

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].

Brief Summary of 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, participate in service planning, access 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 substitute bill be substituted therefor and the 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: Alaura Valley (786-7291) and 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 hinges 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 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:

- 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 food, including from the client's cultural or ethnic background;
- have visitors at the client's home and associate with persons of the client's choosing;
- control the client's schedules and choose activities, schedules, and health care that meet the client's needs;
- understand the treatment ordered by the client's health care provider and help plan how the treatment will be implemented;
- 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 the client's bedroom and home to the client's preferences;
- work and receive payment for work;
- receive only services that the client agrees to receive; 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 14 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 have the following rights during discharge, transfer, and termination of services:

- Clients who receive certified community residential services may 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.
- Generally, clients who receive certified community residential services must receive 30 days written notice, including reason for termination of services and the effective date of termination, for any potential termination of services.
- Generally, clients who receive certified community residential services must receive a transition plan at least two days before the effective date of the termination of services.

Substitute Bill Compared to Original Bill:

The substitute bill:

- replaces the term "representative" with "legal representative," defined as parents of children under age 18, legal guardians, or any other person authorized by law;
- requires various notifications be provided to both the client and their legal representative;
- expands the notification period from seven to 14 days when enforcement action is being taken against a client's provider;
- makes the permissive 72-hour notices requirement for health and safety emergency-related termination a required notification;
- grants the right to make decisions about food choice; and
- requires that the DDA document when information is provided to the client rather than receive written acknowledgement.

Appropriation: None.

Fiscal Note: Requested on February 18, 2019.

Effective Date of 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) There is currently no consolidated list of the rights of clients of the DDA. Clients of the DDA and their families are often self-advocates, and having an established list of rights will allow them to more effectively advocate for their needs. It can be very difficult to navigate the bureaucratic processes when a client is not certain of their individual rights. Currently, clients receiving different services have different rights. This bill equalizes the rights across services and makes the transition between homes and services easier and better serves the DDA's clients.

(Opposed) None.

Persons Testifying: Representative Kilduff, prime sponsor; Noah Seidel and Beth Leonard, Office of Developmental Disabilities Ombuds; David Lord, Disability Rights Washington; Ivanova Smith, People First of Washington; and Emily Rogers, Washington State Developmental Disabilities Council.

Persons Signed In To Testify But Not Testifying: None.