

CERTIFICATION OF ENROLLMENT  
**SECOND SUBSTITUTE HOUSE BILL 1651**

Chapter 271, Laws of 2020

66th Legislature  
2020 Regular Session

DEVELOPMENTAL DISABILITIES ADMINISTRATION--CLIENT RIGHTS

EFFECTIVE DATE: June 11, 2020

Passed by the House February 17, 2020  
Yeas 98 Nays 0

LAURIE JINKINS

**Speaker of the House of  
Representatives**

Passed by the Senate March 4, 2020  
Yeas 47 Nays 0

CYRUS HABIB

**President of the Senate**

Approved April 2, 2020 2:18 PM

JAY INSLEE

**Governor of the State of Washington**

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE HOUSE BILL 1651** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

**Chief Clerk**

FILED

April 3, 2020

**Secretary of State  
State of Washington**

---

SECOND SUBSTITUTE HOUSE BILL 1651

---

Passed Legislature - 2020 Regular Session

State of Washington

66th Legislature

2020 Regular Session

**By** House Human Services & Early Learning (originally sponsored by Representatives Kilduff, Dent, Lovick, Eslick, Senn, Leavitt, Macri, Callan, Cody, Tarleton, Ortiz-Self, Goodman, Jinkins, Frame, Bergquist, and Santos)

READ FIRST TIME 01/31/20.

1 AN ACT Relating to the rights of clients of the developmental  
2 disabilities administration of the department of social and health  
3 services; and adding a new chapter to Title 71A RCW.

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

5 NEW SECTION. **Sec. 1.** The rights set forth in this chapter are  
6 the minimal rights guaranteed to all clients of the administration,  
7 and are not intended to diminish rights set forth in other state or  
8 federal laws that may contain additional rights.

9 NEW SECTION. **Sec. 2.** The definitions in this section apply  
10 throughout this chapter unless the context clearly requires  
11 otherwise.

12 (1) "Administration" means the division of the department  
13 responsible for providing services to eligible persons, but does not  
14 include the division of the department responsible for the licensing  
15 and certification of services and facilities for eligible persons.

16 (2) "Assessment" has the same meaning as defined in RCW  
17 71A.10.020.

18 (3) "Client" means a person who has a developmental disability as  
19 defined in RCW 71A.10.020 and has been determined to be eligible to  
20 receive services under chapter 71A.16 RCW.

1 (4) "Department" means the department of social and health  
2 services.

3 (5) "Developmental disabilities ombuds" means the office created  
4 under chapter 43.382 RCW.

5 (6) "Eligible person" has the same meaning as defined in RCW  
6 71A.10.020.

7 (7) "Legal representative" means a parent of a client under age  
8 eighteen, a court-appointed guardian or limited guardian under Title  
9 11 RCW if the subject matter is within the scope of the guardianship  
10 order, or any other person authorized by law to act for the client.

11 (8) "Necessary supplemental accommodation representative" means  
12 an individual who receives copies of administration correspondence in  
13 order to help a client or eligible person understand the documents  
14 and exercise the client or eligible person's rights. The necessary  
15 supplemental accommodation representative is identified by the client  
16 or eligible person when the client or eligible person does not have a  
17 legal guardian and is requesting or receiving services from the  
18 administration.

19 (9) "Provider" means an individual, a facility, or an agency that  
20 is one or more of the following: Licensed, certified, contracted by  
21 the department, or state operated to provide services to  
22 administration clients.

23 (10) "Restraint" includes:

24 (a) Physical restraint, which is a manual method, obstacle, or  
25 physical or mechanical device, material, or equipment attached or  
26 adjacent to the client's body that restricts freedom of movement or  
27 access to the client's body, is used for discipline or convenience,  
28 and is not required to treat the client's medical symptoms; and

29 (b) Chemical restraint, which is a psychopharmacologic drug that  
30 is used for discipline or convenience and is not required to treat  
31 the client's medical symptoms.

32 (11) "Restriction" means a limitation on the client's use or  
33 enjoyment of property, social activities, or engagement in the  
34 community.

35 (12) "Service plan" means any plan required by the department to  
36 deliver the services authorized by the administration to the client.

37 NEW SECTION. **Sec. 3.** (1) The administration must notify the  
38 individual and the individual's legal representative or necessary  
39 supplemental accommodation representative of the rights set forth in

1 this chapter upon determining the individual is an eligible person.  
2 The notification the administration provides must be in written form.  
3 The administration must document the date that the notification  
4 required in this subsection was provided.

5 (2) The administration must notify a client and a client's legal  
6 representative or necessary supplemental accommodation representative  
7 of the rights set forth in this chapter upon conducting a client's  
8 assessment. The notification the administration provides must be in  
9 written form. The administration must document the date that the  
10 notification required in this subsection was provided.

11 (3) The client has the right to exercise autonomy and choice free  
12 from provider interference. This includes the client's rights to:

13 (a) Be free from sexual, physical, and mental abuse, corporal  
14 punishment, and involuntary seclusion;

15 (b) Be free from discrimination based on race, color, creed,  
16 national origin, religion, sex, age, disability, marital and family  
17 status, gender identity, or sexual orientation;

18 (c) Make choices regarding the type of food available within the  
19 client's resources and service plan;

20 (d) Have visitors at the client's home and associate with persons  
21 of the client's choosing and subject to limitations as negotiated  
22 with the client's housemates;

23 (e) Control the client's schedule and choose activities,  
24 schedules, and health care that meet the client's needs;

25 (f) Information about the treatment ordered by the client's  
26 health care provider and help plan how the treatment will be  
27 implemented;

28 (g) Be free from unnecessary medication, restraints, and  
29 restrictions;

30 (h) Vote, participate in the democratic process, and help people  
31 with getting elected to office;

32 (i) Manage the client's money or choose a person to assist;

33 (j) Be part of the community;

34 (k) Make choices about the client's life;

35 (l) Choose the clothes and hairstyle the client wears;

36 (m) Furnish and decorate the client's bedroom to the client's  
37 preferences or furnish and decorate the client's home to the client's  
38 preferences subject to agreement with the client's housemates;

39 (n) Seek paid employment;

40 (o) Receive the services that the client agrees to receive;

1 (p) Decide whether or not to participate in research after the  
2 research has been explained to the client, and after the client or  
3 the client's legal representative gives written consent for the  
4 client to participate in the research; and

5 (q) Be free from financial exploitation.

6 (4) The client has the right to participate in the  
7 administration's service planning. This includes the client's right  
8 to:

9 (a) Be present and provide input on the client's service plans  
10 written by the administration and providers;

11 (b) Have meaningful opportunities to lead planning processes;

12 (c) Have the client's visions for a meaningful life and the  
13 client's goals for education, employment, housing, relationships, and  
14 recreation included in the planning process;

15 (d) Choose an advocate to attend the planning processes with the  
16 client; and

17 (e) Have access to current and accurate information about  
18 recreation, education, and employment opportunities available in the  
19 client's community.

20 (5) The client has the right to access information about services  
21 and health care. This includes the client's right to:

22 (a) View a copy of all of the client's service plans;

23 (b) Possess full copies of the client's current service plans;

24 (c) Review copies of the policies and procedures for any service  
25 the client receives, at any time. This includes policies and  
26 procedures about how the client may file a complaint to providers and  
27 the department;

28 (d) Examine the results of the department's most recent survey or  
29 inspection conducted by state surveyors or inspectors, statements of  
30 deficiency, and plans of correction in effect with respect to the  
31 client's provider and the client's residence. The client's service  
32 provider must assist the client with locating and accessing this  
33 information upon the client's request; and

34 (e) Receive written notification of enforcement actions taken by  
35 the department against the client's provider. The administration's  
36 case manager or designee must provide notification to the client and  
37 the client's legal representative or necessary supplemental  
38 accommodation representative within twenty days, excluding weekends  
39 and holidays, of the date of enforcement. For purposes of this  
40 subsection, a "provider" means an entity that provides residential

1 services received by a client that is operated by or contracted  
2 through the administration. An enforcement action that requires this  
3 notification includes:

- 4 (i) Conditions placed on the provider certification or license;
- 5 (ii) Suspension or limited suspension of referrals or admissions;
- 6 (iii) Imposition of provisional certification or decertification;

7 or

8 (iv) Denial, suspension, or revocation of a license or  
9 certification.

10 (6) The client has the right to file complaints and grievances,  
11 and to request appeals. This includes the client's right to:

12 (a) Appeal any decision by the department that denies, reduces,  
13 or terminates the client's eligibility, services, or choice of  
14 provider as defined in federal medicaid law and state public  
15 assistance laws;

16 (b) Submit grievances to the client's provider about the client's  
17 services or other concerns. This includes, but is not limited to,  
18 concerns about the behavior of other people where the client lives.  
19 The provider must maintain a written policy on the grievance process  
20 that includes timelines and possible remedies. If a grievance is  
21 unresolved, the provider must provide the client with information on  
22 how to submit the grievance to the department;

23 (c) File complaints and grievances, and request appeals without  
24 penalty or retaliation by the department or providers; and

25 (d) Receive information about how to obtain accommodation for  
26 disability in the appeal process.

27 (7) The client has the right to privacy and confidentiality. This  
28 includes the client's right to:

29 (a) Personal privacy and confidentiality of the client's personal  
30 records;

31 (b) Communicate privately, including the right to send and  
32 receive mail and email, and the right to use a telephone in an area  
33 where calls can be made without being overheard; and

34 (c) Meet with and talk privately with the client's friends and  
35 family.

36 (8) The client has rights during discharge, transfer, and  
37 termination of services as set forth in this subsection.

38 (a) Clients that are residents of a long-term care facility that  
39 is licensed under chapter 18.20, 72.36, or 70.128 RCW have the rights  
40 set forth in RCW 70.129.110.

1 (b) Clients that receive certified community residential services  
2 have the right to:

3 (i) Remain with the client's provider. Services must not be  
4 terminated unless the provider determines and documents that:

5 (A) The provider cannot meet the needs of the client;

6 (B) The client's safety or the safety of other individuals in the  
7 facility or residence is endangered;

8 (C) The client's health or the health of other individuals in the  
9 facility or residence would otherwise be endangered; or

10 (D) The provider ceases to operate.

11 (ii) Receive written notice from the provider of any potential  
12 termination of services at least thirty days before such termination,  
13 except when there is a health and safety emergency that requires  
14 termination of service, in which case notice shall be provided at  
15 least seventy-two hours before the date of termination. The notice  
16 must be provided to the client and the client's legal representative  
17 or necessary supplemental accommodation representative. The notice  
18 must include:

19 (A) The reason for termination of services; and

20 (B) The effective date of termination of services.

21 (iii) Receive a transition plan at least two days before the  
22 effective date of the termination of services, or if the termination  
23 was based on a health and safety emergency receive a transition plan  
24 within two days of the administration's receipt of notice for  
25 emergency termination. The administration must provide the client and  
26 the client's legal representative or necessary supplemental  
27 accommodation representative with the plan. The plan must include:

28 (A) The location where the client will be transferred;

29 (B) The mode of transportation to the new location; and

30 (C) The name, address, and telephone number of the developmental  
31 disabilities ombuds.

32 (c) A provider that provides services to clients in a residence  
33 owned by the provider must exhaust the procedures for termination of  
34 services prior to the commencement of any unlawful detainer action  
35 under RCW 59.12.030.

36 (9) The client has the right to access advocates. The client has  
37 the right to receive information from agencies acting as client  
38 advocates, and be afforded the opportunity to contact these agencies.  
39 The provider must not interfere with the client's access to any of  
40 the following:

1 (a) Any representative of the state;  
2 (b) The resident's individual physician;  
3 (c) The developmental disabilities ombuds; or  
4 (d) Any representative of the organization designated to  
5 implement the protection and advocacy program pursuant to RCW  
6 71A.10.080.

7 (10) If a client is subject to a guardianship order pursuant to  
8 chapter 11.88 RCW, the rights of the client under this chapter are  
9 exercised by the client's guardian if the subject matter is within  
10 the scope of the guardianship order.

11 NEW SECTION. **Sec. 4.** The department shall adopt rules as  
12 necessary to inform clients and providers of the client rights set  
13 forth in this chapter. The department shall adopt rules as necessary  
14 to provide oversight and enforcement of provider practices relating  
15 to these rights for providers licensed or certified by the  
16 department.

17 NEW SECTION. **Sec. 5.** Nothing in this chapter limits an existing  
18 private right of action against the department, the administration,  
19 or the state of Washington. Nothing in this chapter creates a private  
20 right of action against the department, the administration, or the  
21 state of Washington.

22 NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act  
23 constitute a new chapter in Title 71A RCW.

Passed by the House February 17, 2020.  
Passed by the Senate March 4, 2020.  
Approved by the Governor April 2, 2020.  
Filed in Office of Secretary of State April 3, 2020.

--- END ---