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**SENATE BILL 5843**

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**State of Washington**

**66th Legislature**

**2019 Regular Session**

**By** Senators Wilson, C., O'Ban, Bailey, Nguyen, Darneille, Zeiger, Kuderer, and Saldaña

Read first time 02/06/19. Referred to Committee on Health & Long Term Care.

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

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

15 (8) "Representative" means a person appointed under RCW 7.70.065.

16 (9) "Restraint" includes:

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

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

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

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

30 NEW SECTION. **Sec. 3.** (1) The department must notify an  
31 individual, their representative, and the necessary supplemental  
32 accommodation representative of the rights set forth in this chapter  
33 upon determining the individual is an eligible person. The  
34 notification the department provides must be in written form. Receipt  
35 of the information must be acknowledged in writing by the eligible  
36 person or their representative.

37 (2) The department must notify a client, their representative,  
38 and the necessary supplemental accommodation representative, of the  
39 rights set forth in this chapter upon conducting a client's

1 assessment. The notification the department provides must be in  
2 written form. Receipt of the information must be acknowledged in  
3 writing by the client or their representative.

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

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

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

11 (c) Have food of the client's cultural and ethnic background;

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

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

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

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

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

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

23 (j) Be part of the community;

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

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

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

28 (n) Work and receive payment for work;

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

30 (p) Decide whether or not to participate in research after the  
31 research has been explained to the client, and after the client or  
32 representative gives written consent for the client to participate in  
33 the research.

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

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

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

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

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

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

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

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

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

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

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

23 (e) Receive written notification of enforcement actions taken  
24 against the client's provider. The department's case manager or  
25 designee must provide notification to the client, representative, or  
26 necessary supplemental accommodation representative within seven days  
27 of the date of enforcement. An enforcement action that requires this  
28 notification includes:

29 (i) Conditions placed on the provider certification or license;

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

32 (iii) Imposition of provisional certification or decertification;

33 or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (D) The provider ceases to operate.

37 (ii) Receive thirty days' written notice of any potential  
38 termination of services, except when there is a health and safety  
39 emergency that requires termination of service, in which case notice  
40 may be provided seventy-two hours before the date of termination. The

1 notice must be provided to the client, representative, or necessary  
2 supplemental accommodation representative. The notice must include:

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

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

5 (iii) Receive a transition plan at least seven days before the  
6 effective date of the termination of services. The department must  
7 provide the client, or representative, or necessary supplemental  
8 accommodation representative with the plan. The plan must include:

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

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

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

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

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

22 (a) Any representative of the state;

23 (b) The resident's individual physician;

24 (c) The developmental disabilities ombuds; or

25 (d) Any representative of Disability Rights Washington.

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

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

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