementation of this act to assure the
33 attainment of maximum quality *in all programs* and efficient delivery of
34 community services *that are funded at a level to allow them to provide*
35 *an alternative to support services provided in state institutions that meets*
36 *the level of support need and does not diminish service quality.*

37 Sec. 2. K.S.A. 39-1805 is hereby amended to read as follows: 39-
38 1805. In addition to any other power and duty prescribed by law, and
39 subject to appropriations, a community developmental disability organi-
40 zation shall have the power and duty to:

41 (a) Directly or by subcontract, serve as a single point of application
42 or referral for services, and assist all persons with a developmental disa-
43 bility to have access to and an opportunity to participate in community

1 services, except in those circumstances in which the secretary determines,
2 subject to an immediate hearing before the district court located in the
3 county in which the person with a developmental disability resides, partic-
4 participation in community services is not the appropriate placement for such
5 person because such person is presently likely to cause harm to self or
6 others;

7 (b) provide either directly or by subcontract, services to persons with
8 a developmental disability, including, but not limited to, eligibility deter-
9 mination; explanation of available services and service providers; case
10 management services, if requested; assistance in establishing new provid-
11 ers, if requested; and advocacy for participation in community services;

12 (c) organize a council of community members, consumers or their
13 family members or guardians, and community service providers, com-
14 posed of a majority of consumers or their family members or guardians
15 who shall meet not less than quarterly to ~~address~~ *make recommendations*
16 *to the community developmental disability organization concerning* sys-
17 tems issues, including, but not limited to, planning and implementation
18 of services; and develop and implement a method by which consumer
19 complaints, interagency and other intrasystem disputes are resolved;

20 (d) provide, directly or by subcontract, information about affiliate and
21 referral services to persons with a developmental disability whose partic-
22 ular needs can be met in the community or through government; and

23 (e) ensure that affiliates have the option to review referrals and wait-
24 ing lists on a periodic basis to contact potential *consenting* consumers
25 with information concerning their services.

26 Sec. 3. K.S.A. 39-1806 is hereby amended to read as follows: 39-
27 1806. To carry out the provisions of this act, the secretary shall establish
28 after consultation with representatives of community developmental dis-
29 ability organizations and affiliates thereof, and families and consumer
30 advocates:

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

33 (1) For persons moving from institutions into the community, directs
34 funding to follow in an amount ~~not less than that which is required to~~
35 ~~reimburse community service providers for services as set forth in such~~
36 ~~person's plan for transfer from the institution to~~ *sufficient to maintain the*
37 *same level of services provided in state institutions, as appropriate, with*
38 *equal or higher standards of quality, and shall be transferred from the*
39 *institution to* community services including expenses of relocation and
40 initiation of services;

41 (2) consolidates federal and state funding sources;

42 (3) requires an independent, professional review of the rate struc-
43 tures on a biennial basis resulting in a recommendation to the legislature

1 regarding rate adjustments. Such recommendation shall be adequate to
2 support: (A) A system of employee compensation ~~competitive with local~~
3 ~~conditions that is equivalent to compensation in state institutions;~~ (B)
4 training and technical support to attract and retain qualified employees;
5 (C) a quality assurance process which is responsive to consumers' needs
6 and which maintains the standards of quality service; (D) risk manage-
7 ment and insurance costs; ~~and~~ (E) program management and coordina-
8 tion responsibilities; *and (F) takes into consideration local factors that*
9 *may affect the costs of providing needed supports;*

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

16 (c) a system of contracting that:

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

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

24 (3) requires achievement and maintenance of community services
25 standards by community service providers;

26 (4) includes compensation for community services which meet the
27 individualized needs of persons with developmental disabilities ~~for com-~~
28 ~~munity services that is sufficient to maintain the same level of services~~
29 *provided in state institutions, as appropriate, with equal or higher stan-*
30 *dards of quality;* and

31 (5) requires community developmental disability organizations to
32 contract with those affiliates from whom a person with a developmental
33 disability chooses services.

34 Sec. 4. K.S.A. 39-1807 is hereby amended to read as follows: 39-
35 1807. Whenever the secretary finds a community service provider has
36 failed to comply with the requirements, standards or rules and regulations
37 established pursuant to this act or any other provision of law, *for any*
38 *reason other than insufficient funding to do so* the secretary shall have
39 the power to inspect and review the operations of the community service
40 provider and identify deficiencies. The secretary and such community
41 service provider shall choose an independent entity to mediate any dis-
42 pute regarding the secretary's finding that such community service pro-
43 vider has failed to comply with such requirements, standards or rules and

1 regulations and the secretary's identified deficiencies. If such mediation
2 is not able to resolve any such dispute and the secretary finds that the
3 community service provider has still failed to comply with such require-
4 ments, standards or rules and regulations, the secretary shall require a
5 written plan of correction. If, after notice and an opportunity for hearing
6 pursuant to the Kansas administrative procedure act, the secretary finds
7 the community service provider has failed to carry out the plan of cor-
8 rection within 30 days of the submission of the plan of correction, the
9 secretary may assess a civil penalty in an amount not to exceed \$125 per
10 day for each day the provider has failed to carry out the plan of correction.
11 The secretary may extend the time in which the provider has to comply
12 with the plan of correction for good cause. The secretary may require the
13 community service provider to maintain consumers in place until alter-
14 native community services can be secured with reasonable compensation
15 for actual costs and to remove the designation as community service pro-
16 vider, except that in the event the secretary makes written findings of fact
17 that there appears to be a situation involving imminent danger to the
18 health, safety or welfare of the person with a developmental disability
19 unless immediate action is taken, the secretary may issue an emergency
20 order. Such emergency order shall be subject to the same procedures
21 under K.S.A. 77-536 and amendments thereto. Upon entry of such an
22 emergency order, the secretary shall promptly notify the community serv-
23 ice provider subject to the order: (1) The content of the order; (2) the
24 reasons therefor; and (3) that upon written request within 15 days after
25 service of the order, the matter will be set for a hearing which shall be
26 conducted in accordance with the provisions of the Kansas administrative
27 procedure act. If no hearing is requested and none is ordered by the
28 secretary, the order will remain in effect until it is modified or vacated
29 by the secretary. If a hearing is requested or ordered, the secretary, after
30 notice of and opportunity for hearing to the community service provider
31 subject to the order, by written findings of fact and conclusions of law,
32 shall vacate, modify or make permanent the order.

33 Sec. 5. K.S.A. 39-1804, 39-1805, 39-1806 and 39-1807 are hereby
34 repealed.

35 Sec. 6. This act shall take effect and be in force from and after its
36 publication in the statute book.