

2003 SENATE BILL 74

March 13, 2003 – Introduced by JOINT LEGISLATIVE COUNCIL. Referred to Committee on Health, Children, Families, Aging and Long Term Care.

1 **AN ACT** *to create* 15.197 (11n) (am) 4. and 15.197 (11n) (d) of the statutes; and
2 *to affect* 2001 Wisconsin Act 16, section 9123 (16rs) (b) (intro.), 2001 Wisconsin
3 Act 16, section 9123 (16rs) (b) 1., 2001 Wisconsin Act 16, section 9123 (16rs) (b)
4 14. and 2001 Wisconsin Act 16, section 9123 (16rs) (c); **relating to:** adding
5 legislative members to the Council on Developmental Disabilities; requiring
6 the Council on Developmental Disabilities to report annually to the legislature;
7 expanding eligibility, requiring submission of wavier requests by a specified
8 date, and providing transitional services under a pilot program for long-term
9 care of children with disabilities; requiring the Department of Health and
10 Family Services to develop a plan to administer and fund services for persons
11 with developmental disabilities; and requiring the exercise of rule-making
12 authority.

Analysis by the Legislative Reference Bureau

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

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For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

PREFATORY NOTE: This bill was prepared for the joint legislative council's special committee on developmental disabilities. The bill contains the following provisions:

1. Legislative Members: Council on Developmental Disabilities

Under current law, as modified by 2001 Act 59, the council on developmental disabilities must consist of state residents appointed for staggered 4 year terms who represent all geographic areas of the state and who reflect the state's racial and ethnic diversity.

State residents appointed to the council must represent the following: (1) the department of workforce development, the department of health and family services, and the department of public instruction; (2) individuals with developmental disabilities who are any of the following: individuals with developmental disabilities, parents or guardians of children with developmental disabilities, or immediate relatives or guardians of adults with mentally impairing developmental disabilities; (3) the entity designated by the federal department of health and human services as a university center for excellence in developmental disabilities education, research and services; (4) the state protection and advocacy system; and (5) each of the local governmental agencies, non-governmental agencies and private non profit groups concerned with services for individuals with developmental disabilities.

In addition, current law requires at least 60% of the council's membership to be any of the following: (1) individuals with developmental disabilities, (2) parents or guardians of children with developmental disabilities, or (3) immediate relatives or guardians of adults with mentally impairing developmental disabilities. Of these individuals, at least one third must be individuals with developmental disabilities, one third must be parents or guardians of children with developmental disabilities or immediate relatives or guardians of adults with mentally impairing developmental disabilities, and one third must be individuals with developmental disabilities, parents or guardians of children with developmental disabilities, or immediate relatives or guardians of adults with mentally impairing developmental disabilities. At least one of these members must reside in or have previously resided in an institution, including a state center for the developmentally disabled, or be the immediate relative or guardian of such an individual.

This bill amends current law regarding the membership of the council on developmental disabilities as follows:

a. Requires the governor to appoint 4 legislative members to the council on developmental disabilities, as designated by the speaker of the assembly, the assembly minority leader, the senate majority leader and the senate minority leader.

b. Requires the council to evaluate the waiting lists for developmental disabilities services compiled by DHFS and to submit an annual report regarding the status of the waiting lists to the legislature in the end of each calendar year.

2. Children's Long-Term Support Redesign

DHFS appointed a children's committee on long-term care as part of the effort to redesign the state system on long-term care. The children's long-term support redesign committee developed a model to redesign the current system of care for children and their families, to be implemented as a pilot program and funded by federal medicaid waiver funding. The children's home and community-based waiver would define children with physical, sensory, developmental and significant health care needs as eligible. The

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waiver would permit the blending of the family support program, the community options program (COP), and MA waiver funding into a single funding stream. The intended effects are to streamline services and secure additional federal matching funds. DHFS would offer the waiver to children and families currently receiving services through family support, COP, MA home and community-based waivers and MA fee-for-service. Under the waiver, the funds for these programs would be managed within individual budgets based upon the child's functional needs. DHFS would pilot this waiver on a statewide, voluntary basis. The current family care pilot counties would have the option of piloting the children's waiver and coordinating it with the family care program. Families already receiving long-term support services would be offered the opportunity to enroll in the children's waiver on a voluntary basis.

The biennial budget act requires DHFS to seek waivers of federal MA statutes and regulations that are necessary to implement the program in pilot sites. If the waivers are approved, the biennial budget act requires DHFS to seek statutory language to implement the children's long-term support redesign on a piloted basis.

The bill restores language governing the children's long-term support redesign pilot program that was vetoed by the Governor in the biennial budget act. The restored language does the following:

a. Requires DHFS to seek the necessary federal waivers and enactment of necessary statutory language and funding as soon as possible before July 1, 2004.

b. Provides for the expansion of eligibility under certain long-term care programs currently serving children to include children with severe disabilities and long-term care needs and children eligible for medical assistance with high medical costs, and the expansion of medical assistance to include services focused on the needs of children with developmental disabilities and their families.

c. Requires DHFS to provide transitional services to families whose children with physical or developmental disabilities are preparing to enter the adult service system.

3. Administration and Funding of Developmental Disabilities Services

This bill requires DHFS to develop a plan to administer and fund services for persons with developmental disabilities, and to submit that plan to the department of administration as part of DHFS's budget request for the 2005-07 biennium. The plan that is submitted shall include any recommended statutory language changes that are needed to implement the plan. The plan must require all institutional and community-based services for persons with developmental disabilities to be administered within one administrative subunit of DHFS. The subunit designated to do this must be the subunit that is administering community-based services for persons with developmental disabilities as of the effective date of this act.

Further, the plan must provide that funding under the medical assistance program for institutional services and home and community-based waiver services for persons with developmental disabilities shall be combined into one appropriation to the extent permissible under federal law. DHFS must apply for any necessary waivers of federal MA statutes and regulations from the federal department of health and human services.

1 **SECTION 1.** 15.197 (11n) (am) 4. of the statutes is created to read:

2 15.197 (**11n**) (am) 4. Four members of the legislature, of which one each is
3 designated by the speaker of the assembly, the senate majority leader, and the
4 minority leader in each house of the legislature and appointed by the governor.

5 **SECTION 2.** 15.197 (11n) (d) of the statutes is created to read:

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1 15.197 (11n) (d) By January 31 annually, the council shall prepare a report for
2 the preceding calendar year and shall submit the report to the legislature under s.
3 13.172 (2). The report shall evaluate the waiting lists compiled by the department
4 of health and family services for services for persons with developmental disabilities.

5 **SECTION 3.** 2001 Wisconsin Act 16, section 9123 (16rs) (b) (intro.) is amended
6 to read:

7 [2001 Wisconsin Act 16] Section 9123 (16rs) (b) (intro.) The department of
8 health and family services shall, as soon as possible before July 1, 2004, seek waivers
9 of federal medical assistance statutes and regulations from the federal department
10 of health and human services that are necessary to implement, in pilot sites, the
11 program. If the waivers are granted, the program shall have all of the following
12 characteristics:

13 **SECTION 4.** 2001 Wisconsin Act 16, section 9123 (16rs) (b) 1. is created to read:

14 [2001 Wisconsin Act 16] Section 9123 (16rs) (b) 1. Eligibility under sections
15 46.27 (11), 46.275, 46.277, 46.278, 46.985, and 51.44 of the statutes shall be expanded
16 to include children with severe disabilities and long-term care needs and children
17 eligible for Medical Assistance with high medical costs, and Medical Assistance
18 coverage of services shall be expanded to include services focused on the needs of
19 children with developmental disabilities and their families.

20 **SECTION 5.** 2001 Wisconsin Act 16, section 9123 (16rs) (b) 14. is created to read:

21 [2001 Wisconsin Act 16] Section 9123 (16rs) (b) 14. The department of health
22 and family services shall provide transitional services to families whose children
23 with physical or developmental disabilities are preparing to enter the adult service
24 system.

25 **SECTION 6.** 2001 Wisconsin Act 16, section 9123 (16rs) (c) is amended to read:

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1 [2001 Wisconsin Act 16] Section 9123 (16rs) (c) If the federal waivers specified
2 under paragraph (b) are approved, the department of health and family services
3 shall, as soon as possible before July 1, 2004, seek enactment of statutory language,
4 including appropriation of necessary funding, to implement the model described
5 under paragraph (b), as approved under the federal waivers. Any new resources for
6 supports and services for long-term care for children with disabilities and their
7 families shall be managed under the program after approval of the federal waivers
8 specified in paragraph (b) and enactment of necessary statutory language to
9 implement the model under paragraph (b).

SECTION 7. Nonstatutory provisions; health and family services.

10
11 (1) PLAN FOR SERVICES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES. The
12 department of health and family services shall develop a plan to administer and fund
13 services for persons with developmental disabilities. The plan, which shall include
14 any recommended statutory language changes that are needed to implement the
15 plan, shall be included in that department's budget request that is submitted to the
16 department of administration for the 2005–07 biennium. The plan shall include the
17 following components:

18 (a) Institutional and community-based services for persons with
19 developmental disabilities shall be administered within one administrative subunit
20 of the department of health and family services. The subunit that is designated to
21 administer these services shall be the subunit that is administering
22 community-based services for persons with developmental disabilities on the
23 effective date of this paragraph.

24 (b) Funding under the Medical Assistance Program for institutional services
25 and home and community-based waiver services for persons with developmental

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1 disabilities shall be combined into one appropriation, to the extent permissible under
2 federal law. The funding in this appropriation may not be tied to any specific
3 program or service setting, but shall be individually tailored to enable the person to
4 live in the least restrictive setting appropriate to his or her needs and preferences.

5 (2) MEDICAL ASSISTANCE WAIVERS FOR DEVELOPMENTAL DISABILITIES SERVICES. The
6 department of health and family services shall determine whether any new waivers
7 under the Medical Assistance Program are necessary to administer funding for
8 Medical Assistance services as described in subsection (1) (b). That department shall
9 apply for any waivers of federal Medical Assistance statutes and regulations from
10 the federal department of health and human services that the department of health
11 and family services determines are necessary to administer funding for Medical
12 Assistance services as described in subsection (1) (b).

13 (END)