
SENATE BILL 6590

State of Washington

66th Legislature

2020 Regular Session

By Senators Wilson, C., Randall, Kuderer, and McCoy

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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