
SUBSTITUTE SENATE BILL 6681

State of Washington

54th Legislature

1996 Regular Session

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Rasmussen, Hargrove, Long, Schow, Franklin, McAuliffe, Drew, Fairley, Oke, Kohl and Prentice)

Read first time 02/02/96.

1 AN ACT Relating to an ombudsman program for individuals with
2 developmental disabilities; adding a new chapter to Title 43 RCW;
3 creating a new section; and providing an effective date.

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

5 NEW SECTION. **Sec. 1.** The legislature recognizes that an
6 increasing number of adult individuals with developmental disabilities
7 receive services in community-based settings and state institutions.
8 The legislature intends to promote the quality of service and choices
9 of individuals with developmental disabilities by creating an ombudsman
10 program for individuals with developmental disabilities.

11 The legislature finds that individuals with developmental
12 disabilities have the right to choose the appropriate services and
13 supports they need. The services and supports must be appropriate to
14 the needs of individuals with developmental disabilities, designed to
15 maximize the developmental potential of the individual, and provided in
16 the setting that is least restrictive of the individual's personal
17 liberty. The services and supports must be provided in a manner that
18 assures the individual's health and safety and is respectful of

1 individual self-dignity and human rights as enumerated in federal and
2 state laws.

3 NEW SECTION. **Sec. 2.** (1) The office of ombudsman services for
4 developmentally disabled persons is created. The department of
5 community, trade, and economic development shall contract with
6 private, nonprofit organizations to provide ombudsman services through
7 the office. All individuals with developmental disabilities defined as
8 eligible under Title 71A RCW are eligible for ombudsman services. The
9 office of ombudsman services for developmentally disabled persons shall
10 protect the interests of people with developmental disabilities as they
11 relate to the provision of services by the state of Washington and
12 individuals and entities that contract with the state of Washington.

13 (2) A commission to provide oversight of the office of ombudsman
14 services for developmentally disabled persons is created. The governor
15 shall appoint the members of the commission. One-third of the
16 commission members must be individuals who use or have used department
17 services, one-third of the commission members must be family members of
18 individuals with developmental disabilities, and the remainder of the
19 commission members must be individuals with experience and expertise in
20 the delivery of ombudsman services. No commission member may be
21 employed by the state of Washington or affiliated with any department
22 of the state of Washington.

23 (3) The contractor selected by the department shall provide
24 ombudsman services to persons with developmental disabilities and shall
25 be so designated by action of the department of community, trade, and
26 economic development. State funds appropriated by the legislature for
27 the use of the office of ombudsman services for persons with
28 developmental disabilities may not be diverted to any other provider,
29 person, or agency by any state agency or entity, except with the
30 approval of a majority of the commission members at a noticed meeting.

31 NEW SECTION. **Sec. 3.** The organization that contracts to provide
32 ombudsman services for persons with developmental disabilities must be
33 an independent, competent advocacy organization and must:

34 (1) Not be a provider of paid services to people with developmental
35 disabilities, except advocacy services;

36 (2) Have the capacity to deliver services to individuals in all
37 areas of the state;

1 (3) Have staff with experience and knowledge in dispute or problem
2 resolution techniques, including investigation, mediation, and
3 negotiation;

4 (4) Be staffed by professionals with a wide range of experience and
5 expertise with the social service and legal systems, and knowledge of
6 developmental disabilities;

7 (5) Have experience in managing a large budget, particularly a
8 budget with reporting requirements;

9 (6) Have private nonprofit status and eligibility for tax exempt
10 status under section 501(c)(3) of the internal revenue code; and

11 (7) Have the knowledge and commitment necessary to competently
12 serve diverse ethnic and cultural communities.

13 NEW SECTION. **Sec. 4.** The department of community, trade, and
14 economic development shall provide all program and staff support
15 necessary to enable the office of ombudsman services to protect
16 effectively the interests of people with developmental disabilities and
17 to protect effectively the interest of people with developmental
18 disabilities who have applied for or are receiving services from the
19 state of Washington or a contractor with the state of Washington.

20 The office of ombudsman services has the following duties:

21 (1) Investigate and resolve complaints made by or on behalf of
22 residents of long-term care facilities relating to administrative
23 action that may adversely affect the health, safety, welfare, and
24 rights of these individuals. Any crimes against residents, including
25 rape, assault, or theft, must be investigated immediately. In the case
26 of rape or assault, the ombudsman shall ensure that there is an
27 immediate medical examination of the individual and refer the case to
28 the appropriate investigative authorities for criminal investigation;

29 (2) Monitor the development and implementation of federal, state,
30 and local laws, rules, regulations, and policies with respect to long-
31 term care facilities in this state;

32 (3) Provide information as appropriate to public agencies regarding
33 the problems of individuals residing in long-term care facilities;

34 (4) Provide services for coordinating the activities of
35 developmental disabilities ombudsmen throughout the state;

36 (5) Establish procedures consistent with this chapter for
37 appropriate access by developmental disabilities ombudsmen to the
38 records of clients of the division of developmental disabilities,

1 including procedures to protect the confidentiality of the records and
2 ensure that the identity of any individual with developmental
3 disabilities will not be disclosed without the written consent of the
4 individual or upon court order;

5 (6) Establish a state-wide uniform reporting system to collect and
6 analyze data relating to complaints, for the purpose of identifying and
7 resolving significant problems;

8 (7) Establish procedures to assure that any files maintained by the
9 office of the ombudsman are disclosed only at the discretion of the
10 ombudsman having authority over the disposition of such files, except
11 that the identity of any individual with a developmental disability may
12 not be disclosed by the ombudsman unless:

13 (a) The individual or the individual's legal representative
14 consents in writing to the disclosure; or

15 (b) Disclosure is required by court order;

16 (8) As necessary, contract with local advocacy agencies to fulfill
17 the duties of the office of ombudsman services;

18 (9) Recruit and train volunteer ombudsmen to perform the functions
19 of the office of ombudsman services and provide for training volunteers
20 and promoting the development of citizen organizations to participate
21 in the ombudsman program. A volunteer long-term care ombudsman must be
22 able to identify and resolve problems regarding the care of residents
23 in long-term care facilities and to assist the residents in the
24 assertion of their civil and human rights. Volunteers may not be used
25 for complaint investigations but may engage in fact-finding activities
26 to determine whether a formal complaint should be submitted to the
27 department;

28 (10) Report to, and be guided by, a governing board that must have
29 a minimum of twenty-six percent of its members persons with
30 developmental disabilities, and a minimum fifty-one percent of its
31 members persons with disabilities and their family members;

32 (11) Develop ethical standards for the conduct of the ombudsman
33 functions;

34 (12) Provide technical assistance and consultation to ombudsmen in
35 local communities;

36 (13) Establish a toll-free number for use by individuals with
37 questions, complaints, or in need of assistance;

1 (14) Work cooperatively with the office of the state long-term care
2 ombudsman, the Washington protection and advocacy system, and other
3 organizations familiar with developmental disability issues;

4 (15) Investigate and resolve complaints made by or on behalf of
5 individuals with developmental disabilities relating to administrative
6 action that may adversely affect the health, safety, welfare, and
7 rights of these individuals;

8 (16) Monitor the development and implementation of federal, state,
9 and local laws, rules, regulations, and policies with respect to
10 service provision to individuals with developmental disabilities;

11 (17) Provide information as appropriate to public agencies
12 regarding the problems of individuals with developmental disabilities
13 receiving services in this state;

14 (18) Develop procedures for referral of complaints to appropriate
15 state or local government agencies;

16 (19) Provide or contract for the provision of legal assistance and
17 consultation necessary to the performance of ombudsman functions; and

18 (20) Conduct an annual consumer satisfaction survey.

19 NEW SECTION. **Sec. 5.** The office of ombudsman services shall
20 prepare an annual report to the legislature that identifies the
21 following:

22 (1) Demographic status of those served by the office;

23 (2) Description of the issues addressed by the office;

24 (3) Description of case scenarios without compromising
25 confidentiality;

26 (4) The number of sites and number of visits by ombudsmen;

27 (5) Recommendations for regulatory action by agencies that would
28 improve the quality of service to individuals with developmental
29 disabilities;

30 (6) Recommendations for legislative action that would result in
31 improved services to individuals with developmental disabilities; and

32 (7) Results of consumer satisfaction survey.

33 All agencies receiving funds from the state of Washington that are
34 named in the annual report of the office of ombudsman services for
35 developmentally disabled persons shall respond within thirty days with
36 a plan for how identified issues will be addressed by the agency.

1 NEW SECTION. **Sec. 6.** Developmental disabilities ombudsmen shall
2 adhere to a code of ethics and shall be governed by principles and
3 values in the conduct of ombudsman duties. The ombudsmen shall:

4 (1) Presume each individual served is competent;

5 (2) Endeavor to meet the disability-related accommodation needs of
6 each individual served;

7 (3) Comply with the expressed wishes of the person with a
8 developmental disability;

9 (4) Maintain a role as advocate for persons with developmental
10 disabilities;

11 (5) Promote the right of individuals and the least-restrictive
12 setting possible;

13 (6) Avoid conflict of interest and the appearance of conflict,
14 including the conflict of direct provision of nonadvocacy services;

15 (7) Recognize and accommodate issues of cultural and ethnic
16 diversity;

17 (8) Initially attempt to resolve questions and disputes at the
18 lowest level possible; and

19 (9) Withdraw ombudsman services when so directed by the person with
20 a developmental disability.

21 NEW SECTION. **Sec. 7.** (1) No ombudsman is liable for good faith
22 performance of responsibilities under this chapter.

23 (2) No discriminatory, disciplinary, or retaliatory action may be
24 taken against any employee of a facility or agency, any service
25 recipient, or any volunteer, for any communication made, or information
26 given or disclosed, to aid an ombudsman in carrying out his or her
27 duties and responsibilities, unless the same was done maliciously or
28 without good faith. This subsection is not intended to infringe on the
29 rights of the employer to supervise, discipline, or terminate an
30 employee for other reasons.

31 NEW SECTION. **Sec. 8.** All records and files of the office of
32 ombudsman services relating to any complaint or investigation made
33 pursuant to carrying out duties under this chapter and the identities
34 of complainants, witnesses, patients, residents, or service recipients
35 must remain confidential unless disclosure is authorized by the
36 individual or his or her guardian or legal representative. No
37 disclosures may be made outside the office without the consent of any

1 named witnesses, residents, patients, clients, service recipients, or
2 complainant unless the disclosure is made without the identity of any
3 of these individuals being disclosed.

4 NEW SECTION. **Sec. 9.** If any provision of this act or its
5 application to any person or circumstance is held invalid, the
6 remainder of the act or the application of the provision to other
7 persons or circumstances is not affected.

8 NEW SECTION. **Sec. 10.** This act shall take effect July 1, 1996.

9 NEW SECTION. **Sec. 11.** If specific funding for the purposes of
10 this act, referencing this act by bill or chapter number, is not
11 provided by June 30, 1996, in the omnibus appropriations act, this act
12 is null and void.

13 NEW SECTION. **Sec. 12.** Sections 1 through 9 of this act shall
14 constitute a new chapter in Title 43 RCW.

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