

# SENATE BILL REPORT

## 2SHB 1651

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As of May 4, 2020

**Title:** An act relating to the rights of clients of the developmental disabilities administration of the department of social and health services.

**Brief Description:** Identifying rights of persons receiving state developmental disability services.

**Sponsors:** House Committee on 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).

**Brief History:** Passed House: 2/17/20, 98-0.

**Committee Activity:** Health & Long Term Care: 2/28/20.

### Brief Summary of Bill

- Establishes rights for clients of the Developmental Disabilities Administration.
- Requires the Developmental Disabilities Administration to notify the client of their rights.

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### SENATE COMMITTEE ON HEALTH & LONG TERM CARE

**Staff:** LeighBeth Merrick (786-7445)

**Background:** The Department of Social and Health Services (DSHS) Developmental Disabilities Administration (DDA) administers a broad range of services and programs for individuals with developmental disabilities in Washington State. These services and programs may include case management, personal care, respite, employment, community engagement, crisis stabilization services, and residential supports. DDA clients can choose to receive services in their home, a residential setting, or an institutional setting. Eligibility for DDA services depends on whether the client has a qualified developmental disability, has a functional need, and meets certain income and asset standards. Currently, there are over 45,000 DDA clients.

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*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.*

In 2016, the Legislature created the Office of the Developmental Disabilities Ombuds (DD Ombuds) as a private independent office with the duty to monitor the services provided to people with developmental disabilities, investigate complaints, and issue reports and recommendations to the Legislature.

**Summary of Bill:** Personal and service related rights for DDA clients are established. DDA must provide clients and legal representatives with written notice of the rights and document when this information is provided. This notice must be provided when determining an individual is eligible of DDA services and when an individual is assessed by DDA.

Personal Rights. DDA clients have the right to personal power and choice which includes a right to:

- exercise autonomy free from provider interference;
- 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 the type of food available within the client's resources and service plan;
- have visitors subject to the limitations as negotiated with the client's housemates;
- control the client's schedules and choose activities, schedules, and health care that meet the client's needs;
- information about the treatment ordered by the client's health care provider;
- be free from unnecessary medication, restraints, and restrictions;
- vote and participate in the democratic process;
- manage their money or choose a person to assist;
- be part of the community;
- make choices about their life;
- choose the clothes and hairstyle they wear;
- furnish and decorate their bedroom according to their preferences or furnish and decorate their home to their preferences subject to agreement with the client's housemates;
- work and receive payment for work;
- receive only services that the client agrees to receive;
- be free from financial exploitation; 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.

DDA clients have the right to privacy and confidentiality which includes a right to:

- privacy and confidentiality of their personal records;
- privacy in the client's communications, including mail, electronic mail, telephone access; and
- meet and talk privately with their friends and family.

DDA clients have the right to access advocates, receive information from agencies acting as client advocates, and contact these agencies.

Service Related Rights. DDA clients have the right to participate in service planning. This includes the right to:

- be present, understand, and provide input on the their service plans written DDA and providers;
- have meaningful opportunities to lead planning processes;
- have their 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 them.

DDA clients 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 their service provider and residence; and
- receive written notification of enforcement actions taken against the their provider within 20 days.

DDA clients 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 their eligibility, services, or choice of provider;
- submit grievances to their provider about services or other concerns, including the behavior of other people where they live;
- 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.

Before terminating a DDA client's community residential services, DDA must:

- determine 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;
- provide the client with 30 days written notice, including reason for termination of services and the effective date of termination, for any potential termination of services, individuals must receive notice when there is a health and safety emergency at least 72 hours before the date of termination; and
- provide the client with a transition plan at least two days before the effective date of the termination of services.

DSHS must adopt oversight and enforcement rules for licensed or certified providers' practices related to DDA client rights.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

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

**Staff Summary of Public Testimony:** PRO: This bill will help people know their rights and access advocates when they need extra support. There is bi-partisan support and zero fiscal impact. A lot of work was done during the interim working with DDA and stakeholders to improve the bill from last year.

**Persons Testifying:** PRO: Noah Seidel, Office of Developmental Disability Ombuds; Emily Rogers, Developmental Disability Council.

**Persons Signed In To Testify But Not Testifying:** No one.