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**SUBSTITUTE HOUSE BILL 1651**

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**State of Washington 66th Legislature 2019 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)

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

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

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

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

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

(2) "Client" means a person who has a developmental disability as defined in RCW 71A.10.020 and has been determined to be eligible to receive services from the department under chapter 71A.16 RCW.

(3) "Department" means the department of social and health services.

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

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

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

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

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

(9) "Restraint" includes:

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

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

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

(11) "Service plan" means any plan required by the department to deliver the services authorized by the department to the client.

NEW SECTION. **Sec.**  (1) The department must notify the individual and the individual's legal representative or necessary supplemental accommodation representative of the rights set forth in this chapter upon determining the individual is an eligible person. The notification the department provides must be in written form. The department must document the date that the notification required in this subsection was provided.

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

(3) The client has the right to personal power and choice. This includes the client's right to:

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

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

(c) Make choices regarding the type of food available to the client, including food of the client's cultural and ethnic background;

(d) Have visitors at the client's home and associate with persons of the client's choosing;

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

(f) Understand the treatment ordered by the client's health care provider and help plan how the treatment will be implemented;

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

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

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

(j) Be part of the community;

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

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

(m) Furnish and decorate the client's bedroom and home to the client's preferences;

(n) Work and receive payment for work;

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

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

(4) The client has the right to participate in the department's service planning. This includes the client's right to:

(a) Be present, understand, and provide input on the client's service plans written by the department and providers;

(b) Have meaningful opportunities to lead planning processes;

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

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

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

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

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

(b) Possess a full copy of the client's current service plans;

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

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

(e) Receive written notification of enforcement actions taken against the client's provider. The department's case manager or designee must provide notification to the client and the client's legal representative or necessary supplemental accommodation representative within fourteen days of the date of enforcement. For purposes of this subsection, a "provider" means an entity that provides residential services received by a client that is operated by or contracted through the division of the department that is dedicated to provide services to individuals with developmental disabilities. An enforcement action that requires this notification includes:

(i) Reasonable conditions placed on the provider certification or license;

(ii) Suspension, limited suspension, or stop placement of referrals or admissions;

(iii) Imposition of provisional certification or decertification; or

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

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

(a) Appeal any decision by the department that denies, reduces, or terminates the client's eligibility, services, or choice of provider;

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

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

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

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

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

(b) Privacy in the client's communications. This includes the right to send and receive mail and email, and the right to use a telephone in an area where calls can be made without being overheard; and

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

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

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

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

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

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

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

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

(D) The provider ceases to operate.

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

(A) The reason for termination of services; and

(B) The effective date of termination of services.

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

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

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

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

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

(9) The client has the right to access advocates. The client has the right to receive information from agencies acting as client advocates, and be afforded the opportunity to contact these agencies. The provider must not interfere with access to any client by the following:

(a) Any representative of the state;

(b) The resident's individual physician;

(c) The developmental disabilities ombuds; or

(d) Any representative of the organization designated to implement the protection and advocacy program pursuant to RCW 71A.10.080.

NEW SECTION. **Sec.**  The department shall promulgate rules as necessary to inform clients and providers of the client rights set forth in this chapter and to provide oversight and enforcement of these client rights.

NEW SECTION. **Sec.**  Sections 1 through 4 of this act constitute a new chapter in Title 71A RCW.

**--- END ---**