
SENATE BILL 5213

State of Washington

67th Legislature

2021 Regular Session

By Senators Nguyen, Randall, Darneille, Honeyford, Keiser, Warnick, Wellman, Kuderer, Nobles, Robinson, and Wilson, C.

Read first time 01/14/21. Referred to Committee on Health & Long Term Care.

1 AN ACT Relating to clarifying the authority and role of the
2 office of developmental disabilities ombuds; and amending RCW
3 43.382.005, 43.382.010, 43.382.040, 43.382.070, and 43.382.090.

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

5 **Sec. 1.** RCW 43.382.005 and 2016 c 172 s 5 are each amended to
6 read as follows:

7 (1) There is created an office of the developmental disabilities
8 ombuds. The department of commerce shall contract with a private,
9 independent nonprofit organization to provide developmental
10 disability ombuds services. The department of commerce shall
11 designate, by a competitive bidding process, the nonprofit
12 organization that will contract to operate the ombuds. The selection
13 process must include consultation of stakeholders in the development
14 of the request for proposals and evaluation of bids. The selected
15 organization must have experience and the capacity to effectively
16 communicate regarding developmental disabilities issues with
17 policymakers, stakeholders, and the general public and must be
18 prepared and able to provide all program and staff support necessary,
19 directly or through subcontracts, to carry out all duties of the
20 office.

1 (2) The contracting organization and its subcontractors, if any,
2 are not state agencies or departments, but instead are private,
3 independent entities operating under contract with the state.

4 (3) The governor or state may not revoke the designation of the
5 organization contracted to provide the services of the ombuds except
6 upon a showing of neglect of duty, misconduct, or inability to
7 perform duties.

8 (4) The department of commerce shall ensure that the ombuds staff
9 has access to sufficient training or experience with issues relating
10 to persons with developmental disabilities and the program and staff
11 support necessary to enable the ombuds to effectively protect the
12 interests of persons with developmental disabilities. The office of
13 the developmental disabilities ombuds shall have the powers and
14 duties to do the following:

15 (a) Provide information as appropriate on the rights and
16 responsibilities of persons receiving developmental ~~((disability~~
17 ~~[disabilities]))~~ disabilities administration services or other state
18 services, and on the procedures for providing these services;

19 (b) Investigate, upon its own initiative or upon receipt of a
20 complaint, an ~~((administrative))~~ act related to a person with
21 developmental disabilities alleged to be contrary to law, rule, or
22 policy, imposed without an adequate statement of reason, or based on
23 irrelevant, immaterial, or erroneous grounds; however, the ombuds may
24 decline to investigate any complaint;

25 (c) Monitor the procedures as established, implemented, and
26 practiced by the department of social and health services, the
27 department of children, youth, and families, and the health care
28 authority to carry out its responsibilities in the delivery of
29 services to a person with developmental disabilities, with a view
30 toward appropriate preservation of families and ensuring health and
31 safety;

32 (d) Review periodically the facilities and procedures of state
33 institutions and state-licensed facilities which serve persons with
34 developmental disabilities ~~((and state-licensed facilities or~~
35 ~~residences))~~;

36 (e) Review periodically the procedures of services that people
37 with developmental disabilities receive from state-certified
38 providers or the state of Washington including through the department
39 of social and health services, the department of children, youth, and
40 families, and the health care authority;

1 (f) Recommend changes in the procedures for addressing the needs
2 of persons with developmental disabilities;

3 ~~((f))~~ (g) Submit annually, by November 1st, to the governor and
4 appropriate committees of the legislature a report analyzing the work
5 of the office, including recommendations;

6 ~~((g))~~ (h) Establish procedures to protect the confidentiality
7 of records and sensitive information to ensure that the identity of
8 any complainant or person with developmental disabilities will not be
9 disclosed without the written consent of the complainant or person,
10 or upon court order;

11 ~~((h))~~ (i) Maintain independence and authority within the bounds
12 of the duties prescribed by this chapter, insofar as this
13 independence and authority is exercised in good faith and within the
14 scope of contract; and

15 ~~((i))~~ (j) Carry out such other activities as determined by the
16 department of commerce within the scope of this chapter.

17 (5) The developmental disabilities ombuds must consult with
18 stakeholders to develop a plan for future expansion of the ombuds
19 into a model of individual ombuds services akin to the operations of
20 the long-term care ombuds. The developmental disabilities ombuds
21 shall report its progress and recommendations related to this
22 subsection to the governor and appropriate committees of the
23 legislature by November 1, 2019.

24 **Sec. 2.** RCW 43.382.010 and 2016 c 172 s 6 are each amended to
25 read as follows:

26 ~~((The definitions in this section apply throughout this chapter
27 unless the context clearly requires otherwise.~~

28 ~~(1) "Administration" means the developmental disabilities
29 administration of the department of social and health services.~~

30 ~~(2) "Department" means the department of social and health
31 services.~~

32 ~~(3) "Ombuds")~~ For the purpose of this chapter, "ombuds" means
33 the office of the developmental disabilities ombuds.

34 **Sec. 3.** RCW 43.382.040 and 2016 c 172 s 9 are each amended to
35 read as follows:

36 The ombuds shall treat all records containing identifying
37 information and matters under investigation, including the identities
38 of service recipients, complainants, and individuals from whom

1 information is acquired, as confidential, except as far as
2 disclosures may be necessary to enable the ombuds to perform the
3 duties of the office and to support any recommendations resulting
4 from an investigation. Upon receipt of information that by law is
5 confidential or privileged, the ombuds shall maintain the
6 confidentiality of such information and shall not further disclose or
7 disseminate the information except as provided by applicable state or
8 federal law. Investigative records of the office of the ombuds are
9 confidential and are exempt from public disclosure under chapter
10 42.56 RCW.

11 **Sec. 4.** RCW 43.382.070 and 2016 c 172 s 12 are each amended to
12 read as follows:

13 (1) An employee of the office of the developmental disabilities
14 ombuds is not liable for good faith performance of responsibilities
15 under this chapter.

16 (2) No discriminatory, disciplinary, or retaliatory action may be
17 taken against ~~((a))~~ the following:

18 (a) An employee of the department ~~((, an employee of))~~ of social
19 and health services, the department of health, the department of
20 children, youth, and families, the health care authority, or the
21 department of commerce ~~((, a))~~;

22 (b) An employee of ~~((a contracting))~~ an agency ~~((of))~~ with the
23 department ~~((, a))~~ of social and health services, the department of
24 health, the department of children, youth, and families, the health
25 care authority, or the department of commerce;

26 (c) A provider of developmental disabilities services ~~((,))~~; or
27 ((a))

28 (d) A service recipient of the department ~~((services))~~ of social
29 and health services, the department of health, the department of
30 children, youth, and families, the health care authority, or the
31 department of commerce for any communication made, or information
32 given or disclosed, to aid the office of the developmental
33 disabilities ombuds in carrying out its responsibilities, unless the
34 communication or information is made, given, or disclosed maliciously
35 or without good faith. This subsection is not intended to infringe on
36 the rights of the employer to supervise, discipline, or terminate an
37 employee for other reasons.

38 (3) All communications by an ombuds, if reasonably related to the
39 requirements of that individual's responsibilities under this chapter

1 and done in good faith, are privileged and that privilege serves as a
2 defense in any action in libel or slander.

3 **Sec. 5.** RCW 43.382.090 and 2016 c 172 s 14 are each amended to
4 read as follows:

5 The department ~~((and))~~ of social and health services, the
6 department of health, the department of children, youth, and
7 families, and the health care authority shall:

8 (1) Allow the ombuds or the ombuds' designee to communicate
9 privately with any person receiving services from the department of
10 social and health services, the department of health, the department
11 of children, youth, and families, the health care authority, or the
12 department of commerce, or any person who is part of a fatality or
13 near fatality investigation involving a person with developmental
14 disabilities, for the purposes of carrying out its duties under this
15 chapter;

16 (2) Permit the ombuds or the ombuds' designee physical access to
17 state institutions and state-licensed facilities serving persons with
18 developmental disabilities ~~((and information in the possession of the~~
19 ~~department concerning state-licensed facilities or residences))~~ for
20 the purpose of carrying out its duties under this chapter;

21 (3) Permit the ombuds or the ombuds' designee access to
22 information in the possession of the department of social and health
23 services, the department of health, the department of children,
24 youth, and families, and the health care authority concerning people
25 with developmental disabilities for the purpose of carrying out its
26 duties under this chapter;

27 (4) Permit the ombuds or the ombuds' designee access to
28 information concerning people with developmental disabilities who
29 receive services from state-certified providers or state-contracted
30 providers for the purpose of carrying out its duties under this
31 chapter; and

32 (5) Upon the ombuds' request, grant the ombuds or the ombuds'
33 designee the right to access, inspect, and copy all relevant
34 information, records, or documents in the possession or control of
35 the department ~~((or))~~ of social and health services the department of
36 health, the department of children, youth, and families, or the

1 health care authority that the ombuds considers necessary in an
2 investigation.

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