

HOUSE BILL REPORT

E2SSB 6564

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

Title: An act relating to persons with developmental disabilities.

Brief Description: Providing protections for persons with developmental disabilities.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators O'Ban, Fain, Keiser, McAuliffe, Hobbs, Conway, Angel, Frockt and Warnick).

Brief History:

Committee Activity:

Early Learning & Human Services: 2/24/16, 2/26/16 [DPA];
Appropriations: 2/27/16, 2/29/16 [DPA(ELHS)].

**Brief Summary of Engrossed Second Substitute Bill
(As Amended by Committee)**

- Requires the Developmental Disabilities Administration to identify clients who have the highest risk of experiencing abuse or neglect and increase home visits for these individuals.
- Requires the Department of Social and Health Services (DSHS) to conduct a vulnerable adult fatality review when the DSHS has reason to believe the death may be related to abuse, abandonment, exploitation, or neglect, and the individual was receiving services or was the subject of a report with the DSHS.
- Establishes an Office of the Developmental Disabilities Ombuds to provide ombuds services for individuals with developmental disabilities.

HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

Majority Report: Do pass as amended. Signed by 10 members: Representatives Kagi, Chair; Senn, Vice Chair; Walsh, Ranking Minority Member; Dent, Assistant Ranking Minority Member; Hawkins, Kilduff, McCaslin, Ortiz-Self, Sawyer and Walkinshaw.

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.

Staff: Ashley Paintner (786-7120).

Background:

The Developmental Disabilities Administration (DDA) is a subdivision of the Department of Social and Health Services (DSHS) which provides assistance and support for persons with developmental disabilities in Washington. Programs offered by the DDA include residential provider services, residential services, and various nonresidential services including case management, child development services, employment services, and Medicaid personal care. Developmental Disabilities Administration clients receive a functional assessment that is updated annually to determine whether the client qualifies for funded DDA services and determine the level of service.

Protective Services for Vulnerable Adults.

Adult Protective Services (APS) is a division of the DSHS that investigates allegations of abuse, abandonment, exploitation, or neglect relating to vulnerable adults. According to statutory direction, APS may conduct a fatality review when a vulnerable adult dies and the DSHS has reason to believe that the death may be related to abuse, abandonment, exploitation, or neglect and the adult is receiving home and community-based services in the adult's home or is living at home and was the subject of a report of abuse, abandonment, exploitation, or neglect within the past 12 months.

Long-term Care Ombuds Services.

The Washington State Long-Term Care Ombudsman Program (Ombuds Program) is a private nonprofit organization that contracts with the state to advocate for residents of nursing homes, adult family homes, and assisted living facilities. Every state is required to have an Ombuds Program by the federal Older Americans Act (1965). The Ombuds Program identifies, investigates, and resolves complaints made by or on behalf of residents of long-term care facilities; monitors the implementation and development of laws with respect to long-term care facilities; provides information to long-term care residents, their representatives, and the public; and provides for volunteer training and the development of citizen organizations to participate in and carry out the duties of the Ombuds Program.

Summary of Amended Bill:

Increased Protections for Developmental Disabilities Administration Clients.

The DDA must increase home visits for clients identified as having the highest risk of abuse and neglect. Additionally, the DDA must develop a process to determine which of its clients who receive an annual developmental disabilities assessment are at highest risk of abuse and neglect. Factors which the DDA may consider in making this assessment are specified in the bill. The DDA must visit these clients at least once every four months, including unannounced visits as needed.

During annual assessments, the DDA must meet with the client in person. If the client is receiving personal support or supported living services, the case manager must ask to view the client's living quarters and note his or her observations in the service episode record.

Adult Fatality Review.

The DSHS must conduct a vulnerable adult fatality review when the DSHS has reason to believe that the death may be related to abuse, abandonment, exploitation, or neglect, and the individual was:

- receiving home-based or community-based services in the adult's home or a licensed or certified settings within 60 days preceding his or her death; or
- living in the adult's home or a licensed or certified setting and was the subject of a report of abuse, abandonment, exploitation, or neglect within the past 12 months.

Office of the Developmental Disabilities Ombuds.

An Office of the Developmental Disabilities Ombuds (Ombuds) is created. The Department of Commerce must contract with a private, independent nonprofit organization to provide developmental disabilities ombuds services by a competitive bidding process following stakeholder consultation. The Ombuds must have the powers and duties to:

- provide information on the rights and responsibilities of persons receiving DDA services or other state services;
- investigate administrative acts relating to persons with developmental disabilities;
- monitor the procedures implemented by the DSHS;
- periodically review the facilities and procedures of state institutions that serve persons with developmental disabilities;
- recommend changes in procedures for addressing the needs of persons with developmental disabilities and submit an annual report to the Legislature;
- protect the confidentiality of any complainant; and
- maintain independence and authority within the bounds of the duties prescribed.

The Ombuds must consult with stakeholders to develop a plan for future expansion into a model of individual ombuds services akin to the Long-Term Care Ombuds, and report its progress and recommendations by November 1, 2019. Conflict of interest provisions, confidentiality protections, liability protection, and other policies and procedures are established relating to the Ombuds. The Ombuds must negotiate a memoranda of agreement with the other state ombuds offices in order to clarify authority in those situations where their mandates overlap.

Amended Bill Compared to Engrossed Second Substitute Bill:

The amended bill removes the provision that grants the Ombuds with unrestricted online access to information and data systems controlled by the DSHS.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 24, 2016.

Effective Date of Amended 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) Significant concerns exist amongst the Legislature on the system that provides accountability for vulnerable adults receiving services from the DDA. The bill before you today was designed to enhance accountability and oversight, thus reducing the likelihood that high-risk vulnerable adults will experience abuse or neglect while in the care of the DDA. One of the ways the bill accomplishes this goal is by requiring quarterly visits for high-risk clients, with unannounced visits as needed.

The Arc of Washington State has been working with the Senate on implementing protections for vulnerable adults receiving services from the DDA. The final budget should include funding for fatality reviews, increased visits, and for the Ombuds. It is critical that individuals in the state have someone to contact with concerns if they believe an individual with a disability is being abused or neglected. This bill focuses on prevention of abuse and neglect of vulnerable adults, which is a much needed service in the State of Washington.

(Opposed) None.

(Other) This bill aims to increase services offered by the DDA; however, the funding needs to match the need as current caseloads for DDA caseworkers are far too high. It is crucial that the DDA be able to carry out the mission prescribed to it in this bill, and in order to do that the Legislature needs to appropriate adequate funding.

Persons Testifying: (In support) Senator O'Ban, prime sponsor; Julianne Moore, Washington Federation of State Employees; Diana Stadden, The Arc of Washington; Noah Seidel, Self Advocates in Leadership; Donna Patrick, Developmental Disabilities Council; Cheryl Felak; and Rebecca Scholl, Friends of Yakima Valley School.

(Other) Matt Zuvich, Washington Federation of State Employees.

Persons Signed In To Testify But Not Testifying: David Lord, Disability Rights Washington.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Early Learning & Human Services. Signed by 32 members: Representatives Dunshee, Chair; Ormsby, Vice Chair; Chandler, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys, Cody, Condotta, Dent, Fitzgibbon, Haler, Hansen, Harris, Hudgins, S. Hunt, Jinkins, Kagi, Lytton, MacEwen, Magendanz, Manweller, Pettigrew, Robinson, Sawyer, Schmick, Senn, Springer, Stokesbary, Sullivan, Tharinger, Van Werven and Walkinshaw.

Minority Report: Do not pass. Signed by 1 member: Representative Taylor.

Staff: Mary Mulholland (786-7391).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Early Learning & Human Services:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended 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) None.

(Opposed) None.

Persons Testifying: None.

Persons Signed In To Testify But Not Testifying: None.