SENATE BILL REPORT
SB 6564

As of February 9, 2016

Title: An act relating to persons with developmental disabilities.

Brief Description: Providing protections for persons with developmental disabilities.

Sponsors: Senators O'Ban, Fain, Keiser, McAuliffe, Hobbs, Conway, Angel, Frockt and Warnick.

Brief History:
Committee Activity: Human Services, Mental Health & Housing: 1/26/16.

SENATE COMMITTEE ON HUMAN SERVICES, MENTAL HEALTH & HOUSING

Staff: Kevin Black (786-7747)

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 non-residential services including case management, child development services, employment services, and Medicaid personal care.

DDA clients receive a functional assessment which is updated annually to determine whether the client qualifies for funded DDA services and determine the level of service.

Separate subdivisions of DSHS investigate abuse, neglect, exploitation, and abandonment for children and vulnerable adults. Complaints and referrals are screened for investigation and may result in reports to law enforcement, investigation, an offer of protective services, findings, and referrals.

The Washington State Long-Term Care Ombuds Program is a private nonprofit organization which contracts with the state to advocate for residents of nursing homes, adult family homes, and assisted living facilities. Every state is required to have a Long-Term Care Ombuds Program by the federal Older Americans Act (1965). The Long-Term Care Ombudsman 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

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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 Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Substitute As Heard In Committee): During an annual assessment, a DDA case manager must meet with the client and the client's representative in person whenever it is practicable. If the client is receiving personal care services or supported living services, the case manager must ask permission to view the client's living quarters whenever possible and report the condition as part of the annual assessment. DDA must select at least 10 percent of all homes that require an annual assessment in which the client is receiving personal care services or supported living services to receive an unannounced visit from the case manager during the calendar year. If the unannounced visit cannot be completed, DDA must schedule a follow-up visit within 30 days.

DDA must notify the state Long-Term Care Ombuds Program of any near fatalities involving persons who have been DDA clients within three years or who have been the subject of an investigation for abuse or neglect. A near fatality means a severe injury or condition resulting in a critical care admission for at least 24 hours. Near fatality reviews must be conducted by qualified staff under contract with the Ombuds. If a near fatality resulting from alleged abuse or neglect occurs involving a person with developmental disabilities who was the subject of an abuse or neglect allegation that was screened in for investigation within one year prior to the event, DDA must immediately review the case manager's and case manager's supervisor's case files and actions to determine if there were any errors in the application of DDA policy, rule, or statute. If any errors are discovered, DDA must conduct a formal employee investigation.

The jurisdiction of the Long-Term Care Ombuds is expanded to include facilities which serve persons with developmental disabilities and DDA residential services clients who receive personal care services, supported living services, or community residential services.

Appropriation: None.

Fiscal Note: Requested on January 27, 2016.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Proposed Substitute As Heard In Committee: PRO: This bill builds on an effort started last year to bring help to adults who need more robust care and protection than they are currently being provided. There have been shocking cases of abuse which could have been discovered earlier or prevented if these protections had been in place. A system must be created to identify persons who are most at risk, and to review those cases. There should be prioritization by risk factors. We agree Ombuds oversight is needed, although we prefer having a separate Ombuds office. Thank you for addressing some of the concerns we brought forward last year. Current case management

ratios are 100 to 1 in this area. Isolation is a huge risk factor for this population. The Ombuds must have appropriate training. Clients of DDA should receive the support and protection they need to lead healthy and fulfilling lives. DDA case managers are only resourced to provide one visit per year. Smaller caseloads would help to detect problems. We should be considerate of parents and their desire for privacy as well. Language should be included indicating when the fatality review will occur. Investigations of near fatalities will depend upon reporting.

OTHER: I support the direction this is going, but recommend some amendments. The use of measures like unannounced visits should be tailored to apply to clients who have risk factors raising concern. There are other ways besides unannounced visits to investigate legitimate concerns. Some clients value their privacy and would not appreciate unannounced visits. The Ombuds should have proper training and clarity about its role. Supported living providers are already regulated and inspected by the state. Supported living should not be defined as a "facility." Limited resources should be focused on the highest risk cases. Please don't make this an unfunded mandate. Social workers support unannounced visits if they are funded. There should be more scrutiny over the role of the Long-Term Care Ombuds. Significant funds and training would be required to build this capacity.

Persons Testifying on Proposed Substitute As Heard In Committee: PRO: Senator O'Ban, prime sponsor; Diana Stadden, Arc of Washington; Donna Patrick, Developmental Disabilities Council; Evelyn Perez, Bill Moss, DSHS; Noah Seidel, Self Advocates in Leadership.

OTHER: David Lord, Disability Rights WA; Melissa Johnson, Community Residential Services Assn.; Matt Zuvich, WA Federation of State Employees; Loren Freeman, Freeman & Associates; Patricia Hunter, WA State Long-Term Care Ombuds.

Persons Signed In To Testify But Not Testifying on Proposed Substitute As Heard In Committee: No one.