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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)

READ FIRST TIME 02/19/19.

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

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

5 NEW SECTION. **Sec. 1.** The rights set forth in this chapter are  
6 the minimal rights guaranteed to all clients of the department, and  
7 are not intended to diminish rights set forth in other state or  
8 federal laws that may contain additional rights.

9 NEW SECTION. **Sec. 2.** The definitions in this section apply  
10 throughout this chapter unless the context clearly requires  
11 otherwise.

12 (1) "Assessment" has the same meaning as defined in RCW  
13 71A.10.020.

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

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

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

1 (5) "Eligible person" has the same meaning as defined in RCW  
2 71A.10.020.

3 (6) "Legal representative" means a parent of a client under age  
4 eighteen, a court-appointed guardian or limited guardian under Title  
5 11 RCW if the subject matter is within the scope of the guardianship  
6 order, or any other person authorized by law to act for the client.

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

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

19 (9) "Restraint" includes:

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

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

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

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

33 NEW SECTION. **Sec. 3.** (1) The department must notify the  
34 individual and the individual's legal representative or necessary  
35 supplemental accommodation representative of the rights set forth in  
36 this chapter upon determining the individual is an eligible person.  
37 The notification the department provides must be in written form. The  
38 department must document the date that the notification required in  
39 this subsection was provided.

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

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

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

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

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

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

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

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

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

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

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

28 (j) Be part of the community;

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

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

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

33 (n) Work and receive payment for work;

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

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

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

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

3 (b) Have meaningful opportunities to lead planning processes;

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

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

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

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

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

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

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

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

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

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

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

1 (iii) Imposition of provisional certification or decertification;  
2 or  
3 (iv) Denial, suspension, or revocation of a license.

4 (6) The client has the right to file complaints and grievances,  
5 and to request appeals. This includes the client's right to:  
6 (a) Appeal any decision by the department that denies, reduces,  
7 or terminates the client's eligibility, services, or choice of  
8 provider;  
9 (b) Submit grievances to the client's provider about the client's  
10 services or other concerns. This includes, but is not limited to,  
11 concerns about the behavior of other people where the client lives.  
12 The provider must maintain a written policy on the grievance process  
13 that includes timelines and possible remedies. If a grievance is  
14 unresolved, the provider must provide the client with information on  
15 how to submit the grievance to the department;  
16 (c) File complaints and grievances, and request appeals without  
17 penalty or retaliation by the department or providers; and  
18 (d) Receive information about how to obtain accommodation for  
19 disability in the appeal process.

20 (7) The client has the right to privacy and confidentiality. This  
21 includes the client's right to:  
22 (a) Personal privacy and confidentiality of the client's personal  
23 records;  
24 (b) Privacy in the client's communications. This includes the  
25 right to send and receive mail and email, and the right to use a  
26 telephone in an area where calls can be made without being overheard;  
27 and  
28 (c) Meet with and talk privately with the client's friends and  
29 family.

30 (8) The client has rights during discharge, transfer, and  
31 termination of services as set forth in this subsection.  
32 (a) Clients that are residents of a long-term care facility that  
33 is licensed under chapter 18.20, 72.36, or 70.128 RCW have the rights  
34 set forth in RCW 70.129.110.  
35 (b) Clients that receive certified community residential services  
36 have the right to:  
37 (i) Remain with the client's provider. Services must not be  
38 terminated unless the provider determines and documents that:  
39 (A) The provider cannot meet the needs of the client;

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

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

5 (D) The provider ceases to operate.

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

13 (A) The reason for termination of services; and

14 (B) The effective date of termination of services.

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

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

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

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

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

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

35 (a) Any representative of the state;

36 (b) The resident's individual physician;

37 (c) The developmental disabilities ombuds; or

38 (d) Any representative of the organization designated to  
39 implement the protection and advocacy program pursuant to RCW  
40 71A.10.080.

1        NEW SECTION.    **Sec. 4.**    The department shall promulgate rules as  
2 necessary to inform clients and providers of the client rights set  
3 forth in this chapter and to provide oversight and enforcement of  
4 these client rights.

5        NEW SECTION.    **Sec. 5.**    Sections 1 through 4 of this act  
6 constitute a new chapter in Title 71A RCW.

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