

Public Law 102-173
102d Congress

An Act

To amend the Protection and Advocacy for Mentally Ill Individuals Act of 1986 to reauthorize programs under such Act, and for other purposes.

Nov. 27, 1991
[S. 1475]

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

Protection and
Advocacy for
Mentally Ill
Individuals
Amendments
Act of 1991.
42 USC 10801
note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Protection and Advocacy for Mentally Ill Individuals Amendments Act of 1991".

SEC. 2. REFERENCES.

Except as otherwise provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.).

SEC. 3. FINDINGS.

Section 101(a) (42 U.S.C. 10801(a)) is amended—

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

(2) by inserting after paragraph (1), the following new paragraph:

"(2) family members of individuals with mental illness play a crucial role in being advocates for the rights of individuals with mental illness where the individuals are minors, the individuals are legally competent and choose to involve the family members, and the individuals are legally incompetent and the legal guardians, conservators, or other legal representatives are members of the family;"

SEC. 4. DEFINITIONS.

Section 102 (42 U.S.C. 10802) is amended—

(1) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively; and

(2) by inserting after paragraph (2), the following new paragraph:

"(3) The term 'facilities' may include, but need not be limited to, hospitals, nursing homes, community facilities for individuals with mental illness, board and care homes, homeless shelters, and jails and prisons."

SEC. 5. USE OF ALLOTMENTS.

Section 104 (42 U.S.C. 10804) is amended by adding at the end thereof the following new subsection:

"(c) An eligible system may use its allotment under this title to provide representation to individuals with mental illness in Federal facilities who request representation by the eligible system. Representatives of such individuals from such system shall be accorded

all the rights and authority accorded to other representatives of residents of such facilities pursuant to State law and other Federal laws.”.

SEC. 6. SYSTEMS REQUIREMENTS.

(a) **ACCESS TO RECORDS.**—Section 105(a)(4) (42 U.S.C. 10805(a)(4)) is amended—

(1) in subparagraph (A), by striking out “and” at the end thereof;

(2) in subparagraph (B)(iii)—

(A) by inserting “as a result of monitoring or other activities (either of which result from a complaint or other evidence)” before “there is”; and

(B) by adding “and” at the end thereof; and

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

“(C) any individual with a mental illness, who has a legal guardian, conservator, or other legal representative, with respect to whom a complaint has been received by the system or with respect to whom there is probable cause to believe the health or safety of the individual is in serious and immediate jeopardy, whenever—

“(i) such representative has been contacted by such system upon receipt of the name and address of such representative;

“(ii) such system has offered assistance to such representative to resolve the situation; and

“(iii) such representative has failed or refused to act on behalf of the individual;”.

(b) **ADVISORY COUNCIL.**—Section 105(a)(6) (42 U.S.C. 10805(a)(6)) is amended—

(1) in subparagraph (A), by striking out “and” at the end thereof;

(2) in subparagraph (B), by striking out “one-half” and inserting in lieu thereof “60 percent”; and

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

“(C) which shall be chaired by an individual who has received or is receiving mental health services or who is a family member of such an individual;”.

(c) **GRIEVANCE PROCEDURE.**—Section 105(a)(9) (42 U.S.C. 10805(a)(9)) is amended by inserting before the period the following: “and for individuals who have received or are receiving mental health services, family members of such individuals with mental illness, or representatives of such individuals or family members to assure that the eligible system is operating in compliance with the provisions of this title and title III”.

(d) **GOVERNING AUTHORITY.**—Section 105(c)(1)(B) (42 U.S.C. 10805(c)(1)(B)) is amended by adding at the end thereof the following new sentence: “As used in this subparagraph, the term ‘members who broadly represent or are knowledgeable about the needs of the clients served by the system’ shall be construed to include individuals who have received or are receiving mental health services and family members of such individuals.”.

SEC. 7. TRAINING.

Section 111 (42 U.S.C. 10821) is amended—

(1) in subsection (a)(2), by inserting before the semicolon the following: “and to work with family members of clients served by the system where the individuals with mental illness are minors, legally competent and do not object, and legally incompetent and the legal guardians, conservators, or other legal representatives are family members”;

(2) by redesignating subsection (b) as subsection (c); and

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

“(b) The assurance required under subsection (a)(2) regarding trained staff may be satisfied through the provision of training by individuals who have received or are receiving mental health services and family members of such individuals.”.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

Section 117 (42 U.S.C. 10827) is amended to read as follows:

“SEC. 117. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated for allotments under this title, \$19,500,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995.”.

SEC. 9. REGULATIONS.

Section 116 (42 U.S.C. 10826) is amended—

(1) by inserting “(a) IN GENERAL.—” before “The Secretary”;

and

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

“(b) REGULATIONS.—Not later than 6 months after the date of enactment of this subsection, the Secretary shall promulgate final regulations to carry out this title and title III.”.

SEC. 10. TECHNICAL AMENDMENTS.

The Act (42 U.S.C. 10801 et seq.) is amended—

(1) by striking out “mentally ill individual” each place that such occurs and inserting in lieu thereof “individual with mental illness”; and

(2) by striking out “mentally ill individuals” each place that such occurs and inserting in lieu thereof “individuals with mental illness”.

Approved November 27, 1991.

LEGISLATIVE HISTORY—S. 1475:

HOUSE REPORTS: No. 102-319 (Comm. on Energy and Commerce).

SENATE REPORTS: No. 102-114 (Comm. on Labor and Human Resources).

CONGRESSIONAL RECORD, Vol. 137 (1991):

July 31, considered and passed Senate.

Nov. 19, considered and passed House.