

Public Law 100-146
100th Congress

An Act

Oct. 29, 1987

[S. 1417]

To amend the Developmental Disabilities Assistance and Bill of Rights Act to extend the programs established in such Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987. Health and medical care. Handicapped persons. 42 USC 6000 note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987".

REFERENCE

SEC. 2. Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Developmental Disabilities Assistance and Bill of Rights Act.

TITLE I—GENERAL PROVISIONS

FINDINGS AND PURPOSES

42 USC 6000.

SEC. 101. Section 101 is amended to read as follows:

"FINDINGS AND PURPOSES

"SEC. 101. (a) The Congress finds that—

"(1) there are more than two million persons with developmental disabilities in the United States;

"(2) persons whose disabilities occur during their developmental period frequently have severe disabilities which are likely to continue indefinitely;

"(3) notwithstanding their severe disabilities, these persons have capabilities, competencies, and personal needs and preferences;

"(4) family and members of the community can play a central role in enhancing the lives of persons with developmental disabilities, especially when the family is provided with necessary support services;

"(5) persons with developmental disabilities and their families often require specialized lifelong assistance to be provided in a coordinated manner by many agencies and others in order to eliminate barriers for such persons and to meet the needs of such persons;

"(6) generic service agencies and agencies providing specialized services to persons with disabilities sometimes overlook, inappropriately address the needs of, or exclude persons with

developmental disabilities in their planning and delivery of services;

“(7) public and private employers tend to be unaware of the capability of persons with developmental disabilities to be engaged in competitive work in integrated settings; and

“(8) it is in the national interest to offer persons with developmental disabilities the opportunity, to the maximum extent feasible, to make decisions for themselves and to live in typical homes and communities where they can exercise their full rights and responsibilities as citizens.

“(b) The purposes of this title are—

“(1) to provide assistance to States and public and private nonprofit agencies and organizations to assure that all persons with developmental disabilities receive the services and other assistance and opportunities necessary to enable such persons to achieve their maximum potential through increased independence, productivity, and integration into the community;

“(2) to enhance the role of the family in assisting persons with developmental disabilities to achieve their maximum potential; and

“(3) to make grants to support a system in each State to protect the legal and human rights of persons with developmental disabilities.”

State and local governments.

Grants.

DEFINITIONS

SEC. 102. Section 102 is amended—

(1) by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

“(2) The term ‘nonprofit’ means an agency, institution, or organization that is owned or operated by one or more corporations or associations, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private share holder or individual”;

(2) by redesignating paragraph (4) as paragraph (3);

(3) by striking out paragraph (5);

(4) by redesignating paragraphs (6), (7), (8), and (9) as paragraphs (4), (5), (6), and (7), respectively;

(5) by redesignating paragraph (10) as paragraph (8), and in such paragraph, by striking out “nonhandicapped” each place it appears and inserting in lieu thereof “nondisabled”;

(6) by striking out paragraph (11);

(7) by redesignating paragraphs (12), (13), (14), and (15) as paragraphs (17), (18), (19), and (20), respectively;

(8) by inserting after paragraph (8) (as redesignated by paragraph (5) of this section) the following new paragraphs:

“(9) The term ‘priority area activities’ includes, with respect to Federal priority areas or a State priority area—

“(A) activities to increase the capacities and resources of public and private nonprofit entities and others to develop a system for providing specialized services or special adaptations of generic services or other assistance which responds to the needs and capabilities of persons with developmental disabilities and their families and to enhance coordination among entities;

“(B) the—

“(i) conduct of studies and analyses;

“(ii) gathering of information;

42 USC 6001.

“(iii) development of model policies, and procedures; and

“(iv) presentation of information, models, findings, conclusions, and recommendations to policymakers, in order to enhance opportunities for persons with developmental disabilities, including the enhancement of a system for providing or making available specialized services or special adaptations of generic services for persons with developmental disabilities and the families of such persons;

“(C) the demonstration of new ways to enhance the independence, productivity, and integration into the community of persons with developmental disabilities, such as model demonstrations which, if successful, will be made generally applicable through sources of funding other than funding under this title, including new ways to enhance specialized services or special adaptations of generic services for persons with developmental disabilities and the families of such persons;

“(D) outreach activities for persons with developmental disabilities to enable such persons to obtain assistance in Federal priority areas or a State priority area, including access to specialized services or special adaptations of generic services for persons with developmental disabilities and the families of such persons;

“(E) the training of persons with developmental disabilities, family members of such persons, and personnel, including professionals, paraprofessionals, students, and volunteers, to obtain access to, or to provide, services and other assistance in the area, including specialized services or special adaptations of generic services for persons with developmental disabilities and the families of such persons; and

“(F) similar activities designed to prevent developmental disabilities from occurring or to expand and enhance the independence, productivity and integration into the community of persons with developmental disabilities through the State on a comprehensive basis.

“(10) The term ‘Federal priority areas’ means community living activities, employment activities, child development activities, and case management activities.

“(11) The term ‘State priority area’ means priority area activities in an area considered essential by the State Planning Council.

“(12) The term ‘community living activities’ means such priority area activities as will assist persons with developmental disabilities in developing or maintaining suitable residential arrangements and supports in the community (including non-financial supports and family support services).

“(13) The term ‘employment activities’ means such priority area activities as will increase the independence, productivity, or integration of a person with developmental disabilities in work settings.

“(14) The term ‘supported employment’ means competitive work in integrated work settings—

“(A) for persons with developmental disabilities for whom competitive employment has not traditionally occurred; or

“(B) for persons for whom competitive employment has been interrupted or intermittent as a result of a developmental disability, and who because of their disability need on-going support services to perform such work.

“(15) The term ‘child development activities’ means such priority area activities as will assist in the prevention, identification, and alleviation of developmental disabilities in children, including early intervention services.

“(16) The term ‘case management activities’ means priority area activities to establish a potentially life-long, goal-oriented process for coordinating the range of assistance needed by persons with developmental disabilities and their families, which is designed to ensure accessibility, continuity of supports and services, and accountability and to ensure that the maximum potential of persons with developmental disabilities for independence, productivity, and integration into the community is attained.”;

(9) by striking out “facility or facilities” in subparagraph (A)(ii) of paragraph (17) (as redesignated by paragraph (7) of this section) and inserting in lieu thereof “program or programs”;

(10) by striking out “facilities” each place it appears in paragraph (17) (as redesignated by paragraph (7) of this section) and inserting in lieu thereof “programs”;

(11) by striking out “paragraph (13)” in subparagraph (A)(iii) of paragraph (17) (as redesignated by paragraph (7) of this section) and inserting in lieu thereof “paragraph (18)”;

(12) by striking out “facility” the first place it appears in paragraph (18) (as redesignated by paragraph (7) of this section) and inserting in lieu thereof “program”;

(13) by striking out “public or nonprofit facility” in paragraph (18) (as redesignated by paragraph (7) of this section) and inserting in lieu thereof “program operated by a public or nonprofit private entity”;

(14) by inserting “, including parents of persons with developmental disabilities, professionals, paraprofessionals, students, and volunteers,” before “which is” in subparagraph (A) of paragraph (18) (as redesignated by paragraph (7) of this section);

(15) by striking out “the facility” in paragraph (18) (as redesignated by paragraph (7) of this section) and inserting in lieu thereof “a facility”; and

(16) by adding at the end thereof the following new paragraphs:

“(21) The term ‘family support services’ means services designed to—

“(A) strengthen the family’s role as primary caregivers;

“(B) prevent inappropriate out-of-the-home placement and maintain family unity; and

“(C) reunite families with members who have been placed out of the home.

Such term includes respite care, personal care, parent training and counseling, support for elderly parents, and other individualized services.

“(22) The term ‘assistive technology’ means the systematic application of technology, engineering methodologies, or scientific principles to meet the needs of, and address the barriers confronted by, persons with developmental disabilities in areas including education, employment, supported employment,

transportation, and independent living and other community living arrangements.

"(23) The term 'early intervention services' means services provided to infants, toddlers, young children, and the families of such to—

"(A) identify, assess, and treat developmental disabilities at the earliest possible time to prevent more serious disability;

"(B) ensure the maximum growth and development of a person within the above classes who has a developmental disability; and

"(C) assist families in raising a child with a developmental disability."

REPORTS

SEC. 103. (a) Section 107(a) is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(4) a description of the State Planning Council's response to significant actions taken by the State with respect to each annual survey report and plan of corrections for cited deficiencies prepared pursuant to section 1902(a)(31)(B) of the Social Security Act with respect to any intermediate care facility for the mentally retarded in such State; and

"(5) a description of the progress made in the State in, and any identifiable trends concerning, the setting of priorities for, policy reform concerning, and advocacy for, persons with developmental disabilities which are attributable to physical impairment, mental impairment, or a combination of physical and mental impairments, including any other subpopulation of persons with developmental disabilities (including minorities) that the State Planning Council may identify under sections 122(b)(3) and 122(f)."

(b) Section 107(c)(1) is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new subparagraphs:

"(C) the progress made by States in, and any identifiable trends concerning, the setting of priorities for, policy reform concerning, and advocacy for, persons with developmental disabilities attributable to physical impairment, mental impairment, or a combination of physical and mental impairments, including any other subpopulation of persons with developmental disabilities (including minorities) that the State Planning Council may identify under sections 122(b)(3) and 122(f);

"(D) the significant Federal policies that impact on the ability of States to address the needs of persons with developmental disabilities attributable to physical impairments, mental impairments, or a combination of mental and physical impairments; and

"(E) the number of meetings held by the interagency committee established under section 108(b) during the

State and local governments.
42 USC 6006.

Minorities.

Minorities.

period for which the report is made, which agencies were represented at each such meeting, and the accomplishments of the interagency committee in comparison to the goals and objectives of such committee.”

TITLE II—STATE ASSISTANCE PROGRAM

PURPOSE

SEC. 201. (a) Section 121 is amended to read as follows:

42 USC 6021.

“PURPOSE

“SEC. 121. The purpose of this part is to provide payments to States to assist in the development of a comprehensive system and a coordinated array of services and other assistance for persons with developmental disabilities through the conduct of, and appropriate planning and coordination of, administrative activities, Federal priority activities, and a State priority activity, in order to support persons with developmental disabilities to achieve their maximum potential through increased independence, productivity, and integration into the community.”

(b) The heading for part B is amended by striking out “AND SERVICE” and inserting in lieu thereof “PRIORITY AREA”.

42 USC prec.
6021.

STATE PLAN REQUIREMENTS

SEC. 202. (a) Section 122(b) is amended by striking out “for the provision of services for persons with developmental disabilities” in the matter preceding paragraph (1).

42 USC 6022.

(b)(1)(A) Section 122(b)(1) is amended—

(i) by striking out subparagraph (A) and inserting in lieu thereof the following:

“(A) The plan must provide for the establishment of a State Planning Council in accordance with section 124.”;

(ii) by striking out subparagraph (B) and inserting in lieu thereof the following:

“(B) The plan must designate the State agency which shall administer or supervise the administration of the State plan (hereafter in this part referred to as the ‘designated State agency’). Except as provided in subsection (e), the designated State agency may be—

“(i) the State Planning Council required under subparagraph (A) if such Council may be the designated State agency under the laws of the State;

“(ii) a State agency that does not provide or pay for services made available to persons with developmental disabilities; or

“(iii) a State office, including the immediate office of the Governor of the State or a State planning office.”; and

(iii) by striking out “each” in subparagraph (C) and inserting in lieu thereof “the”.

(B) Section 122 is amended by adding at the end thereof the following new subsection:

“(e)(1) If a State agency that provides or pays for services for persons with developmental disabilities was a designated State agency for purposes of this part on the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987 and the Governor of the State determines, before June 30, 1988, not to change the designation of such agency,

such agency may continue to be a designated State agency for purposes of this part.

"(2) The determination of the Governor of a State under paragraph (1) shall be at the discretion of the Governor and shall be made by the Governor after the Governor has considered the comments of the general public and the non-State agency members of the State Planning Council with respect to the designation of such State agency, and after the Governor has made an independent assessment of the impact that the designation of such agency has on the ability of the State Planning Council to serve as an advocate for persons with developmental disabilities.

"(3) If the Governor of a State determines not to retain the designation of a State agency in effect on the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987, the Governor shall, by October 1, 1990, designate another agency as the State agency in accordance with the requirements of subsection (b)(1)(B).

"(4) After the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987, any designation of a State agency shall be made in accordance with the requirements of subsection (b)(1)(B)."

(2) Section 122(b)(2) is amended—

(A) by inserting a comma and "activities," after "programs" in subparagraph (A);

(B) by striking out clause (i) of subparagraph (C) and inserting in lieu thereof "(i) the extent and scope of services being provided, or to be provided, to persons with developmental disabilities under such other State plans or federally assisted State programs that the State conducts and in which persons with developmental disabilities are eligible to participate, including programs relating to education, job training, vocational rehabilitation, public assistance, medical assistance, social services, maternal and child health, aging, programs for children with special health care needs, housing, comprehensive health and mental health, and such other plans as the Secretary may specify, and"; and

(C) by striking out "priority services being or to be provided" in subparagraph (D) and inserting in lieu thereof "Federal and State priority areas which are addressed or which will be addressed".

(3) Section 122 (as amended by paragraph (1)(B) of this subsection) is further amended—

(A) by redesignating paragraphs (3) through (7) of subsection (b) as paragraphs (4) through (8), respectively;

(B) by inserting after paragraph (2) of such subsection the following new paragraph:

"(3) The plan must describe a process and timetable for the completion, by January 1, 1990, by the State Planning Council in the State, of the reviews, analyses, and final report described in subsection (f)."; and

(C) by adding at the end thereof the following new subsection:
 "(f)(1) Each State Planning Council shall conduct a comprehensive review and analysis of the eligibility for services provided, and the extent, scope, and effectiveness of, services provided and functions performed by, all State agencies (including agencies which provide public assistance) which affect or which potentially affect the ability of persons with developmental disabilities to achieve the goals of

independence, productivity, and integration into the community, including persons with developmental disabilities attributable to physical impairment, mental impairment, or a combination of physical and mental impairments.

“(2) Each State Planning Council shall conduct a review and analysis of the effectiveness of, and consumer satisfaction with, the functions performed by, and services provided or paid for from Federal and State funds by each of the State agencies (including agencies providing public assistance) responsible for performing functions for, and providing services to, all persons with developmental disabilities in the State. Such review and analysis shall be based upon a survey of a representative sample of persons with developmental disabilities receiving services from each such agency, and if appropriate, shall include their families.

“(3) Each State Planning Council shall convene public forums, after the provision of notice within the State, in order to—

“(A) present the findings of the reviews and analyses prepared under paragraphs (1) and (2);

“(B) obtain comments from all interested persons in the State regarding the unserved and underserved populations of persons with developmental disabilities which result from physical impairment, mental impairment, or a combination of physical and mental impairments; and

“(C) obtain comments on any proposed recommendations concerning the removal of barriers to services for persons with developmental disabilities and to connect such services to existing State agencies by recommending the designation of one or more State agencies, as appropriate, to be responsible for the provision and coordination of such services.

“(4) By January 1, 1990, each State Planning Council shall prepare and transmit to the Governor of the State and the legislature of the State a final written report concerning the review and analyses conducted under paragraphs (1) and (2). The report shall contain recommendations by the State Planning Council concerning—

Reports.

“(A) the most appropriate agency or agencies of the State to be designated as responsible for the provision and coordination of services for persons with developmental disabilities who are traditionally underserved, such as persons with developmental disabilities attributable to physical impairment, persons with developmental disabilities attributable to dual mental impairments, and persons with developmental disabilities attributable to a combination of physical and mental impairments, and such other subpopulations of persons with developmental disabilities (including minorities) as the State Planning Council may identify; and

“(B) the steps to be taken to include the data and recommendations obtained through the conduct of the reviews and analyses under paragraphs (1) and (2) in the State Planning Council's ongoing advocacy, public policy, and model service demonstration activities.

“(5) By January 15, 1990, the Governor of each State shall submit to the Secretary a copy of the report required by paragraph (4). By April 1, 1990, the Secretary shall transmit a summary of such reports to the appropriate committees of the Congress.”

Reports.

(4) Section 122(b)(4) (as redesignated by paragraph (3)(A) of this subsection) is amended—

(A) by striking out "strengthening services for" in subparagraph (A) and inserting in lieu thereof "enhancing the independence, productivity, and integration into the community of"; and

(B) by striking out "or agencies" each place it appears in subparagraph (C).

(5) Section 122(b)(5) (as redesignated by paragraph (3)(A) of this subsection) is amended—

(A) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) The plan must provide for the examination, not less often than once every three years, of the provision, and the need for the provision, in the State of the four Federal priority areas and the State priority area. Such examination shall be made consistent with subparagraph (B).";

(B) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) The plan must provide for the review and revision, not less often than once every three years, of the comprehensive Statewide plan to ensure the existence of appropriate planning, financial support and coordination, and to otherwise appropriately address, on a Statewide and comprehensive basis, urgent needs in the State for the provision of services for persons with developmental disabilities and the families of such persons. Such review and revision, and examination under subparagraph (A), shall take into account the reviews and analyses conducted, and the report prepared, under subsection (f), and shall, at a minimum, include—

"(i) an analysis of such priority areas in relation to limited support or lack of support for persons with developmental disabilities attributable to either physical impairment, mental impairment, or a combination of physical and mental impairments;

"(ii) an analysis of criteria for eligibility for services, including specialized services and special adaptation of generic services provided by agencies within the State, that may be causing persons with developmental disabilities to be excluded from receiving such services;

"(iii) an analysis of services, assistive technology, or knowledge which may be unavailable to assist persons with developmental disabilities;

"(iv) an analysis of existing and projected fiscal resources;

"(v) an analysis of any other issues identified by the State Planning Council; and

"(vi) the formulation of objectives in both policy reform and service demonstration to address the issues described in clauses (i) through (v) for all subpopulations of persons with developmental disabilities which may be identified by the State Planning Council.";

(C) by striking out subparagraph (C);

(D) by redesignating subparagraphs (D), (E) and (F) as subparagraphs (C), (D), and (E), respectively;

(E) by striking out "service activities in the priority services" in clause (i) of subparagraph (D) (as redesignated by subparagraph (D) of this paragraph) and inserting in lieu thereof "activities in the Federal priority area of employment activities, and, at the discretion of the State, activities in any or all of the three other Federal priority areas and a State priority area, the

conduct of the analyses specified in clauses (i) through (v) of subparagraph (B), and the implementation of paragraph (3) and subsection (f)";

(F) by striking out "service activities for persons with developmental disabilities, and" in clause (ii) of such subparagraph;

(G) by inserting "priority area activities for" after "administration of" in such clause; and

(H) by striking out "the provision of such services" in such clause and inserting in lieu thereof "persons with developmental disabilities".

(6) Section 122(b)(6) (as redesignated by paragraph (3)(A) of this subsection) is amended—

(A) by striking out "services furnished" in clause (i) of subparagraph (A) and inserting in lieu thereof "programs";

(B) by striking out "furnished" in such clause and inserting in lieu thereof "operated"; and

(C) by striking out "delivery of services" in clause (ii) of such subparagraph and inserting in lieu thereof "programs".

(7) Section 122(b)(7)(B) (as redesignated by paragraph (3)(A) of this subsection) is amended by striking out "alternative community living arrangement services" and inserting in lieu thereof "community living activities".

HABILITATION PLANS

SEC. 203. Section 123(b) is amended—

42 USC 6023.

(1) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) The plan shall be developed jointly by (A) the person for whom the plan is established, (B) where appropriate, such person's parent or guardian or other representative, and (C) a representative or representatives of the program primarily responsible for delivering or coordinating the delivery of services to the person for whom the plan is established."; and

(2) by striking out "program coordinator who will be responsible for" in paragraph (3)(C) and inserting in lieu thereof "case manager who will be responsible for coordinating".

STATE PLANNING COUNCILS

SEC. 204. Section 124 is amended—

42 USC 6024.

(1) by redesignating subsection (b) as subsection (d) and, in paragraph (1) of such subsection—

(A) by striking out "or agencies"; and

(B) by striking out ", including the specification of services under section 122(b)(4)(B)" and inserting in lieu thereof the following: "including the specifications of Federal and State priority area activities under section 122(b)(5)(D)(i)"; and

(2) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) Each State which receives assistance under this part shall establish a State Planning Council which will serve as an advocate for all persons with developmental disabilities.

Establishment.

"(b)(1) The members of the State Planning Council of a State shall be appointed by the Governor of the State from among the residents of that State.

Education.

“(2) The Governor of each State shall make appropriate provisions for the rotation of membership on the State Planning Council.

“(3) Each State Planning Council shall at all times include in its membership representatives of the principal State agencies (including the State agency that administers funds provided under the Rehabilitation Act of 1973, the State agency that administers funds provided under the Education of the Handicapped Act, the State agency that administers funds provided under the Older Americans Act of 1965, and the State agency that administers funds provided under title XIX of the Social Security Act for persons with developmental disabilities), higher education training facilities, each university affiliated program or satellite center in the State, the State protection and advocacy system established under section 142, local agencies, and nongovernmental agencies and private nonprofit groups concerned with services for persons with developmental disabilities in that State.

“(4) At least one-half of the membership of each State Planning Council shall consist of persons who—

“(A) are persons with developmental disabilities;

“(B) are parents or guardians of such persons; or

“(C) are immediate relatives or guardians of persons with mentally impairing developmental disabilities, and who are not employees of a State agency which receives funds or provides services under this part, who are not managing employees (as defined in section 1126(b) of the Social Security Act) of any other entity which receives funds or provides services under this part, and who are not persons with an ownership or control interest (within the meaning of section 1124(a)(3) of the Social Security Act) with respect to such an entity.

“(5) Of the members of the State Planning Council described in paragraph (4)—

“(A) at least one-third shall be persons with developmental disabilities; and

“(B)(i) at least one-third shall be individuals described in subparagraph (C) of paragraph (4), and (ii) at least one of such individuals shall be an immediate relative or guardian of an institutionalized or previously institutionalized person with a developmental disability.

“(c)(1) Each State Planning Council may prepare and approve a budget using amounts paid to the State under this part to hire such staff and obtain the services of such professional, technical, and clerical personnel consistent with State law as the State Planning Council determines to be necessary to carry out its functions under this part.

“(2) The staff and other personnel of a State Planning Council, while working for the State Planning Council, shall be responsible solely for assisting the State Planning Council in carrying out its duties under this part and shall not be assigned duties by the designated State agency or any other agency or office of the State.”.

STATE ALLOTMENTS

42 USC 6025.

SEC. 205. (a) Section 125(a) is amended—

(1) by striking out “\$100,000” in clause (i) of paragraph (3)(A) and inserting in lieu thereof “\$160,000”;

(2) by striking out “\$250,000” in clause (ii) of such paragraph and inserting in lieu thereof “\$300,000”;

(3) by striking out "\$47,000,000" in paragraph (4) and inserting in lieu thereof "\$60,000,000";

(4) by striking out "\$160,000" in subparagraph (A) of such paragraph and inserting in lieu thereof "\$200,000";

(5) by striking out "\$300,000" in subparagraph (B) of such paragraph and inserting in lieu thereof "\$350,000"; and

(6) by adding at the end thereof the following new paragraph:

"(6) In any case in which the total amount appropriated under section 130 for a fiscal year exceeds the total amount appropriated under such section for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1) of the Rehabilitation Act of 1973, the Secretary may increase each of the minimum allotments under paragraphs (3) and (4) by an amount which bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount which is equal to the difference between—

"(A) the total amount appropriated under section 130 for the fiscal year for which the increase in minimum allotment is being made, minus

"(B) the total amount appropriated under section 130 for the immediately preceding fiscal year,

bears to the total amount appropriated under section 130 for such preceding fiscal year."

(b) Section 125(b) is amended to read as follows:

"(b) Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available to such State for the next fiscal year for the purposes for which such amount was paid."

WITHHOLDING

SEC. 207. Section 127(1) is amended by inserting ", particularly sections 122(b)(3) or 122(f)" after "State plan". 42 USC 6027.

AUTHORIZATION OF APPROPRIATIONS

SEC. 208. Section 130 is amended to read as follows: 42 USC 6030.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 130. For allotments under section 125, there are authorized to be appropriated \$62,200,000 for fiscal year 1988, \$69,900,000 for fiscal year 1989, and \$77,400,000 for fiscal year 1990."

TITLE III—PROTECTION AND ADVOCACY

REQUIREMENTS FOR SYSTEM

SEC. 301. (a) Section 142(a)(2) is amended— 42 USC 6042.

(1) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (E), (F), and (G), respectively;

(2) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) have the authority to—

"(i) pursue legal, administrative, and other appropriate remedies or approaches to ensure the protection of, and advocacy for, the rights of such persons within

Minorities.

the State who are or who may be eligible for treatment, services, or habilitation, or who are being considered for a change in living arrangements, with particular attention to members of minority groups; and

“(ii) provide information on and referral to programs and services addressing the needs of persons with developmental disabilities;

“(B) have the authority to investigate incidents of abuse and neglect of persons with developmental disabilities if the incidents are reported to the system or if there is probable cause to believe that the incidents occurred;

“(C) on an annual basis, provide the public with an opportunity to comment on priorities established by, and activities of, the system;

“(D) establish a grievance procedure for clients or prospective clients of the system to assure that persons with developmental disabilities have full access to services of the system;” and

(3) by striking out subparagraph (G) (as redesignated by clause (1) of this subsection) and inserting in lieu thereof the following:

“(G) have access to all records of—

“(i) any person with developmental disabilities who is a client of the system if such person, or the legal guardian, conservator, or other legal representative of such person, has authorized the system to have such access; and

“(ii) any person with developmental disabilities—

“(I) who, by reason of the mental or physical condition of such person, is unable to authorize the system to have such access;

“(II) who does not have a legal guardian, conservator, or other legal representative, or for whom the legal guardian is the State; and

“(III) with respect to whom a complaint has been received by the system or with respect to whom there is probable cause to believe that such person has been subject to abuse or neglect;”.

(b) Section 142(c) is amended—

(1) by striking out “\$11,000,000” in subparagraph (A) of paragraph (1) and inserting in lieu thereof “\$20,000,000”;

(2) by striking out “\$80,000” in clause (i) of such subparagraph and inserting in lieu thereof “\$107,000”;

(3) by striking out “\$150,000” in clause (ii) of such subparagraph and inserting in lieu thereof “\$200,000”;

(4) by striking out “\$11,000,000” in subparagraph (B) of such paragraph and inserting in lieu thereof “\$20,000,000”;

(5) by striking out “\$50,000” in such subparagraph and inserting in lieu thereof “\$150,000, and the allotment of each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands for such fiscal year shall not be less than \$80,000”;

(6) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(7) by inserting after paragraph (1) the following new paragraph:

State and local governments.

“(2) In any case in which the total amount appropriated under section 143 for a fiscal year exceeds the total amount appropriated under such section for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1) of the Rehabilitation Act of 1973, the Secretary may increase each of the minimum allotments under subparagraphs (A) and (B) of paragraph (1) by an amount which bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount which is equal to the difference between—

“(A) the total amount appropriated under section 143 for the fiscal year for which the increase in minimum allotment is being made, minus

“(B) the total amount appropriated under section 143 for the immediately preceding fiscal year, bears to the total amount appropriated under section 143 for such preceding fiscal year.”.

(c) Section 142 is further amended—

(1) by striking out subsection (b);

(2) by redesignating subsection (c) (as amended by subsection (b) of this section) as subsection (b); and

(3) by adding at the end thereof the following new subsection:

“(c) Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available to such State for the next fiscal year for the purposes for which such amount was paid.”.

State and local governments.

AUTHORIZATION OF APPROPRIATIONS

SEC. 302. Section 143 is amended to read as follows:

42 USC 6043.

“AUTHORIZATION OF APPROPRIATIONS

“SEC. 143. For allotments under section 142, there are authorized to be appropriated \$20,000,000 for fiscal year 1988, \$22,000,000 for fiscal year 1989, and \$24,200,000 for fiscal year 1990.”.

TITLE IV—UNIVERSITY AFFILIATED PROGRAMS

Community development.

PURPOSE

SEC. 401. (a) Section 151 is amended—

42 USC 6061.

(1) by striking out “facilities” and inserting in lieu thereof “programs”; and

(2) by striking out “the conduct of service demonstration programs” and inserting in lieu thereof “the demonstration of exemplary services and technical assistance”.

(b) The heading for part D is amended by striking out “FACILITIES” and inserting in lieu thereof “PROGRAMS”.

42 USC prec. 6061.

GRANT AUTHORITY

SEC. 402. (a) Section 152(a) is amended—

42 USC 6062.

(1) by striking out “section 154” and inserting in lieu thereof “section 154(a)”;

(2) by striking out “facilities” and inserting in lieu thereof “programs”; and

(3) by striking out "section 102(13)" and inserting in lieu thereof "section 102(18)".

(b) Section 152 is further amended—

(1) by striking out subsections (b) and (d);

(2) by redesignating subsection (c) as subsection (d) and (in such subsection)—

(A) by striking out "The" and inserting in lieu thereof "From amounts appropriated under section 154(a), the";

(B) by inserting "and may compete for grants under subsections (b) and (c)" before the period at the end of the second sentence; and

(C) by striking out "section 102(13)" and inserting in lieu thereof "section 102(18)";

Education.

(3) by inserting after subsection (a) the following new subsections:

"(b)(1)(A) From amounts appropriated under section 154(b), the Secretary shall make grants of sufficient size and scope to university affiliated programs receiving grants under subsection (a) to support training projects to train personnel to address the needs of persons with developmental disabilities in areas of emerging national significance, particularly projects to train personnel in the areas of early intervention programs (as described in paragraph (2)), programs for elderly persons with developmental disabilities (as described in paragraph (3)), and community-based service programs (as described in paragraph (4)).

"(B) The Secretary shall make determinations with respect to grants under this subsection based on information relating to present and projected needs for the training of personnel based on identified State, regional, or national shortages of personnel, the capacity of the university affiliated programs to train personnel, and such other information as may be determined necessary and appropriate by the Secretary.

"(C) Grants under this subsection may be used by university affiliated programs to (i) assist in paying the costs of courses of training or study for personnel to provide services for persons with developmental disabilities and (ii) establish fellowships or traineeships providing such stipends and allowances as may be determined by the Secretary.

"(2) Grants under this subsection for training projects with respect to early intervention programs shall be for the purpose of assisting university affiliated programs in providing training to allied health personnel and other personnel who provide, or who will provide, interdisciplinary intervention to infants, toddlers, and preschool age children with developmental disabilities. Such training projects shall include instruction on methods of working and collaborating with professionals and families of persons with developmental disabilities.

"(3) Grants under this subsection for training projects with respect to programs for elderly persons with developmental disabilities shall be for the purpose of supporting the planning, design, and implementation of coordinated interdisciplinary training programs between existing aging or gerontological programs and university affiliated programs in order to prepare professional staff to provide services for elderly persons with developmental disabilities.

"(4) Grants under this subsection for training projects with respect to community-based programs shall be for the purpose of providing interdisciplinary training to personnel who will provide

direct supports and services for persons with developmental disabilities, including paraprofessionals who are employed or are preparing to be employed in community-based day programs or residential programs for persons with developmental disabilities. The Secretary shall ensure that all grants under this paragraph are made only to university affiliated programs that involve local community-level direct care programs and paraprofessional training programs in the preparation of the application for such grant and shall assure that any training under the university affiliated program will be coordinated with local programs.

“(c) From amounts appropriated under section 154(b), the Secretary may make grants to university affiliated programs receiving grants under subsection (a) to support one or more of the following activities:

“(1) The provision of service-related training to persons with developmental disabilities, family members of such persons, professionals, volunteers, or other personnel to enable such persons, family members, professionals, volunteers, or personnel to provide services to increase or maintain the independence, productivity, and integration into the community of persons with developmental disabilities.

“(2) The conduct of an applied research program designed to produce more efficient and effective methods for (A) the delivery of services to persons with developmental disabilities, and (B) the training of professionals, paraprofessionals, and parents who provide such services.”; and

(4) by adding at the end thereof the following new subsection: “(e) From amounts appropriated under section 154(a), the Secretary may make a grant to a university or a public or nonprofit entity which is associated with, or is an integral part of, a college or university, to study the feasibility of establishing a university affiliated program or a satellite center. Such study shall include an assessment of the needs of the area in which the university is located for such a program or center. The amount of a grant under this subsection may not exceed \$35,000 for any fiscal year. A grant under this subsection may only be made in a State in which there is no university affiliated program or satellite center.”.

APPLICATIONS

SEC. 403. (a) Section 153(a) is amended—

(1) by striking out “facilities” in the first sentence and inserting in lieu thereof “programs”;

(2) by inserting “all” before “persons with developmental disabilities” in the second sentence; and

(3) by striking out “section 102(13)” in the second sentence and inserting in lieu thereof “section 102(18)”.

(b) Section 153(b) is amended—

(1) by striking out “section 152” in the matter preceding paragraph (1) and inserting in lieu thereof “section 152(a)”;

(2) by striking out “facility” each place it appears in paragraph (2) and inserting in lieu thereof “program”;

(3) by striking out “is making” in clause (i) of subparagraph (B) of such paragraph and inserting in lieu thereof “will make”;

(4) by striking out “and” at the end of such subparagraph;

(5) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon; and

State and local
governments.
42 USC 6063.

(6) by adding at the end thereof the following new paragraphs:
 “(4) the activities conducted under this part are consistent with, and to the extent feasible, complement and further, the objectives contained in the State plan required under section 122; and

“(5) before the submission of such application, an opportunity for comment has been provided to the general public and the State Planning Council of the State in which the program will be conducted or the satellite center is or will be located.”.

(c) Section 153(c) is amended—

(1) by striking out “facility” and inserting in lieu thereof “program”; and

(2) by striking out “section 152” and inserting in lieu thereof “section 152(a)”.

(d) Section 153(d) is amended—

(1) by striking out “facility” each place it appears and inserting in lieu thereof “program”;

(2) by striking out “section 154” each place it appears and inserting in lieu thereof “section 154(a)”;

(3) by striking out “\$175,000” in paragraph (1) and inserting in lieu thereof “\$200,000”;

(4) by striking out “\$75,000” in paragraph (1) and inserting in lieu thereof “\$150,000”; and

(5) by adding at the end thereof the following new paragraph:

“(3)(A) For purposes of making grants under section 152(a), the Secretary shall consider applications for grants for four university affiliated programs or satellite centers for each of the fiscal years 1988, 1989, and 1990 which are in addition to the total number of university affiliated programs and satellite centers receiving grants under such section for the preceding fiscal year.

“(B) Such programs and centers shall, to the extent feasible, be geographically distributed for the purpose of serving States that are unserved by university affiliated programs and satellite centers under this part on the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987.

“(C) The Secretary may not deny an application for a university affiliated program or satellite center solely because of the size of the population proposed to be served by the program or center, if such application proposes to serve the population of an entire State.”.

Regulations.

(e) Section 153 (as amended in this section) is further amended by adding at the end thereof the following new subsection:

“(e)(1) The Secretary shall by regulation require appropriate technical and qualitative peer review of applications for assistance under this part by peer review groups established under paragraph (4).

“(2) Regulations promulgated under paragraph (1) shall provide that the review of the application required by such paragraph shall be conducted by groups established under paragraph (4) that are composed of non-Federal individuals who, by experience or training, are highly qualified to assess the comparative quality of applications for assistance.

“(3)(A) The Secretary may approve an application under this part only if such application has been recommended by a peer review group that has conducted the peer review required under paragraph (1).

“(B) This paragraph shall apply to the approval of grant applications received for fiscal year 1990 and succeeding fiscal years.

“(4) The Secretary, acting through the Commissioner of the Administration on Developmental Disabilities, may, notwithstanding—

“(A) the provisions of title 5, United States Code, concerning appointments to the competitive service;

“(B) the provisions of chapter 51, and subchapter III of chapter 53 of title 5, United States Code, concerning classification and General Schedule pay rates;

establish such peer review groups as are necessary to carry out this subsection, and appoint and set the rates of pay for members of such groups.

“(5) The Secretary may waive the provisions of paragraph (3) concerning approval of an application if the Secretary determines that exceptional circumstances warrant such a waiver.”

AUTHORIZATION OF APPROPRIATIONS

SEC. 404. Section 154 is amended to read as follows:

42 USC 6064.

“AUTHORIZATION OF APPROPRIATIONS

“SEC. 154. (a) For the purpose of grants under subsections (a), (d), and (e) of section 152, there are authorized to be appropriated \$9,400,000 for fiscal year 1988, \$10,200,000 for fiscal year 1989, and \$11,000,000 for fiscal year 1990. Amounts appropriated under this section for a fiscal year shall remain available for obligation and expenditure until the end of the succeeding fiscal year.

“(b) For the purpose of grants under sections 152(b) and 152(c), there are authorized to be appropriated \$4,500,000 for fiscal year 1988, \$5,000,000 for fiscal year 1989, and \$5,500,000 for fiscal year 1990.

“(c) The Secretary may use funds appropriated under subsection (a) for the purposes described in subsection (b).

“(d) Of the amounts appropriated under subsection (b), at least 75 percent shall be used for grants under section 152(b) and the remainder shall be used for grants under section 152(c).”

TITLE V—PROJECTS OF NATIONAL SIGNIFICANCE

PURPOSE

Contracts.

SEC. 501. (a) Section 161 is amended by striking out “for demonstration projects” and inserting in lieu thereof “and contracts for projects of national significance”.

42 USC 6081.

(b) The heading for part E is amended to read as follows:

42 USC prec.
6081.

“PART E—PROJECTS OF NATIONAL SIGNIFICANCE”.

GRANT AUTHORITY

SEC. 502. (a) Section 162(a) is amended—

42 USC 6082.

(1) by inserting “and enter into contracts with” after “make grants to” in the matter preceding paragraph (1);

(2) by striking out paragraph (1) and inserting in lieu thereof the following:

“(1) projects of national significance relating to persons with developmental disabilities, including projects to educate policymakers, develop an ongoing data collection system, determine

Minorities.

the feasibility and desirability of developing a nationwide information and referral system, and pursue Federal inter-agency initiatives, and other projects of sufficient size and scope and which hold promise of expanding or otherwise improving opportunities for persons with developmental disabilities (especially those who are multihandicapped or disadvantaged, including minority groups, Native Americans, Native Hawaiians, and other underserved groups); and”;

State and local governments.

(3) by inserting “the advocacy functions of the State Planning Council, the functions performed by university affiliated programs and satellite centers under part D, and” after “otherwise improving” in paragraph (2).

(b) The last sentence of section 162(b) is amended—

(1) by striking out “for each” and inserting in lieu thereof “in such”; and

(2) by striking out “in which an applicant’s project will be conducted”.

(c) Section 162 is further amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

Federal Register, publication.

“(c) Not later than January 1 of each year, the Secretary shall publish in the Federal Register proposed priorities for grants and contracts under this part and shall allow a period of 60 days for public comments and suggestions concerning such proposed priorities. After analyzing and considering such comments, the Secretary shall publish final priorities for such grants and contracts in the Federal Register.”.

AUTHORIZATION OF APPROPRIATIONS

42 USC 6083.

SEC. 503. Section 163 is amended to read as follows:

“AUTHORIZATION OF APPROPRIATIONS

“SEC. 163. (a) To carry out this part, there are authorized to be appropriated \$3,650,000 for fiscal year 1988, \$3,650,000 for fiscal year 1989, and \$3,650,000 for fiscal year 1990.

“(b) Of the amounts appropriated under subsection (a) for any fiscal year, \$600,000 shall be available for grants and contracts under section 162(a)(1) for not more than three projects to determine the feasibility and desirability of developing a nationwide information and referral system for persons with developmental disabilities. The Secretary shall award grants and contracts under section 162(a)(1) for such projects within 6 months after the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987.”.

TITLE VI—EFFECTIVE DATE

EFFECTIVE DATE

SEC. 601. This Act, and the amendments made by this Act, shall become effective on October 1, 1987.

42 USC 6000 note.

Approved October 29, 1987.

LEGISLATIVE HISTORY—S. 1417 (H.R. 1871):

HOUSE REPORTS: No. 100-265 accompanying H.R. 1871 (Comm. on Energy and Commerce).

SENATE REPORTS: No. 100-113 (Comm. on Labor and Human Resources).

CONGRESSIONAL RECORD, Vol. 133 (1987):

July 21, considered and passed Senate.

Aug. 4, H.R. 1871 considered and passed House; proceedings vacated and S. 1417, amended, passed in lieu.

Sept. 30, Senate concurred in House amendment with an amendment.

Oct. 13, House concurred in Senate amendment.