
SENATE BILL 6564

State of Washington

64th Legislature

2016 Regular Session

By Senator O'Ban

Read first time 01/26/16. Referred to Committee on Health Care.

1 AN ACT Relating to persons with developmental disabilities;
2 amending RCW 43.190.010, 43.190.020, 43.190.030, and 43.190.040; and
3 adding a new section to chapter 71A.12 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 71A.12
6 RCW to read as follows:

7 (1) The legislature finds and declares that the prevalence of the
8 abuse and neglect of individuals with developmental disabilities has
9 become an issue that negatively affects the health and well-being of
10 such individuals. In order to address this issue, the state seeks to
11 improve and standardize assessment standards to be used by the
12 developmental disabilities administration and to create a near
13 fatality review system to be conducted by the office of the state
14 long-term care ombuds program.

15 (2) At every developmental disabilities administration annual
16 assessment, the case manager is required to meet with both the client
17 and the client's respondent in an in-person setting whenever it is
18 practicable to do so.

19 (3) At every developmental disabilities administration annual
20 assessment, the case manager is required to inspect the client's
21 living quarters and include the condition in his or her report of the

1 assessment whenever it is possible to do so. If the case manager is
2 unable to inspect the client's living quarters for any reason, the
3 case manager must note this in his or her report along with the
4 reason given for why the inspection is not practicable at the current
5 time.

6 (4) The department is required to randomly select at least ten
7 percent of all homes that require an annual developmental
8 disabilities administration assessment to receive an unannounced
9 visit from a developmental disabilities administration case manager
10 in each calendar year. The department shall set rules for such
11 unannounced visits consistent with the purpose of protecting the
12 health and safety of developmental disabilities administration
13 clients. If any home is not able to be randomly visited at the
14 determined time for any given reason, the department shall schedule a
15 follow-up visit to occur within the next thirty calendar days.

16 (5)(a) In the event of a near fatality of a developmentally
17 disabled person who is in the care of or receiving services from the
18 department or a supervising agency, who has been in the care of or
19 received services from the department or a supervising agency within
20 three years preceding the near fatality, or who was the subject of an
21 investigation by the department for possible abuse or neglect, the
22 department shall promptly notify the office of the state long-term
23 care ombuds which shall conduct a review of the near fatality.

24 (b) For the purposes of this subsection, "near fatality" means a
25 severe injury or condition caused by abuse or neglect which results
26 in a person receiving critical care for at least twenty-four hours
27 following the person's admission to a critical care unit.

28 (6) When a case manager or other employee of the department
29 responds to an allegation of the abuse or neglect of a
30 developmentally disabled person that is screened in and open for
31 investigation and there is a subsequent allegation of abuse or
32 neglect resulting in a near fatality within one year of the initial
33 allegation that is screened in and open for investigation, the
34 department must immediately conduct a review of the case manager's
35 and the case manager's supervisor's case files and actions taken
36 during the initial report of the alleged abuse or neglect. The
37 purpose of the review is to determine if there were any errors by the
38 employees under department policy, rule, or statute. If any
39 violations of policy, rule, or statute are found, the department must
40 conduct a formal employee investigation.

1 **Sec. 2.** RCW 43.190.010 and 2013 c 23 s 88 are each amended to
2 read as follows:

3 The legislature finds that in order to comply with the federal
4 older Americans act, provide protection to persons with developmental
5 disabilities, and to effectively assist residents, patients, and
6 clients of long-term care facilities in the assertion of their civil
7 and human rights, a long-term care ombuds program should be
8 instituted.

9 **Sec. 3.** RCW 43.190.020 and 2010 c 94 s 13 are each amended to
10 read as follows:

11 As used in this chapter, "long-term care facility" means any of
12 the following:

13 (1) A facility which:

14 (a) Maintains and operates twenty-four hour skilled nursing
15 services for the care and treatment of chronically ill or
16 convalescent patients, including mental, emotional, or behavioral
17 problems, intellectual disabilities, developmental disabilities, or
18 alcoholism;

19 (b) Provides supportive, restorative, and preventive health
20 services in conjunction with a socially oriented program to its
21 residents, and which maintains and operates twenty-four hour services
22 including board, room, personal care, and intermittent nursing care.
23 "Long-term health care facility" includes nursing homes and nursing
24 facilities, but does not include acute care hospital or other
25 licensed facilities except for that distinct part of the hospital or
26 facility which provides nursing facility services.

27 (2) Any family home, group care facility, or similar facility
28 determined by the secretary, for twenty-four hour nonmedical care of
29 persons in need of personal services, supervision, or assistance
30 essential for sustaining the activities of daily living or for the
31 protection of the individual.

32 (3) Any swing bed in an acute care facility.

33 (4) A client of the developmental disabilities administration's
34 residential services program where one or more of the following
35 services are being provided by the department:

36 (a) Personal care services;

37 (b) Supported living services; or

38 (c) Community residential services.

1 **Sec. 4.** RCW 43.190.030 and 2013 c 23 s 89 are each amended to
2 read as follows:

3 There is created the office of the state long-term care ombuds.
4 The department of commerce shall contract with a private nonprofit
5 organization to provide long-term care ombuds services as specified
6 under, and consistent with, the federal older Americans act as
7 amended, federal mandates, developmental disabilities provisions in
8 Title 71A RCW, the goals of the state, and the needs of its citizens.
9 The department of commerce shall ensure that all program and staff
10 support necessary to enable the ombuds to effectively protect the
11 interests of residents, patients, and clients of all long-term care
12 facilities is provided by the nonprofit organization that contracts
13 to provide long-term care ombuds services. The department of commerce
14 shall adopt rules to carry out this chapter and the long-term care
15 ombuds provisions of the federal older Americans act, as amended, and
16 applicable federal regulations. The long-term care ombuds program
17 shall have the following powers and duties:

18 (1) To provide services for coordinating the activities of long-
19 term care ombuds throughout the state;

20 (2) Carry out such other activities as the department of commerce
21 deems appropriate;

22 (3) Establish procedures consistent with RCW 43.190.110 for
23 appropriate access by long-term care ombuds to long-term care
24 facilities and patients' records, including procedures to protect the
25 confidentiality of the records and ensure that the identity of any
26 complainant or resident will not be disclosed without the written
27 consent of the complainant or resident, or upon court order;

28 (4) Establish a statewide uniform reporting system to collect and
29 analyze data relating to complaints and conditions in long-term care
30 facilities for the purpose of identifying and resolving significant
31 problems, with provision for submission of such data to the
32 department of social and health services and to the federal
33 department of health and human services, or its successor agency, on
34 a regular basis; and

35 (5) Establish procedures to assure that any files maintained by
36 ombuds programs shall be disclosed only at the discretion of the
37 ombuds having authority over the disposition of such files, except
38 that the identity of any complainant or resident of a long-term care
39 facility shall not be disclosed by such ombuds unless:

1 (a) Such complainant or resident, or the complainant's or
2 resident's legal representative, consents in writing to such
3 disclosure; or

4 (b) Such disclosure is required by court order.

5 **Sec. 5.** RCW 43.190.040 and 2013 c 23 s 90 are each amended to
6 read as follows:

7 (1) Any long-term care ombuds authorized by this chapter or a
8 local governmental authority shall have training or experience or
9 both in the following areas:

10 (a) Gerontology, long-term care, or other related social services
11 programs(~~(-)~~);

12 (b) Developmental disabilities;

13 (c) The legal system(~~(-)~~); and

14 ~~((e))~~ (d) Dispute or problem resolution techniques, including
15 investigation, mediation, and negotiation.

16 (2) A long-term care ombuds shall not have been employed by or
17 participated in the management of any long-term care facility within
18 the past year.

19 (3) A long-term care ombuds shall not have been employed in a
20 governmental position with direct involvement in the licensing,
21 certification, or regulation of long-term care facilities within the
22 past year.

23 (4) No long-term care ombuds or any member of his or her
24 immediate family shall have, or have had within the past year, any
25 significant ownership or investment interest in one or more long-term
26 care facilities.

27 (5) A long-term care ombuds shall not be assigned to a long-term
28 care facility in which a member of that ombuds's immediate family
29 resides.

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