

HOUSE BILL REPORT

HB 1651

As Reported by House Committee On: Human Services & Early Learning

Title: An act relating to the rights of clients of the developmental disabilities administration of the department of social and health services.

Brief Description: Concerning the rights of clients of the developmental disabilities administration of the department of social and health services.

Sponsors: Representatives Kilduff, Dent, Lovick, Eslick, Senn, Leavitt, Macri, Callan, Cody, Tarleton, Ortiz-Self, Goodman, Jinkins, Frame, Bergquist and Santos.

Brief History:

Committee Activity:

Human Services & Early Learning: 2/8/19, 2/15/19 [DPS], 1/22/20, 1/28/20 [DP2S].

Brief Summary of Second Substitute Bill

- Establishes certain rights for clients of the Department of Social and Health Services Developmental Disability Administration.
- Specifies the right to personal power and choice, participation in service planning, access to service and healthcare information, file complaints and grievances, privacy, confidentiality, access to advocates, and certain rights upon termination of services.

HOUSE COMMITTEE ON HUMAN SERVICES & EARLY LEARNING

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass. Signed by 13 members: Representatives Senn, Chair; Callan, Vice Chair; Frame, Vice Chair; Dent, Ranking Minority Member; Eslick, Assistant Ranking Minority Member; McCaslin, Assistant Ranking Minority Member; Corry, Goodman, Griffey, Kilduff, Klippert, Lovick and Ortiz-Self.

Staff: Luke Wickham (786-7146).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Developmental Disabilities Administration.

The Department of Social and Health Services (DSHS) Developmental Disability Administration (DDA) assists individuals with developmental disabilities and their families to obtain services and support based on individual preferences, capabilities, and needs. The DDA clients live in residential habilitation centers, an institutional setting, as well as in the community.

Eligibility for DDA services depends on whether the client has a qualified developmental disability, has a functional need, and meets certain income and asset standards.

The services provided to clients are designed to promote everyday activities, routines, and relationships common to most citizens, and they include employment services and community access services, which are contracted with counties.

Summary of Second Substitute Bill:

Certain rights are established and apply to all clients of the DDA. The DDA must provide clients and legal representatives with written notice of these rights and document when such information is provided. This notice must be provided upon determining an individual is eligible and upon an individual's assessment.

Personal Rights.

Clients of the DDA have the right to personal power and choice which includes a client's right to:

- exercise autonomy free from provider interference;
- be free from sexual, physical, and mental abuse, corporal punishment, and involuntary seclusion;
- be free from discrimination based on race, color, creed, national origin, religion, sex, age, disability, marital and family status, gender identity, or sexual orientation;
- make choices regarding the type of food available within the client's resources and service plan;
- have visitors subject to the limitations as negotiated with the client's housemates;
- control the client's schedules and choose activities, schedules, and health care that meet the client's needs;
- information about the treatment ordered by the client's health care provider;
- be free from unnecessary medication, restraints, and restrictions;
- vote and participate in the democratic process;
- manage the client's money or choose a person to assist;
- be part of the community;
- make choices about the client's life;
- choose the clothes and hairstyle the client wears;
- furnish and decorate his or her bedroom according to his or her preferences or furnish and decorate the client's home to the client's preferences subject to agreement with the client's housemates;
- work and receive payment for work;
- receive only services that the client agrees to receive;

- be free from financial exploitation; and
- decide whether or not to participate in research after the research has been explained to the client, and after the client or representative gives written consent for the client to participate in the research.

Clients of the DDA have the right to privacy and confidentiality. This includes the right to:

- privacy and confidentiality of the client's personal records;
- privacy in the client's communications, including mail, electronic mail, telephone access; and
- meet and talk privately with the client's friends and family.

Clients of the DDA have the right to access advocates, receive information from agencies acting as client advocates, and contact these agencies.

Service Related Rights.

Clients of the DDA have the right to participate in service planning. This includes the right to:

- be present, understand, and provide input on the client's service plans written by the DDA and providers;
- have meaningful opportunities to lead planning processes;
- have the client's vision for meaningful life and goals for education, employment, housing, relationships, and recreation included in the planning process; and
- choose an advocate to attend the planning process with the client.

Clients of the DDA have the right to access information about services and health care. This includes the right to:

- view a copy of the client's service plans;
- possess a full copy of the current service plans;
- review copies of the policies and procedures for any service the client receives;
- examine the results of surveys or inspections conducted by the state with respect to the client's service provider and the client's residence; and
- receive written notification of enforcement actions taken against the client's provider within 20 days.

Clients of the DDA have the right to file complaints and grievances, and to request appeals. This includes the right to:

- appeal any decision that denies, reduces, or terminates a client's eligibility, services, or choice of provider;
- submit grievances to the clients provider about services other concerns, including the behavior of other people where the client lives;
- file grievances and complaints without penalty or retaliation from the DDA or providers; and
- receive information about how to obtain accommodation for disability in the appeal process.

Rights Upon Termination of Services.

Clients of the DDA receiving certified community residential services must:

- not have their services terminated until it has been determined that the service provider cannot meet the client's needs, the client's safety or the safety of other individuals in the facility or residence are endangered, the client's health or the health of other individuals in the facility or residence would be endangered, or the provider ceases to operate;
- receive 30 days written notice, including reason for termination of services and the effective date of termination, for any potential termination of services, individuals must receive notice when there is a health and safety emergency at least 72 hours before the date of termination; and
- receive a transition plan at least two days before the effective date of the termination of services.

The DSHS must adopt rules as necessary to provide oversight and enforcement of provider practices relating to these rights for providers licensed or certified by the department.

Second Substitute Bill Compared to Original Bill:

The substitute bill defines "administration" as the division of the DSHS responsible for providing services to persons eligible for receiving developmental disability services, but does not mean the division of the DSHS responsible for the licensing and certification of services and facilities for those persons.

The substitute bill defines "legal representative" as a parent of a client under age 18, a court-appointed guardian if the subject matter is within the scope of the guardianship, or any other person authorized by law to act for the client.

The substitute bill requires the administration to document the date that notification of a client's rights are provided to a client.

The substitute bill establishes that a client has the right to:

- exercise autonomy free from provider interference;
- make choices regarding the type of food available within the client's resources and service plan;
- have visitors subject to the limitations as negotiated with the client's housemates;
- information about the treatment ordered by the client's health care provider;
- furnish and decorate his or her bedroom according to his or her preferences or furnish and decorate the client's home to the client's preferences subject to agreement with the client's housemates;
- be free from financial exploitation;
- receive written notification of enforcement actions taken by the DSHS against the client's provider within 20 days, excluding weekends and holidays, instead of within 7 days, of the date of enforcement;
- receive notice of a termination of services when there is a health and safety emergency at least 72 hours before the date of termination; and
- receive a transition plan at least two days instead of seven days before the effective date of the termination of services, or if the termination is based on a health and safety emergency, receive a transition plan within two days of the administration's receipt of notice for emergency termination.

The substitute bill requires the DSHS to adopt rules as necessary to provide oversight and enforcement of provider practices relating to these rights for providers licensed or certified by the department.

The substitute bill specifies that nothing in the act limits an existing private right of action against the DSHS, or the state, or creates a private right of action.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Second Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The DDA serves over 47,000 clients. This bill elevates rights already established in administrative code to statute. This bill helps make sure that clients receive these rights and makes it easier for clients of the DDA to understand his or her rights. It is difficult for clients to receive information about his or her rights. This bill would simplify and clarify this information and make the process easier for individuals attempting to access and understand their rights. This is a bill that has been worked on for some time and is a very important bill for clients to be able to access rights in one location. Current law sets out rights for people with developmental disabilities; however, many families do not know where to find these rights. Clients may have different rights depending on where they live. This bill centralizes the rights available to individuals with developmental disabilities. The Developmental Disability Ombuds is dedicated to educating clients of the DDA about their rights. It is important to be able to have client rights available in one location to hold providers and the DDA accountable. This bill allows client rights to be understood by clients, providers, family members, and community members.

(Opposed) None.

Persons Testifying: Representative Kilduff, prime sponsor; Eric Matthes, The Arc of King County; Emily Rogers, Washington State Developmental Disabilities Council; Noah Seidel, Office of Developmental Disabilities Ombuds; Ivanova Smith, Anthony Nash, and Robert Wardell, Self Advocates in Leadership; Krista Milhofer, People First of Washington; Anthony Hall; and David Lord, Disability Rights Washington.

Persons Signed In To Testify But Not Testifying: None.