

SHORT TITLE

Section 1 of Pub. L. 94-103 provided that: "This Act [see Codification note preceding this section] may be cited as the 'Developmentally Disabled Assistance and Bill of Rights Act'."

Section 1 of Pub. L. 88-164, Oct. 31, 1963, 77 Stat. 282, as amended, provided that: "This Act [enacting this chapter and subchapter III (§2689 et seq.) of chapter 33 of this title, and enacting provisions set out as notes under this section and section 2689 of this title] may be cited as the 'Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963'."

Pub. L. 88-164, title I, §101, as added by Pub. L. 94-103, title I, §125, which provided that: "This title [this chapter] may be cited as the 'Developmental Disabilities Services and Facilities Construction Act'." was struck out by Pub. L. 95-602, title V, §502.

Pub. L. 88-164, title I, §100, as added by Pub. L. 98-527, §2, Oct. 19, 1984, 98 Stat. 2662, and amended by Pub. L. 103-230, title I, §101(c), Apr. 6, 1994, 108 Stat. 285, provided that: "This title [enacting this chapter] may be cited as the 'Developmental Disabilities Assistance and Bill of Rights Act'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6021, 6024 of this title.

§ 6001. Definitions

For purposes of this chapter:

(1) American Indian Consortium

The term "American Indian Consortium" means any confederation of two or more recognized American Indian tribes, created through the official action of each participating tribe, that has a combined total resident population of 150,000 enrolled tribal members and a contiguous territory of Indian lands in two or more States.

(2) Assistive technology device

The term "assistive technology device" means any item, piece of equipment, or product system, whether acquired commercially, modified or customized, that is used to increase, maintain, or improve functional capabilities of individuals with developmental disabilities.

(3) Assistive technology service

The term "assistive technology service" means any service that directly assists an individual with a developmental disability in the selection, acquisition, or use, of an assistive technology device. Such term includes—

(A) the evaluation of the needs of an individual with a developmental disability, including a functional evaluation of the individual in the individual's customary environment;

(B) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by an individual with a developmental disability;

(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing assistive technology devices;

(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(E) training or technical assistance for an individual with a developmental disability, or, where appropriate, a family member, guardian, advocate, or authorized representative of an individual with a developmental disability; and

(F) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of, an individual with developmental disabilities.

(4) Child development activities

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.

(5) Community living activities

The term "community living activities" means such priority area activities as will assist individuals with developmental disabilities to obtain and receive the supports needed to live in their family home or a home of their own with individuals of their choice and to develop supports in the community.

(6) Community supports

The term "community supports" means activities, services, supports, and other assistance designed to—

(A) assist neighborhoods and communities to be more responsive to the needs of individuals with developmental disabilities and their families;

(B) develop local networks that can provide informal support; and

(C) make communities accessible and enable communities to offer their resources and opportunities to individuals with developmental disabilities and their families.

Such term includes community education, personal assistance services, vehicular and home modifications, support at work, and transportation.

(7) Culturally competent

The term "culturally competent" means services, supports or other assistance that are conducted or provided in a manner that is responsive to the beliefs, interpersonal styles, attitudes, language and behaviors of individuals who are receiving services, and in a manner that has the greatest likelihood of ensuring their maximum participation in the program.

(8) Developmental disability

The term "developmental disability" means a severe, chronic disability of an individual 5 years of age or older that—

(A) is attributable to a mental or physical impairment or combination of mental and physical impairments;

(B) is manifested before the individual attains age 22;

(C) is likely to continue indefinitely;

(D) results in substantial functional limitations in three or more of the following areas of major life activity—

- (i) self-care;
- (ii) receptive and expressive language;
- (iii) learning;
- (iv) mobility;
- (v) self-direction;
- (vi) capacity for independent living; and
- (vii) economic self-sufficiency; and

(E) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, supports, or other assistance that is of lifelong or extended duration and is individually planned and coordinated,

except that such term, when applied to infants and young children means individuals from birth to age 5, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided.

(9) Early intervention services

The term "early intervention services" means services provided to infants, toddlers, young children, and their families to—

- (A) enhance the development of infants, toddlers, and young children with disabilities and to minimize their potential for developmental delay; and
- (B) enhance the capacity of families to meet the special needs of their infants, toddlers, and young children.

(10) Employment activities

The term "employment activities" means such priority area activities as will increase the independence, productivity, and integration and inclusion into the community of individuals with developmental disabilities in work settings.

(11) Family support service

The term "family support service" means services, supports, and other assistance provided to families with members with developmental disabilities that are designed to—

- (A) strengthen the family's role as primary caregiver;
- (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, whenever possible.

Such term includes respite care, rehabilitation technology, personal assistance services, parent training and counseling, support for elderly parents, vehicular and home modifications, and assistance with extraordinary expenses associated with the needs of individuals with developmental disabilities.

(12) Federal priority areas

The term "Federal priority areas" means community living activities, employment activities, child development activities, and system coordination and community education activities.

(13) Independence

The term "independence" means the extent to which individuals with developmental dis-

abilities exert control and choice over their own lives.

(14) Individual supports

The term "individual supports" means services, supports, and other assistance that enable an individual with a developmental disability to be independent, productive, integrated, and included into such individual's community, and that are designed to—

- (A) enable such individual to control such individual's environment, permitting the most independent life possible;
- (B) prevent placement into a more restrictive living arrangement than is necessary; and
- (C) enable such individual to live, learn, work, and enjoy life in the community.

Such term includes personal assistance services, rehabilitation technology, vehicular and home modifications, support at work, and transportation.

(15) Integration and inclusion

The term "integration and inclusion", with respect to individuals with developmental disabilities, means—

- (A) the use by individuals with developmental disabilities of the same community resources that are used by and available to other citizens;
- (B) living in homes close to community resources, with regular contact with citizens without disabilities in their communities;
- (C) the full and active participation by individuals with developmental disabilities in the same community activities and types of employment as citizens without disabilities, and utilization of the same community resources as citizens without disabilities, living, learning, working, and enjoying life in regular contact with citizens without disabilities; and
- (D) having friendships and relationships with individuals and families of their own choosing.

(16) Nonprofit

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 shareholder or individual.

(17) Other organizations

The term "other organizations" means those organizations that are not State agencies or nonprofit agencies, except such organizations may be consulting firms, independent proprietary businesses and providers, and local community groups not organizationally incorporated, and that are interested in supporting individuals with developmental disabilities.

(18) Personal assistance services

The term "personal assistance services" means a range of services, provided by one or more individuals, designed to assist an individual with a disability to perform daily living activities on or off a job that such individual would typically perform if such individual did

not have a disability. Such services shall be designed to increase such individual's control in life and ability to perform everyday activities on or off such job.

(19) Prevention

The term "prevention" means activities that address the causes of developmental disabilities and the exacerbation of functional limitations, such as activities that—

(A) eliminate or reduce the factors that cause or predispose individuals to developmental disabilities or that increase the prevalence of developmental disabilities;

(B) increase the early identification of existing problems to eliminate circumstances that create or increase functional limitations; and

(C) mitigate against the effects of developmental disabilities throughout the individual's lifespan.

(20) Productivity

The term "productivity" means—

(A) engagement in income-producing work that is measured by increased income, improved employment status, or job advancement; or

(B) engagement in work that contributes to a household or community.

(21) Protection and advocacy system

The term "protection and advocacy system" means a protection and advocacy system established in accordance with section 6042 of this title.

(22) Rehabilitation technology

The term "rehabilitation technology" means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of, and address the barriers confronted by, individuals with developmental disabilities in areas that include education, rehabilitation, employment, transportation, independent living, and recreation. Such term includes rehabilitation engineering, assistive technology devices, and assistive technology services.

(23) Secretary

The term "Secretary" means the Secretary of Health and Human Services.

(24) Service coordination activities

The term "service coordination activities" (also referred to as "case management activities") means activities that assist and enable individuals with developmental disabilities and their families to access services, supports and other assistance, and includes—

(A) the provision of information to individuals with developmental disabilities and their families about the availability of services, supports, and other assistance;

(B) assistance in obtaining appropriate services, supports, and other assistance, which may include facilitating and organizing such assistance;

(C) coordination and monitoring of services, supports, and other assistance provided singly or in combination to individuals with developmental disabilities and their families

to ensure accessibility, continuity, and accountability of such assistance; and

(D) follow-along services that ensure, through a continuing relationship, that the changing needs of individuals with developmental disabilities and their families are recognized and appropriately met.

(25) State

The term "State", except as provided in section 6065 of this title, includes, in addition to each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau (until the Compact of Free Association with Palau takes effect).

(26) State Developmental Disabilities Council

The term "State Developmental Disabilities Council" means a Council established under section 6024 of this title.

(27) State priority area

The term "State priority area" means priority area activities in an area considered essential by the State Developmental Disabilities Council.

(28) Supported employment

The term "supported employment" means competitive work in integrated work settings for individuals with developmental disabilities—

(A)(i) for whom competitive employment has not traditionally occurred; or

(ii) for whom competitive employment has been interrupted or intermittent as a result of a severe disability; and

(B) who, because of the nature and severity of their disability, need intensive supported employment services or extended services in order to perform such work.

(29) System coordination and community education activities

The term "system coordination and community education activities" means activities that—

(A) eliminate barriers to access and eligibility for services, supports, and other assistance;

(B) enhance systems design, redesign, and integration, including the encouragement of the creation of local service coordination and information and referral statewide systems;

(C) enhance individual, family, and citizen participation and involvement; and

(D) develop and support coalitions and individuals through training in self-advocacy, educating policymakers, and citizen leadership skills.

(30) University affiliated program

The term "university affiliated program" means a university affiliated program established under section 6062 of this title.

(31) Unserved and underserved

The term "unserved and underserved" includes populations such as individuals from

racial and ethnic minority backgrounds, disadvantaged individuals, individuals with limited-English proficiency, individuals from underserved geographic areas (rural or urban), and specific groups of individuals within the population of individuals with developmental disabilities, including individuals with developmental disabilities attributable to physical impairment, mental impairment, or a combination of physical and mental impairments.

(Pub. L. 88-164, title I, §102, as added Pub. L. 98-527, §2, Oct. 19, 1984, 98 Stat. 2663; amended Pub. L. 100-146, title I, §102, Oct. 29, 1987, 101 Stat. 841; Pub. L. 101-496, §4, Oct. 31, 1990, 104 Stat. 1192; Pub. L. 103-230, title I, §103, Apr. 6, 1994, 108 Stat. 288.)

REFERENCES IN TEXT

For Oct. 1, 1994, as the date the Compact of Free Association with Palau takes effect, referred to in par. (25), see Proc. No. 6726, Sept. 27, 1994, 59 F.R. 49777, set out as a note under section 1931 of Title 48, Territories and Insular Possessions.

PRIOR PROVISIONS

A prior section 6001, Pub. L. 88-164, title I, §102, as added Pub. L. 94-103, title I, §125, Oct. 4, 1975, 89 Stat. 496; amended Pub. L. 95-602, title V, §503(a), (b)(1), (c)-(f), Nov. 6, 1978, 92 Stat. 3004-3006; Pub. L. 98-221, title III, §301, Feb. 22, 1984, 98 Stat. 34, defined terms for purposes of this chapter, prior to the general amendment of this chapter by Pub. L. 98-527.

AMENDMENTS

1994—Pub. L. 103-230 amended section generally, alphabetizing entries, adding provisions defining “American Indian Consortium”, “culturally competent”, “integration and inclusion”, “other organizations”, “personal assistance services”, “rehabilitation technology”, “service coordination activities”, “State Developmental Disabilities Council”, and “unserved and underserved”, and striking out provisions defining “assistive technology”, “case management activities”, “construction”, “integration”, “priority area activities”, “satellite center”, “State Planning Council”, and “title”.

1990—Par. (5). Pub. L. 101-496, §4(1), inserted “5 years of age or older” after “of a person” in introductory provision, substituted semicolon for period at end of subpar. (E), and inserted provision at end relating to exception for infants and young children.

Par. (8)(A). Pub. L. 101-496, §4(2), (3), struck out “and” at end of cl. (i), inserted “and integrated employment,” after “activities” and substituted “citizens without disabilities” for “nondisabled citizens” in cl. (ii), added cls. (iii) and (iv), and substituted “citizens without disabilities” for “nondisabled citizens” in closing provisions.

Par. (8)(B). Pub. L. 101-496, §4(2), (4), struck out “or in home-like settings” after “homes” and substituted “citizens without disabilities” for “nondisabled citizens”.

Par. (9). Pub. L. 101-496, §4(5), which directed the substitution of “special adaptation of generic services or specialized services” for “specialized services or special adaptation of generic services”, was executed by making the substitution for “specialized services or special adaptations of generic services” wherever appearing in subpars. (A) to (E) to reflect the probable intent of Congress.

Par. (9)(B)(iv). Pub. L. 101-496, §4(6), substituted “approaches, strategies” for “models” and inserted “Federal, State and local” before “policymakers”.

Par. (10). Pub. L. 101-496, §4(7), substituted “system coordination and community education” for “case management”.

Par. (12). Pub. L. 101-496, §4(8), substituted “, individual, family and community supports” for “and family support services”.

Par. (17)(B). Pub. L. 101-496, §4(9), inserted “and their families” after “disabilities” in cls. (i) and (ii).

Par. (21). Pub. L. 101-496, §4(10), added par. (21) and struck out former par. (21) which defined term “family support services”.

Par. (22). Pub. L. 101-496, §4(11), inserted at end “Such term includes assistive technology devices and assistive technology service.”

Pars. (24) to (30). Pub. L. 101-496, §4(12), added pars. (24) to (30).

1987—Par. (2). Pub. L. 100-146, §102(1), added par. (2) and struck out former par. (2) which defined “facility for persons with developmental disabilities”.

Par. (3). Pub. L. 100-146, §102(1), (2), redesignated par. (4) as (3) and struck out former par. (3) which defined “nonprofit facility for persons with developmental disabilities”, “nonprofit private institution of higher learning”, and “nonprofit private agency or organization”.

Par. (4). Pub. L. 100-146, §102(4), redesignated par. (6) as (4). Former par. (4) redesignated (3).

Par. (5). Pub. L. 100-146, §102(3), (4), redesignated par. (7) as (5) and struck out former par. (5) which defined “cost of construction”.

Pars. (6), (7). Pub. L. 100-146, §102(4), redesignated pars. (8) and (9) as (6) and (7), respectively. Former pars. (6) and (7) redesignated (4) and (5), respectively.

Par. (8). Pub. L. 100-146, §102(5), redesignated par. (10) as (8) and substituted “nondisabled” for “nonhandicapped” in three places. Former par. (8) redesignated (6).

Pars. (9), (10). Pub. L. 100-146, §102(8), added pars. (9) and (10). Former pars. (9) and (10) redesignated (7) and (8), respectively.

Par. (11). Pub. L. 100-146, §102(6), (8), added par. (11) and struck out former par. (11) which defined “services for persons with developmental disabilities”.

Pars. (12) to (16). Pub. L. 100-146, §102(8), added pars. (12) to (16). Former pars. (12) to (15) redesignated (17) to (20), respectively.

Par. (17). Pub. L. 100-146, §102(7), (9)-(11), redesignated par. (12) as (17), and in subpar. (A), substituted “programs” for “facilities” in cl. (i), “program or programs” for “facility or facilities” in cl. (ii), and “paragraph (18)” for “paragraph (13)” in cl. (iii), and in subpar. (B), substituted “programs” for “facilities” in introductory provisions.

Par. (18). Pub. L. 100-146, §102(7), (12)-(15), redesignated par. (13) as (18), in introductory provisions, substituted “affiliated program” for “affiliated facility” and “program operated by a public or nonprofit private entity” for “public or nonprofit facility”, in subpar. (A), introductory provisions, inserted “, including parents of persons with developmental disabilities, professionals, paraprofessionals, students, and volunteers,” and substituted “a facility” for “the facility”.

Pars. (19), (20). Pub. L. 100-146, §102(7), redesignated pars. (14) and (15) as (19) and (20), respectively.

Pars. (21) to (23). Pub. L. 100-146, §102(16), added pars. (21) to (23).

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-146 effective Oct. 1, 1987, see section 601 of Pub. L. 100-146, set out as a note under section 6000 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1437a, 1471, 3035n, 6024, 6042, 6862, 8013, 9877, 11382 of this title; title 25 section 4103.

§ 6002. Repealed. Pub. L. 103-230, title I, § 104, Apr. 6, 1994, 108 Stat. 293

Section, Pub. L. 88-164, title I, § 103, as added Pub. L. 98-527, § 2, Oct. 19, 1984, 98 Stat. 2667; amended Pub. L. 101-496, § 5, Oct. 31, 1990, 104 Stat. 1194, related to Federal share of costs of projects under subchapters II and IV of this chapter.