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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

Regular Session, 2001

ENROLLED

Committee Substitute for

SENATE BILL NO. *525*

(By Senator *Unger, et al* **)**

PASSED *April 12, 2001*

In Effect *90 days from Passage*

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COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 525

(SENATORS UNGER, PREZIOSO, OLIVERIO, SNYDER, FACEMYER, EDGELL, ROWE, HELMICK, FANNING, SHARPE, ROSS, HUNTER, CALDWELL, REDD, BURNETTE, MINEAR, MINARD, KESSLER, PLYMALE, LOVE, MITCHELL, BOLEY, BOWMAN, ANDERSON, MCCABE AND TOMBLIN, MR. PRESIDENT, *original sponsors*)

[Passed April 12, 2001; in effect ninety days from passage.]

AN ACT to amend chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article ten-m, relating to establishing the statewide independent living council; providing for the powers and duties of the council; providing for a state plan for the provision of independent living services to people with disabilities to be jointly developed by the council and the division of rehabilitation services; providing that available funding for independent living services shall be administered by the division of

rehabilitation services; and specifying funding eligibility criteria for centers for independent living.

Be it enacted by the Legislature of West Virginia:

That chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article ten-m, to read as follows:

ARTICLE 10M. WEST VIRGINIA INDEPENDENT LIVING ACT.

§18-10M-1. Short title.

1 This article shall be known and may be cited as the
2 "West Virginia Independent Living Act".

§18-10M-2. Legislative findings and declarations.

1 The Legislature hereby finds and declares the following:

2 (1) The state recognizes the value of independent living
3 services in enabling people with disabilities to live more
4 independently in their own homes and communities.

5 (2) Persons with disabilities have the best capacity to
6 design, develop, manage and implement the programs and
7 services which are intended to assist them.

8 (3) The federal rehabilitation act requires this state to
9 develop a state plan for independent living to describe and
10 direct independent living services in West Virginia.

11 (4) The federal rehabilitation act further calls for the
12 establishment and operation of a statewide independent
13 living council to monitor, review and evaluate the imple-
14 mentation of the state's plan for independent living
15 services.

16 (5) There are approximately one quarter of a million
17 residents in this state with disabilities who could benefit
18 directly or indirectly from the provision of independent

19 living services by the division of rehabilitation services
20 and the state's centers for independent living.

21 (6) Twenty-five percent of West Virginia's total popula-
22 tion is over fifty-five years of age and thirteen and one-
23 half percent of that population requires assistance with
24 activities of daily living in order to live independently in
25 their own homes.

26 (7) A need exists for a coordinated network of con-
27 sumer-controlled centers for independent living that
28 effectively reaches persons with disabilities in all fifty-five
29 counties of the state.

§18-10M-3. Purpose.

1 The purpose of this article is to authorize, facilitate or
2 provide for services and activities that will enable individ-
3 uals with disabilities to live as independently as possible
4 in their own homes and communities; to promote the
5 philosophy of independent living, including consumer
6 control, peer support, self-help, self-determination, equal
7 access and individual and systems advocacy; to enhance
8 and maximize the leadership abilities, empowerment,
9 independence and productivity of individuals with signifi-
10 cant disabilities; and to promote and maximize the
11 integration and full inclusion of individuals with signifi-
12 cant disabilities into the mainstream of our society. To
13 this end, services provided pursuant to this article shall be
14 offered in the most integrated settings to the maximum
15 extent possible, within available resources.

§18-10M-4. Definitions.

1 Terms used in this article have the same meanings as
2 those provided in the federal rehabilitation act, as follows:

3 (a) "Consumer control" means circumstances in which
4 individuals with disabilities having decision-making
5 authority.

6 (b) "Council" means the statewide independent living

7 council.

8 (c) "Division" means the division of rehabilitation
9 services.

10 (d) "Independent living services" means advocacy,
11 independent living skills, training, information and
12 referral, peer counseling, peer support and any other
13 service directed by the state plan which may include but
14 is not limited to the following:

15 (1) Assistive devices and equipment;

16 (2) Communication services;

17 (3) Counseling and related services;

18 (4) Community awareness programs to enhance the
19 understanding and integration into society of individuals
20 with disabilities;

21 (5) Environmental modifications;

22 (6) Family services;

23 (7) Mobility training;

24 (8) Personal assistance services;

25 (9) Prostheses and other appliances and devices; and

26 (10) Rehabilitation technology.

27 (e) "State plan" means the state plan for independent
28 living required by the federal rehabilitation act of 1973, as
29 amended.

§18-10M-5. Eligibility for services.

1 Any individual with a significant disability, as defined
2 in the state plan, is eligible for services that may be made
3 available pursuant to this article.

§18-10M-6. Statewide independent living council.

1 (a) The West Virginia statewide independent living
2 council is hereby established, as it has heretofore existed
3 under the federal rehabilitation act, as a not-for-profit
4 corporation which shall be organized to meet the require-
5 ments of the federal act: *Provided*, That the council may
6 not be established as an entity within any agency or
7 political subdivision of the state. The council shall be
8 governed by a board of directors, consisting of the voting
9 members of the council, as provided in this section. The
10 composition of this board of directors, as well as the
11 composition of the full council's membership, shall include
12 a majority of members who are persons with disabilities,
13 as defined in the state plan, and a majority of members
14 who are not employed by any agency of the state or center
15 for independent living. The council's membership shall
16 reflect balanced geographical representation, diverse
17 backgrounds and the full range of disabilities recognized
18 under the federal act, including physical, mental, cogni-
19 tive, sensory and multiple.

20 (b) The council shall function as a partner with the
21 division of rehabilitation services in the planning and
22 provision of independent living services in the state. In
23 conjunction with the division, the council shall develop,
24 approve and submit to the proper federal authorities the
25 state plan for independent living, as required by the
26 federal act. The council shall monitor, review and evalu-
27 ate the effectiveness of the implementation of the state
28 plan.

29 (c) *Voting members.*—The council shall consist of
30 twenty-four voting members as follows: One director of an
31 independent living center, chosen by the directors of the
32 independent living centers in the state; and twenty-three
33 members appointed by the governor. The governor shall
34 select appointments from among the nominations submit-
35 ted by organizations representing a wide range of individ-
36 uals with disabilities and other interested groups, as
37 coordinated by the council, by and with the advice and

38 consent of the Senate. These members may include other
39 representatives from centers for independent living,
40 parents and guardians of individuals with disabilities,
41 advocates of individuals with disabilities, representatives
42 from the business and educational sectors, representatives
43 of organizations that provide services for individuals with
44 disabilities and other interested individuals, as appropri-
45 ate to the purpose of the council.

46 (d) *Nonvoting members.* — The membership of the
47 council shall also include the following, non-voting, ex
48 officio members, or their designees:

49 (1) The director of the division of rehabilitation services;

50 (2) The director of the office of behavioral health
51 services within the department of health and human
52 resources;

53 (3) The director of the West Virginia housing develop-
54 ment fund;

55 (4) The president of the West Virginia association of
56 rehabilitation facilities;

57 (5) The commissioner of the bureau of senior services;
58 and

59 (6) The director of the office of special education pro-
60 grams and assurance in the department of education;

61 The nonvoting membership may also include additional
62 representatives of groups represented on the board of
63 directors.

64 (e) *Terms of appointment.* — Each appointed member of
65 the council shall serve for a term of three years, except
66 that a member appointed to fill a vacancy occurring prior
67 to the expiration of the term for which a predecessor was
68 appointed shall be appointed for the remainder of the
69 unexpired term; and the terms of service of the members
70 initially appointed shall be for such fewer number of years

71 as will provide for the expiration of terms on a staggered
72 basis, as specified by the governor. No member of the
73 council may serve more than two consecutive full terms.

74 (f) *Vacancies.* — Any vacancy occurring in the appointed
75 membership of the council shall be filled in the same
76 manner as the original appointment. A vacancy does not
77 affect the power of the remaining members to execute the
78 duties of the council.

79 (g) *Delegation.* — The governor may delegate the author-
80 ity to fill a vacancy to the remaining voting members of
81 the council after initial appointments have been made.

82 (h) *Duties.* — The council shall:

83 (1) In conjunction with the division of rehabilitation
84 services, develop and sign the state plan for independent
85 living;

86 (2) Monitor, review and evaluate the implementation of
87 the state plan;

88 (3) Coordinate activities with the state rehabilitation
89 council and other bodies that address the needs of specific
90 disability populations and issues under other federal and
91 state law;

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

95 (5) Submit to the federal funding agency such periodic
96 reports as are required and keep such records and afford
97 access to such records, as may be necessary to verify such
98 reports.

99 (i) *Staffing and resources.* — The council may employ
100 staff as necessary to perform the functions of the council,
101 including an executive director, an administrative assis-
102 tant and other staff as may be determined necessary by the
103 council. The council shall supervise and evaluate staff.

104 The council shall prepare, in conjunction with the division,
105 a plan for the use of available resources as may be neces-
106 sary to carry out the functions and duties of the council
107 pursuant to this article, utilizing eligible federal funds,
108 funds made available under this article and funds from
109 other public and private sources. This resource plan shall,
110 to the maximum extent possible, rely on the use of existing
111 resources during the period of plan implementation.

112 (j) *Compensation and expenses.* — The council may use
113 resources that are available to it to reimburse members of
114 the council for reasonable and necessary expenses incurred
115 in the performance of their duties, including attending
116 council meetings, and to pay reasonable compensation to
117 any member of the council who is either not employed by
118 the state or is not otherwise compensated by his or her
119 employer for performance of duties associated with the
120 council, up to fifty dollars per day.

§18-10M-7. State plan for independent living.

1 (a) The state plan shall direct the use of federal funds
2 provided to the state under the federal act and appropri-
3 ated by the Legislature to the division in a line item for
4 this purpose, in addition to any state funds that may be
5 appropriated to the division for the provision of independ-
6 ent living services. The state plan, and each subsequent
7 plan or amendment thereto shall address the priorities set
8 forth in the federal act for establishing a statewide
9 program of independent living services, including a
10 statewide network of centers for independent living. The
11 state plan may be amended at any time at the agreement
12 of the council and the division.

13 (b) The state plan, and each subsequent plan and any
14 amendments thereto shall be presented to the legislative
15 oversight commission on health and human resources
16 accountability, created pursuant to article twenty-nine-e,
17 chapter sixteen of this code, for review and consultation.

§18-10M-8. Funding and grants.

1 (a) Funds appropriated to the division for independent
2 living services shall be administered by the division and
3 may be used to fund any service or activity included in the
4 state plan for independent living, including funding
5 centers for independent living. In order to qualify for
6 funding, a center for independent living shall meet the
7 definition and comply with the standards and indicators
8 therefor, as established in the federal act.

9 (b) Subject to availability, the state plan may designate
10 funds for purposes including, but not limited to, the
11 following:

12 (1) To provide independent living services to eligible
13 individuals with significant disabilities;

14 (2) To demonstrate ways to expand and improve inde-
15 pendent living services;

16 (3) To support the operation of centers for independent
17 living;

18 (4) To support activities to increase the capacities of
19 centers for independent living to develop comprehensive
20 approaches or systems for providing independent living
21 services;

22 (5) To conduct studies and analyses, gather information,
23 develop model policies and procedures and present
24 information, approaches, strategies, findings, conclusions
25 and recommendations to policymakers in order to enhance
26 independent living services for individuals with disabili-
27 ties;

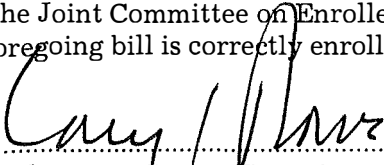
28 (6) To train individuals with disabilities and individuals
29 who provide services to them and other persons regarding
30 the independent living philosophy; and

31 (7) To provide outreach to populations that are unserved
32 or underserved by programs under this act, including

33 minority groups and urban and rural populations.

34 As provided in the state plan, funds appropriated for the
35 purposes of this article shall be utilized directly by the
36 division for the provision of independent living services or
37 through grants or contracts, with the approval of the
38 council, to agencies that meet the definition of and comply
39 with the standards and indicators for centers for inde-
40 pendent living set forth in the federal act.

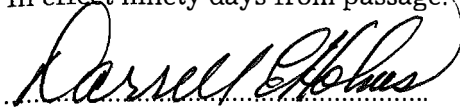
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

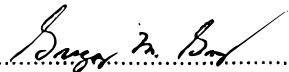

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Chairman Senate Committee


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Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

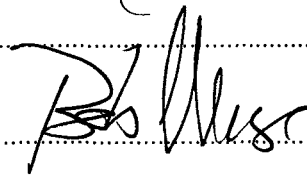

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Clerk of the Senate


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Clerk of the House of Delegates


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President of the Senate


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Speaker House of Delegates

The within is approved this the 26th
Day of April, 2001.


.....
Governor

PRESENTED TO THE

GOVERNOR

Date

4/24/01

Time

11:50am