

CHAPTER 54

AN ACT concerning individuals with developmental disabilities and amending and supplementing P.L.1979, c.105.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.30:1AA-1.1 Findings, declarations relative to individuals with developmental disabilities.

1. The Legislature finds and declares that:

a. Disability is a natural part of the human experience that does not diminish the right of individuals with developmental disabilities to live independently, exert control and choice over their own lives, and fully participate in and contribute to their communities through full integration and inclusion in the economic, political, social, cultural and educational mainstream of United States society;

b. Recent studies indicate that individuals with developmental disabilities comprise between 1.2 and 1.65% of the United States population, and individuals whose disabilities occur during their developmental period frequently have severe disabilities that are likely to continue indefinitely;

c. Individuals with developmental disabilities often encounter discrimination in the provision of critical services and are at greater risk than the general population of abuse, neglect, financial and sexual exploitation, and the violation of their legal and human rights;

d. A substantial portion of individuals with developmental disabilities and their families do not have access to appropriate support and services, including access to assistive technology, from generic and specialized service systems, and remain unserved or underserved;

e. Individuals with developmental disabilities often require lifelong community services, individualized supports and other forms of assistance that are most effective when provided in a coordinated manner;

f. There is a need to ensure that services, supports and other assistance are provided in a culturally competent manner, which ensures that individuals from racial and ethnic minority backgrounds are fully included in all activities provided under P.L.2003, c.54 (C.30:1AA-1.1 et al.);

g. Family members, friends and members of the community can play an important role in enhancing the lives of individuals with developmental disabilities, especially when the family members, friends and community members are provided with the necessary community services, individualized supports and other forms of assistance;

h. Current research indicates that 88% of individuals with developmental disabilities live with their families or in their own households, and many service delivery systems and communities are not prepared to meet the impending needs of the adults with developmental disabilities who are living at home with parents who are 60 years of age or older and serve as the primary caregivers of these adults;

i. Individuals with developmental disabilities are waiting for appropriate services in their communities, and the public needs increased awareness of the capabilities and competencies of individuals with developmental disabilities, particularly in cases in which the individuals are provided with necessary services, supports and other assistance;

j. As increasing numbers of individuals with developmental disabilities are living, learning, working and participating in all aspects of community life, there is an increasing need for a well trained workforce that is able to provide the services, supports and other forms of direct assistance that are required to enable the individuals to carry out those activities;

k. There needs to be greater effort to recruit individuals from minority backgrounds into professions serving individuals with developmental disabilities and their families;

l. The goals of the State properly include providing individuals with developmental disabilities with the information, skills, opportunities and support to: make informed choices and decisions about their lives; live in homes and communities in which these individuals can exercise their full rights and responsibilities as citizens; pursue meaningful and productive lives; contribute to their families, communities, the State and the nation; have interdependent friendships and relationships with other persons; live free of abuse, neglect, financial and sexual exploitation, and violations of their legal and human rights; and achieve full integration and inclusion in society, in an individualized manner, consistent with the unique strengths, resources, priorities, concerns, abilities and capabilities of each individual;

m. As the nation, states and communities maintain and expand community living options for individuals with developmental disabilities, there is a need to evaluate the access to those options by individuals with developmental disabilities and the effects of those options on those individuals; and

n. Therefore, the purpose of this act is to assure that individuals with developmental disabilities and their families participate in the design of, and have access to, needed community services, individualized supports and other forms of assistance which promote self-determination, independence, productivity, and integration and inclusion in all facets of community life, through culturally competent advocacy, capacity-building and systemic-change activities conducted by the State Council on Developmental Disabilities, as required by the "Developmental Disabilities Assistance and Bill of Rights Act of 2000," Pub.L.106-402, 42 U.S.C. s.15001 et seq. These activities shall:

(1) be consistent with the purpose described in this subsection and the public policy described in section 2 of P.L.2003, c.54 (C.30:1AA-1.2); and

(2) contribute to a coordinated, consumer- and family-centered and consumer- and family-directed comprehensive system which includes needed community services, individualized supports and other forms of assistance that promote self-determination for individuals with developmental disabilities and their families.

C.30:1AA-1.2 Provisions relative to programs, projects, activities declared as public policy.

2. It is the public policy of the State that all programs, projects and activities conducted by the State Council on Developmental Disabilities shall be carried out in a manner consistent with the following provisions:

a. Individuals with developmental disabilities, including those with the most severe developmental disabilities, are capable of self-determination, independence, productivity, and integration and inclusion in all facets of community life, but often require the provision of community services, individualized supports and other forms of assistance;

b. Individuals with developmental disabilities and their families have competencies, capabilities and personal goals that should be recognized, supported and encouraged, and any assistance to these individuals should be provided in an individualized manner, consistent with the unique strengths, resources, priorities, concerns, abilities and capabilities of these individuals;

c. Individuals with developmental disabilities and their families are the primary decision-makers regarding the services and supports they receive, including services and supports for choosing, from available options, where the individuals live, and they should play decision-making roles in policies and programs that affect their lives;

d. Services, supports and other assistance should be provided in a manner that demonstrates respect for individual dignity, personal preferences and cultural differences;

e. Individuals with developmental disabilities from racial and ethnic minority backgrounds and their families need specific efforts to ensure that they can enjoy increased and meaningful opportunities to access and use community services, individualized supports and other forms of assistance available to other individuals with developmental disabilities and their families;

f. Recruitment efforts relating to pre-service training, community training, practice, administration and policymaking must focus on bringing larger numbers of racial and ethnic minorities into these disciplines in order to provide appropriate skills, knowledge, role models and sufficient personnel to address the growing needs of an increasingly diverse population with developmental disabilities;

g. With education and support, communities can be accessible and responsive to the needs of individuals with developmental disabilities and their families, and they are enriched by the contributions and full and active participation in community activities by individuals with developmental disabilities and their families;

h. Individuals with developmental disabilities should have access to opportunities and the necessary support to be included in community life, have interdependent relationships, live in homes and communities and make contributions to their families, communities, the State and the nation;

i. Efforts undertaken to maintain or expand community-based living options for individuals

with disabilities must be monitored in order to determine and report to appropriate individuals and entities the extent of access by individuals with developmental disabilities to those options, and the extent of compliance with quality assurance standards by entities providing the options;

j. Families of children with developmental disabilities need to have access to, and use of, safe and appropriate child care and before- and after-school programs in the most integrated settings in order to enrich the participation of the children in community life;

k. Individuals with developmental disabilities need to have access to, and use of, public transportation in order to be independent and directly contribute to, and participate in, all facets of community life; and

l. Individuals with developmental disabilities need to have access to, and use of, recreational, leisure and social opportunities in the most integrated settings in order to enrich their participation in community life.

3. Section 1 of P.L.1979, c.105 (C.30:1AA-1) is amended to read as follows:

C.30:1AA-1 State Council on Developmental Disabilities, additional powers, duties.

1. a. The State Council on Developmental Disabilities, established pursuant to Executive Order Number 20 of 1971, as amended by Executive Order Number 49 of 1973 and Executive Order Number 42 of 1976, is hereby established and continued in the Executive Branch of State Government.

b. For the purpose of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the State Council on Developmental Disabilities is hereby allocated within the Department of Human Services, but, notwithstanding said allocation, the council shall be independent of any supervision or control by the department or any board or officer thereof, or any other cabinet-level department, board or officer thereof. The council shall operate in a manner that shall assure compliance with State and federal administrative, fiscal, legislative, procedural and personnel requirements.

c. In addition to the powers and duties herein provided, the State Council on Developmental Disabilities shall constitute the planning entity authorized in the "Developmental Disabilities Assistance and Bill of Rights Act of 2000," Pub.L.106-402, 42 U.S.C. s.15001 et seq., and shall exercise all the powers and duties as may be necessary to effectuate the purposes and provisions thereof.

4. Section 2 of P.L.1979, c.105 (C.30:1AA-2) is amended to read as follows:

C.30:1AA-2 Definition of developmental disability.

2. For the purposes of this act, a "developmental disability" means:

a. A severe, chronic disability of a person which

(1) Is attributable to a mental or physical impairment or combination of mental or physical impairments;

(2) Is manifest before age 22;

(3) Is likely to continue indefinitely;

(4) Results in substantial functional limitations in three or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, or economic self-sufficiency; and

(5) Reflects the need for a combination and sequence of special, interdisciplinary, or generic care, or other services which are of lifelong or extended duration and are individually planned and coordinated.

b. Other disabilities requiring services and treatment similar to that required by those who meet the criteria defined above.

5. Section 3 of P.L.1979, c.105 (C.30:1AA-3) is amended to read as follows:

C.30:1AA-3 Membership of council; vacancies; compensation; terms.

3. The council shall consist of a minimum of 25 members, but shall not exceed 30 members,

of whom:

a. seven shall be representatives of State agencies who shall serve ex officio at the pleasure of the Governor in accordance with the qualifications established in section 4 of P.L.1979, c.105 (C.30:1AA-4);

b. a minimum of 15 shall be public members appointed by the Governor with the advice and consent of the Senate;

c. one each shall represent a University Center for Excellence in Developmental Disabilities Education, Research, and Service in the State and the State's designated protection and advocacy system; and

d. one shall be a representative of local and non-governmental agencies or private nonprofit groups concerned with services for individuals with developmental disabilities, appointed by the Governor with the advice and consent of the Senate.

The appointed members shall serve for a term of three years and until their respective successors have been appointed and have qualified.

Vacancies shall be filled in the same manner as the original appointment. Public members shall receive no compensation, but shall be entitled to reimbursement for necessary expenses incurred in the performance of their duties. Members serving on the council at the time of enactment of P.L.2003, c.54 (C.30:1AA-1.1 et al.) shall continue to serve until the expiration of their current terms, and until their respective successors are appointed and have qualified.

6. Section 4 of P.L.1979, c.105 (C.30:1AA-4) is amended to read as follows:

C.30:1AA-4 Qualifications of members.

4. The public members shall be representative of the diverse social, economic and geographical interests in the State, and shall include at least 15 persons who are consumers or immediate family members of consumers of services for persons with developmental disabilities. The seven State members shall be official representatives of State agencies, as follows: five representatives, each of whom shall administer funds provided under at least one of the following federal laws related to individuals with disabilities: the "Rehabilitation Act of 1973" (29 U.S.C. s.701 et seq.), the "Individuals With Disabilities Education Act" (20 U.S.C. s.1400 et seq.), the "Older Americans Act of 1965" (42 U.S.C. s.3001 et seq.) and Titles V and XIX of the Social Security Act (42 U.S.C. s.701 et seq. and 42 U.S.C. s.1396 et seq.); one representative from the Division of Developmental Disabilities in the Department of Human Services; and one representative from the Division of Disability Services in the Department of Human Services.

7. Section 6 of P.L.1979, c.105 (C.30:1AA-6) is amended to read as follows:

C.30:1AA-6 Executive director; appointment, duties.

6. The council shall employ, subject to the provisions of Title 11A, Civil Service, of the New Jersey Statutes and other applicable statutes, an executive director. The executive director shall:

a. Articulate and implement policies established by the State Council on Developmental Disabilities.

b. Appoint and remove, subject to the provisions of Title 11A, Civil Service, of the New Jersey Statutes and other applicable statutes, such other employees as may be necessary to perform the duties and responsibilities of the council and shall promulgate fees and compensation within the limits of available appropriations and as shall be provided by law. The State shall not apply hiring freezes, reductions in force, prohibitions on travel or other policies to the staff of the council, to the extent that these policies would adversely impact the staff or functions funded with federal funds or would prevent the council from carrying out its functions.

c. Select and retain the services of consultants whose advice is considered necessary to assist the council in obtaining information or developing plans or programs required for the performance of the duties and responsibilities of the council.

8. Section 7 of P.L.1979, c.105 (C.30:1AA-7) is amended to read as follows:

C.30:1AA-7 Rules.

7. The council shall promulgate, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules as it deems necessary for the proper conduct of its work.

9. Section 8 of P.L.1979, c.105 (C.30:1AA-8) is amended to read as follows:

C.30:1AA-8 Duties of council, staff.

8. It shall be the duty of the council and its staff to:

- a. (Deleted by amendment, P.L.2003, c.54).
- b. (Deleted by amendment, P.L.2003, c.54).
- c. (Deleted by amendment, P.L.2003, c.54).
- d. (Deleted by amendment, P.L.2003, c.54).
- e. (Deleted by amendment, P.L.2003, c.54).
- f. (Deleted by amendment, P.L.2003, c.54).
- g. (Deleted by amendment, P.L.2003, c.54).
- h. (Deleted by amendment, P.L.2003, c.54).
- i. (Deleted by amendment, P.L.2003, c.54).
- j. (Deleted by amendment, P.L.2003, c.54).
- k. (Deleted by amendment, P.L.2003, c.54).
- l. (Deleted by amendment, P.L.2003, c.54).

m. Serve as an advocate for individuals with developmental disabilities and conduct or support programs, projects and activities which carry out the mandate of advocacy, capacity-building and systemic change, pursuant to the "Developmental Disabilities Assistance and Bill of Rights Act of 2000," Pub.L.106-402, 42 U.S.C. s.15001 et seq.;

n. At the end of each year, examine goals to determine the extent to which each goal was achieved, the needs that would require amendment of the five-year strategic State plan and customer satisfaction with council-supported or council-conducted activities;

o. Develop and implement a State plan by conducting and supporting advocacy, capacity-building and systemic-change activities, which shall contribute to the purpose set forth in section 1 of P.L.2003, c.54 (C.30:1AA-1.1) and may include:

(1) outreach activities to identify individuals with developmental disabilities and their families who otherwise might not come to the attention of the council, and to assist and enable the individuals and families to obtain services, individualized supports and other forms of assistance, including access to special adaptation of generic community services or specialized services;

(2) training for persons who are professionals, paraprofessionals, students, volunteers and other community members to enable these persons to obtain access to or to provide community services, individualized supports and other forms of assistance, including special adaptation of generic community services or specialized services for individuals with developmental disabilities and their families;

(3) technical assistance activities to public and private entities;

(4) assistance to, or support of, activities to assist neighborhoods and communities to respond positively to individuals with developmental disabilities and their families through education, by encouraging local networks to provide informal and formal supports and by enabling neighborhoods and communities to offer the individuals and their families access to, and use of, services, resources and opportunities;

(5) activities to promote interagency collaboration, coordination and planning in order to better serve, support, assist or advocate for individuals with developmental disabilities and their families;

(6) activities to enhance coordination of services with:

(i) other councils, entities or committees authorized by federal or State law concerning individuals with disabilities, such as the State interagency coordinating council established under part C of the "Individuals with Disabilities Education Act" (20 U.S.C. s.1431 et seq.), the State Rehabilitation Council and the Statewide Independent Living Council established under the "Rehabilitation Act of 1973" (29 U.S.C. s.701 et seq.), the State mental health planning council

established under part B of Title XIX of the Public Health Service Act (42 U.S.C. s.300x-1 et seq.), councils, entities or committees concerning activities authorized under section 101 or 102 of the "Assistive Technology Act of 1998" (29 U.S.C. s.3011 or 29 U.S.C. s.3012), and any councils, entities or committees carrying out similar functions;

(ii) parent training and information centers under part D of the "Individuals with Disabilities Education Act" (20 U.S.C. s.1451 et seq.) and other entities carrying out federally funded projects that assist parents of children with disabilities; and

(iii) other groups interested in advocacy, capacity-building and systemic-change activities to benefit individuals with disabilities;

(7) activities to eliminate barriers to access and use of community services by individuals with developmental disabilities, and to enhance systems design and redesign as well as citizen participation to address issues identified in the State plan;

(8) activities to educate the public about the capabilities, preferences and needs of individuals with developmental disabilities and their families, and activities to develop and support coalitions that support the policy agenda of the council, including training in self-advocacy, education of policymakers and training in citizen leadership skills;

(9) activities to provide information to policymakers by supporting and conducting studies and analyses, gathering information, and developing and disseminating model policies and procedures, information, approaches, strategies, findings, conclusions and recommendations. The council may provide the information directly to federal, State and local policymakers, including the United States Congress, the federal executive branch of government, the Governor and the Legislature, the governors and legislatures of other states, and State agencies, in order to increase the ability of these policymakers to offer opportunities and to enhance or adapt generic services to meet the needs of, or provide specialized services to, individuals with developmental disabilities and their families;

(10) on a time-limited basis, activities to demonstrate new approaches to serving individuals with developmental disabilities, which are a part of an overall strategy for systemic change. The strategy may involve the education of policymakers and the public about how to effectively deliver services, supports and assistance to individuals with developmental disabilities and their families; and

(11) other advocacy, capacity-building and systemic-change activities to promote the development of a coordinated, consumer- and family-centered and consumer- and family-directed comprehensive system of community services, individualized supports and other forms of assistance;

p. Supervise and annually evaluate the executive director of the council;

q. Prepare and transmit an annual report to the Department of Health and Human Services, which shall contain information about the progress made by the council in achieving the purpose set forth in section 1 of P.L.2003, c.54 (C.30:1AA-1.1). The report shall be available in accessible formats and the council shall provide a description of the method by which it shall widely disseminate the report to affected constituencies and the general public; and

r. Prepare, approve and implement a budget using amounts paid to the State to fund and implement all programs, projects and activities carried out pursuant to P.L.2003, c.54 (C.30:1AA-1.1 et al.).

10. This act shall take effect immediately.

Approved April 23, 2003.