

No. 1994-139

AN ACT

HB 1701

Establishing the Statewide Independent Living Council; providing for the powers and duties of the council; providing for a State plan for the provision of services to people with disabilities; providing for grants and funding for establishment of centers for independent living; and requiring centers for independent living to maintain certain standards and give certain assurances in order to qualify for assistance.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Independent Living Services Act.

Section 2. Legislative findings and declarations.

The General Assembly finds and declares as follows:

(1) The Commonwealth currently supports the provision of independent living services to people with disabilities through centers for independent living, but lacks a statutory basis to assure that people with disabilities are fully involved in the planning and provision of these services.

(2) People with disabilities have the best capacity to design, develop, manage and implement those programs and services that are intended to assist them.

(3) The Rehabilitation Act of 1973 (Public Law 93-112, 29 U.S.C. § 701 et seq.), as amended, provides for the establishment and operation of a Statewide Independent Living Council to oversee the provision of independent living services funded by the Federal Government.

(4) There are an estimated 830,000 residents of this Commonwealth with disabilities who will benefit directly or indirectly from the services provided by State-supported centers for independent living.

(5) People with disabilities who could live and work in the community have been denied access to the full range of social opportunities and in many cases have been forced to live in institutions at State expense due to architectural, communication and attitudinal barriers, as well as a lack of appropriate independent living options.

(6) There is a need to establish independent living services and centers through a coordinated network of consumer-controlled centers for independent living effectively reaching all 67 counties in this Commonwealth.

(7) Notwithstanding the services provided by the Commonwealth to specific disability groups, the General Assembly, having heretofore appropriated State funds to support consumer-controlled centers for

independent living, finds an immediate need to assure that all citizens of this Commonwealth who have a disability are afforded access to and control of the services provided by centers for independent living.

Section 3. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Americans with Disabilities Act of 1990.” (Public Law 101-336, 104 Stat. 327), as amended.

“Center for independent living.” A private, nonprofit agency in which at least 51% of the principal governing board, management and staff are individuals with disabilities and that:

- (1) is designed and operated within a local community by individuals with disabilities;
- (2) provides an array of independent living services and programs; and
- (3) assists individuals with a wide variety of disabling conditions.

“Consumer-control.” A condition under which power and authority are vested in individuals with disabilities and, when applied to a center for independent living, means that at least 51% of the principal governing board, management and staff are individuals with disabilities.

“Council.” The Statewide Independent Living Council established by this act.

“Designated State agency.” The agency designated by the Governor to administer programs funded under the Rehabilitation Act of 1973 (Public Law 93-112, 29 U.S.C. § 701 et seq.), as amended.

“Disability.” With respect to an individual:

- (1) a physical or mental impairment that substantially limits one or more of the major life activities of the individual;
- (2) a record of such impairment; or
- (3) being regarded as having such an impairment.

“Independent living core services.” The term includes all of the following:

- (1) Information and referral services.
- (2) Independent living skills training.
- (3) Peer counseling.
- (4) Individual and systems advocacy.

“Independent living services.” The term includes:

- (1) independent living core services; and
- (2) other services and assistance which may include, but are not limited to:

- (i) counseling services, including psychological, psychotherapeutic and related services;
- (ii) services related to securing housing or shelter;
- (iii) assistive technology;
- (iv) interpreter and reader services;

(v) personal assistance services, including attendant care and the training of personnel providing personal assistance services;

(vi) surveys, directories and other activities to identify appropriate housing, recreation opportunities, accessible transportation and other support services;

(vii) services and technical assistance related to the implementation of the Americans with Disabilities Act of 1990 (Public Law 101-336, 104 Stat. 327), as amended, and other related Federal and State laws;

(viii) activities supporting, assisting or maintaining life in the community;

(ix) transportation, including referral for and assistance with transportation;

(x) individual and group community integration activities;

(xi) training to develop skills which promote self-awareness and esteem, develop advocacy and self-empowerment skills and explore career options;

(xii) appropriate preventive services to decrease the needs of individuals assisted under this act for services in the future;

(xiii) community awareness programs to enhance the understanding and integration into society of individuals with disabilities;

(xiv) communicating the programmatic needs and civil rights of persons with disabilities to State and local planners responsible for community services; and

(xv) such other services, not inconsistent with the provisions of this act, as may be necessary.

“Major life activities.” The term includes, but is not limited to, communication, self-care, mobility and self-direction.

“Rehabilitation Act of 1973.” (Public Law 93-112, 29 U.S.C. § 701 et seq.), as amended.

Section 4. Eligibility for receipt of independent living services.

Services may be provided to any individual with a disability regardless of age, to parents and families of individuals with disabilities and, as appropriate, to professionals in the community working with individuals with disabilities.

Section 5. Statewide Independent Living Council.

(a) Council established.—There shall be established a Statewide Independent Living Council, which shall be the same council established under Title VII of the Rehabilitation Act of 1973. The council shall be independent of State agencies, shall adopt bylaws governing its operations and shall meet at least quarterly.

(b) Manner of appointment of members.—Members of the council shall be appointed by the Governor. The Governor shall select members from recommendations of representatives of organizations with governing boards in which at least 51% are persons with disabilities. The board shall be representative of a broad range of individuals with disabilities. The council

shall be composed of members appointed to provide Statewide representation, represent a broad range of disabilities and ensure knowledge about centers for independent living and services and programs provided.

(c) Members.—

(1) The council shall include a majority of individuals with disabilities who are not State employees and at least 50% of the directors of the centers for independent living within this Commonwealth chosen by the directors of centers for independent living in this Commonwealth.

(2) The ex officio, nonvoting members shall consist of a representative from the designated State agency and representatives from other State agencies that provide services for individuals with disabilities.

(3) In addition to the members provided for in paragraphs (1) and (2), the Governor may appoint additional members who may be:

- (i) other representatives from centers for independent living;
- (ii) parents and guardians of individuals with disabilities;
- (iii) representatives of advocacy organizations;
- (iv) representatives from private businesses;
- (v) representatives from organizations that provided services for individuals with disabilities; and
- (vi) other appropriate individuals.

(d) Chairperson.—The council shall select a chairperson from among the membership of the council.

(e) Term of office.—No member of the council may serve more than two consecutive three-year terms, except:

(1) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed shall be appointed for the remainder of the predecessor's term; and

(2) the terms of service of the members initially appointed shall provide for the expiration of terms on a staggered basis.

(f) Vacancies.—Any vacancy occurring in the membership of the council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the council.

Section 6. Powers and duties.

The council shall:

(1) Jointly develop and submit, in conjunction with the designated State agency, the State plan required by this act.

(2) Monitor, review and evaluate implementation of the State plan.

(3) Coordinate activities with other State advisory bodies that address the needs of specific disability populations and related issues under Federal and State laws.

(4) Ensure that all regularly scheduled meetings of the council are open to the public and that sufficient advance notice of meetings is provided.

(5) Prepare reports and make recommendations, as necessary, to the Governor and General Assembly.

Section 7. State plan.

(a) **Eligibility for financial assistance.**—To be eligible to receive financial assistance, the council and the designated State agency shall develop a State plan.

(b) **Periodic review and revision.**—The plan shall provide for review and revision of the plan, not less than once every three years, to ensure the existence of appropriate planning, financial support and coordination and other assistance to appropriately address on a Statewide and comprehensive basis the need of the Commonwealth for the following:

(1) Development and support of a Statewide network of centers for independent living.

(2) Provision of Statewide independent living services.

(3) Establishment of working relationships between the following:

(i) Programs providing independent living services and independent living centers.

(ii) The vocational rehabilitation program established under Title I of the Rehabilitation Act of 1973 and other programs providing services to individuals with disabilities.

(c) **Objectives and strategy.**—The State plan shall do the following:

(1) Specify the objectives to be achieved under the plan and establish timetables for the achievement of the objectives.

(2) Explicate how the objectives to be achieved are consistent with and further the purposes of this act.

(3) Set forth a strategy for the expansion and enhancement of the Statewide network of centers for independent living.

(4) Describe the purpose, extent and scope of independent living services and programs.

(5) Set the priorities for expenditure of State funds allocated for the purposes described in paragraphs (1), (3) and (4).

(6) Describe efforts to coordinate Federal and State funding for centers for independent living and independent living services and programs.

(d) **Requirements for recipients of financial assistance.**—The State plan shall provide satisfactory assurances that all recipients of financial assistance will do all of the following:

(1) Notify all individuals seeking or receiving services of the availability of the client assistance program established under section 112 of the Rehabilitation Act of 1973, the purposes of the services provided under the program and how to contact representatives of the program.

(2) Take affirmative action to employ and advance in employment, qualified individuals with disabilities on the same terms and conditions required with respect to employment of the individuals under the provisions of section 503 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990.

(3) Adopt such fiscal control and fund accounting procedures as may be necessary to ensure the proper disbursement of and accounting for funds received from the Commonwealth under this act.

(4) Maintain such other records as may be appropriate to facilitate an effective financial audit.

(e) Periodic evaluation.—The plan shall establish a method for the periodic evaluation of the effectiveness of the plan in meeting the objectives established, including evaluation of satisfaction by individuals with disabilities.

Section 8. Grants and funding.

(a) Authority to award grants.—Under applicable provisions of the State plan, the director of the designated State agency shall, with the approval of the council, designate agencies within this Commonwealth eligible to receive funds allotted by the Commonwealth for establishment of centers for independent living.

(b) Eligible agencies.—The director of the designated State agency may, with the approval of the council, make a grant under this section to any designated eligible agency that:

(1) has the power and authority to carry out the purposes of this act;

(2) is determined by the director of the designated State agency and the council to be able to plan, conduct, administer and evaluate a center for independent living consistent with sections 10 and 11; and

(3) submits an application to the director of the designated State agency at a time and in such manner and containing such information as the director and the council may require.

(c) Existing eligible agencies.—In the administration of the provisions of this section, the designated State agency shall award grants to any eligible agency that received funds for establishment of a center for independent living on June 30, 1992, unless the director finds that the agency fails to comply with sections 10 and 11.

(d) Minimum annual allocation.—Subject to the availability of appropriations, the minimum annual allocation for each center for independent living shall be \$200,000 in Federal and State funds. Priority for distribution of State funds shall be as follows:

(1) Existing State-funded centers for independent living.

(2) Centers for independent living funded through Title VII of the Rehabilitation Act of 1973, which receive less than the minimum annual allocation.

(3) New centers for independent living planned by the council.

(e) New centers for independent living.—If the council determines that there is no center for independent living serving a geographic region of this Commonwealth or a region is underserved and the State appropriation for the year is sufficient to support an additional center for independent living within this Commonwealth, the director may award a grant under this section to the

most qualified applicant, consistent with provisions in the State plan relating to establishment of a Statewide network of centers for independent living.

Section 9. Compliance with standards.

Each center for independent living that receives assistance under this act shall comply with the standards set forth in section 10 in order to ensure that all programs and activities are planned, conducted, administered and evaluated in a manner consistent with the purposes of this act.

Section 10. Standards for centers for independent living.

(a) **Philosophy.**—The center for independent living shall promote and practice the independent living philosophy of:

- (1) consumer control of the center for independent living, regarding decision making, service delivery, management and establishment of the policy and strategic direction of the center for independent living;
- (2) self-help and self-advocacy;
- (3) development of peer relations and peer role models; and
- (4) equal access of individuals with disabilities to society and to all services, programs, activities, resources and facilities, whether public or private and regardless of the funding source.

(b) **Provision of services.**—The center for independent living shall provide services to individuals with a range of disabilities. The center for independent living shall provide services for individuals with different types of disabilities, including individuals with disabilities who are members of populations that are unserved or underserved. Eligibility for services at any center for independent living shall not typically be based on the presence of any one or more specific disabilities.

(c) **Independent living goals.**—The center for independent living shall facilitate the development and achievement of independent living goals selected by individuals who seek assistance from the center for independent living.

(d) **Community options.**—The center for independent living shall work to increase the availability and improve the quality of community options for independent living in order to facilitate the development and achievement of independent living goals by individuals with disabilities.

(e) **Independent living core services.**—The center for independent living shall provide independent living core services and, as appropriate, a combination of other independent living services.

(f) **Activities to increase community capacity.**—The center for independent living shall conduct activities to increase the capacity of communities within the service area of the center for independent living to meet the needs of individuals with disabilities. The center for independent living shall support and participate in national, State and local coalition building among independent living centers and organizations representing persons with disabilities.

(g) Resource development activities.—The center for independent living shall conduct resource development activities to obtain funding from sources other than sources provided for under this act.

Section 11. Assurances of centers for independent living.

A center for independent living shall provide at a time and in such manner as the council may require, satisfactory assurances that:

(1) The center for independent living is an eligible agency.

(2) The center for independent living will be designed and operated locally by individuals with disabilities, including an assurance that the center for independent living will have a board that is the principal governing body of the center for independent living, a majority of which shall be composed of individuals with disabilities.

(3) The center for independent living will comply with the standards set forth in section 10.

(4) The center for independent living will establish clear priorities through an annual plan and a three-year plan required by the State plan and financial planning objectives, including overall goals or missions for the center for independent living, a work plan for achieving the goals or missions, specific objectives, services priorities, types of services to be provided and a description that shall demonstrate how the proposed activities of the center for independent living are consistent with the most recent three-year State plan.

(5) The center for independent living will use sound organizational, personnel assignment practices, including taking affirmative action to employ and advance in employment qualified individuals with disabilities on the same terms and conditions required with respect to employment of individuals with disabilities under section 503 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990.

(6) The center for independent living will ensure that the majority of its staff and individuals in decision making positions are individuals with disabilities.

(7) The center for independent living will practice sound fiscal management, including making arrangements for an annual independent fiscal audit.

(8) The center for independent living will conduct annual self-evaluations, prepare an annual report and maintain records, adequate to measure at a minimum, performance with respect to the following:

(i) The extent to which the center for independent living is in compliance with section 10.

(ii) The numbers and types of individuals with disabilities receiving services through the center for independent living.

(iii) The types of services provided through the center for independent living and the number of individuals with disabilities receiving each type of service.

(iv) The source and amounts of funding for the operation of the center for independent living.

(v) The number of individuals with disabilities who are employed by the center for independent living and the number who are in management and decision making positions.

(vi) A comparison, when appropriate, of the activities of the center for independent living in prior years, with the activities of the center for independent living in the most recent year.

(9) Individuals with severe disabilities who are seeking to receive services from the center for independent living will be notified by the center for independent living of the existence of, the availability of and how to contact representatives of the client assistance program.

(10) Aggressive outreach, regarding services provided through the center for independent living, will be conducted in an effort to reach populations of individuals with disabilities that are unserved or underserved by programs under this act, especially minority groups and urban and rural populations.

(11) Staff at centers for independent living will receive training on how to serve unserved and underserved populations, including minority groups and urban and rural populations.

(12) The center for independent living will submit to the council a copy of its approved grant application and the annual report required under paragraph (8).

(13) The center for independent living will prepare and submit a report to the designated State agency, at the end of each fiscal year, that contains the information described in paragraph (8) and information regarding the extent to which the center for independent living is in compliance with the standards set forth in section 10.

(14) Each individual receiving independent living services has an independent living plan, if requested by the individual.

Section 12. Allocation of funds by designated State agency.

From sums appropriated each fiscal year, in addition to funds allocated for independent living centers under the State independent living plan, the designated State agency¹ may allocate, under the State plan, funds for the following purposes:

(1) To demonstrate ways to expand and improve independent living services.

(2) To support the operation of centers for independent living.

(3) To support activities to increase the capacities of centers for independent living to develop comprehensive approaches or systems for providing independent living services.

¹"unit" in enrolled bill.

(4) To conduct studies and analyses, gather information, develop model policies and procedures and present information, approaches, strategies, findings, conclusions and recommendations to policymakers in order to enhance independent living services for individuals with disabilities.

(5) To train individuals with disabilities and individuals providing services to individuals with disabilities and other persons regarding the independent living philosophy.

(6) To provide outreach to populations that are unserved or underserved by programs under this act, including minority groups and urban and rural populations.

Section 13. Effective date.

This act shall take effect immediately.

APPROVED—The 12th day of December, A.D. 1994.

ROBERT P. CASEY