

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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Columbia
Official Code*

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To establish the Department on Disability Services and provide for its composition, staff, powers, and duties; to amend the District of Columbia Government Comprehensive Merit Personnel Act of 1978 to add the Department on Disability Services to the list of subordinate agencies; and to make conforming amendments to the Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Developmental Disabilities Services Management Reform Amendment Act of 2006".

TITLE I. ESTABLISHMENT OF DEPARTMENT ON DISABILITY SERVICES

Sec. 101. Short title.

This title may be cited as the "Department on Disability Services Establishment Act of 2006".

Sec. 102. Definitions.

For the purposes of this title, the term:

(1) "Community-based services" means non-residential specialized or generic services for the evaluation, care, and habilitation of persons with mental retardation, in a community setting, directed toward the intellectual, social, personal, physical, emotional, or economic development of a person with mental retardation. Such services shall include, but not be limited to, diagnosis, evaluation, treatment, day care, training, education, sheltered employment, recreation, counseling of the person with mental retardation and his or her family, protective and other social and socio-legal services, information and referral, and transportation to assure delivery of services to persons of all ages with mental retardation.

(2) "Consumer" means a resident of the District of Columbia who is receiving, or eligible to receive, services from the Department on Disability Services.

(3) "Department" or "DDS" means the Department on Disability Services established by section 103.

(4) "DHS" means the Department of Human Services.

(5) "Director" means the Director of the Department on Disability Services.

(6) "Habilitation" means the process by which a person is assisted to acquire and maintain those life skills which enable him or her to cope more effectively with the demands of his or her own person and of his or her own environment, including, in the case of a person committed under section 406a of the Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978, effective October 17, 2002 (D.C. Law 14-199; D.C. Official Code § 7-1304.06a), to refrain from committing crimes of violence or sex offenses, and to raise the level of his or her physical, intellectual, social, emotional, and economic efficiency. The term "habilitation" includes, but is not limited to, the provision of community-based services.

(7) "Home and community-based services waiver" means a Medicaid home and community-based services waiver approved under section 1915(c) of the Social Security Act, approved August 13, 1981 (95 Stat. 809; 42 U.S.C. §1396n).

(8) "Medical Assistance Administration" or "MAA" means the division of the Department of Health responsible for administering the District's Medical Assistance Program, or its successor agency.

(9) "Medical Assistance Program" and "Medicaid Program" mean the program described in the Medicaid State Plan and administered by the Medical Assistance Administration pursuant to section 1(b) of An Act To enable the District of Columbia to receive Federal financial assistance under title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code § 1-307.02(b)), and Title XIX of the Social Security Act, approved July 30, 1965 (79 Stat. 343; 42 U.S.C. §1396 *et seq.*).

(10) "Mental retardation" or "persons with mental retardation" means a substantial limitation in capacity that manifests before 18 years of age and is characterized by significantly subaverage intellectual functioning, existing concurrently with 2 or more significant limitations in adaptive functioning.

(11) "MRDDA" means the former Mental Retardation and Developmental Disabilities Administration within the Department of Human Services.

(12) "Resident of the District of Columbia" shall have the same meaning as provided in section 103(22) of the Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978, effective March 3, 1979 (D.C. Law 2-137; D.C. Official Code § 7-1301.03(22)).

(13) "RSA" means the Rehabilitation Services Agency within the Department of Human Services.

Sec. 103. Establishment and purpose of the Department on Disability Services. Pursuant to section 404(b) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 787; D.C. Official Code § 1-204.04(b)), the Department on Disability Services is

established as a separate Cabinet-level agency, subordinate to the Mayor, within the executive branch of the District of Columbia, for the purpose of:

(1) Leading the reform of the District's mental retardation and developmental disabilities system by coordinating the collaborative efforts of government agencies, contractor providers, Medicaid waiver providers, labor, and community leaders to improve the care and habilitation services provided to consumers;

(2) Ensuring that District laws, regulations, programs, policies, and budgets are developed and implemented to promote inclusion and integration, independence, self-determination, choice, and participation in all aspects of community life for individuals with developmental disabilities and their families; and

(3) Promoting the well-being of individuals with developmental disabilities throughout their life spans, through the delivery of individualized, high-quality, safe services and supports.

Sec. 104. Organization.

(a) The Department shall have sufficient staff, supervisory personnel, and resources to accomplish the purposes of this title.

(b) The Director shall have the authority to organize the Department as the Director may determine is necessary and appropriate to carry out the Department's mission.

Sec. 105. Duties.

The Department shall:

(1) Provide services and supports to consumers in accordance with:

(A) The Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978, effective March 3, 1979 (D.C. Law 2-137; D.C. Official Code § 7-1301.02 *et seq.*); and

(B) Section 109 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000, approved October 30, 2000 (114 Stat. 1692; 42 U.S.C. § 15009);

(2) No later than June 30, 2007, provide services and supports in accordance with the Rehabilitation Services Program Establishment Act of 2004, effective April 12, 2005 (D.C. Law 15-332; D.C. Official Code § 32-331 *et seq.*);

(3) Establish rules, quality standards, and policies for all services and supports, including Medicaid-funded services;

(4) Execute provider agreements and, in consultation with MAA, establish rates for all services and supports, including Medicaid-funded services;

(5) In conjunction with other District agencies and directed by a comprehensive quality management plan which makes clear that facility licensure and certification is an integral component of the Department's overall responsibility, monitor the provision of all services and

supports and investigate, remediate, and enforce quality standards for all services and supports, including Medicaid-funded services; and

(6) Identify federal and other appropriate funding opportunities for services and supports for individuals with developmental disabilities and their families, and directly pursue, and recommend and encourage other agencies to pursue, funding opportunities, where appropriate.

Sec. 106. Appointment and authority of the Director.

(a) The Department shall be headed by a Director who shall report to the Mayor. The Mayor shall appoint the Director with the advice and consent of the Council pursuant to section 2(a) of the Confirmation Act of 1978, effective March 3, 1979 (D.C. Law 2-142; D.C. Official Code § 1-523.01(a)).

(b) The Director shall:

(1) Hold at least a master's degree or its equivalent in human services, clinical services, human service management, public administration, social work, or a related field;

(2) Have relevant work experience; and

(3) Possess:

(A) Demonstrated knowledge of current best-practice policies, programs, services, and supports for individuals with developmental disabilities;

(B) Familiarity with local and federal funding streams supporting services to people with developmental disabilities; and

(C) Experience managing human service programs.

(c) The Director shall serve as the administrative chief of the Department, and may organize personnel, re-delegate authority, develop programs, and take any other action, consistent with appropriations, as warranted to accomplish the purpose and mission of the Department or to satisfy the requirements of applicable court orders.

(d) The Mayor shall delegate to the Director all personnel authority, including full authority to hire, retain, and terminate personnel, and the Director shall exercise that personnel authority independent of the Office of Personnel and consistent with applicable court orders.

(e) The Mayor shall delegate to the Director all procurement authority, including contracting and contracting oversight, and the Director shall exercise that procurement authority independent of the Office of Contracting and Procurement and consistent with applicable court orders.

(f) The Mayor shall fix the compensation of the Director pursuant Title X-A of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective June 10, 1998 (D.C. Law 12-124; D.C. Official Code §§ 1-610.51 - 1-610.63).

Sec. 107. Medicaid services.

(a) The Department and the Medical Assistance Administration shall enter into an agreement for the Department to direct policy development and design of services and supports provided under the home and community-based services waiver, including policies, services, and supports related to the operation of intermediate care facilities for persons with mental retardation.

(b) Nothing in this act shall affect the status of the Medical Assistance Administration as the single state agency for the administration of the Medicaid Program under section 1902(a)(5) of the Social Security Act, approved July 30, 1965 (79 Stat. 344; 42 U.S.C. § 1396a(a)(5)).

Sec. 108. Transfers of authority.

(a) All real or personal property, leased or assigned to the Department of Human Services on behalf of the Mental Retardation and Developmental Disabilities Administration, positions, assets, records, and obligations, and all unexpended balances of appropriations, allocations, and other funds available or to be made available relating to those powers, duties, functions, and operations of the DHS as set forth in, and utilized to carry out, section III(U) of the Reorganization Plan No. 3 of 1986, effective January 3, 1987, relating to MRDDA, are transferred to the Department.

(b) No later than June 30, 2007, all real or personal property, leased or assigned to the Department of Human Services on behalf of the Rehabilitation Services Administration, positions, assets, records, and obligations, and all unexpended balances of appropriations, allocations, and other funds available or to be made available relating to those powers, duties, functions, and operations of the DHS as set forth in, and utilized to carry out, section III(V) and those functions and operations of the DHS pertaining only to social security disability and social security income eligibility determinations as set forth in, and utilized to carry out, section III(T) of the Reorganization Plan No. 3 of 1986, effective January 3, 1987, relating to RSA, shall be transferred to the Department.

(c) The Chief Financial Officer shall promptly create within the system of accounting and reporting a separate account for the appropriations and expenditures of the Department, distinct from the accounts of DHS.

(d)(1) All of the authority and functions of the DHS as set forth in section III(U) of Reorganization Plan No. 3 of 1986, effective January 3, 1987, are transferred to the Department.

(2) No later than June 30, 2007, all of the authority and functions of the DHS as set forth in section III(V) and the authority and functions pertaining to social security disability and social security income eligibility determinations as set forth in section III(T) of the Reorganization Plan No. 3 of 1986, effective January 3, 1987, shall be transferred to the Department.

Sec.109. Rulemaking and contracting authority.

(a) The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), may issue rules as necessary to implement the provisions of this title.

(b) Pursuant to the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Official Code § 2-301.01 *et seq.*), the Mayor may execute contracts, grants, and other legally binding documents to implement the provisions of this title.

Sec. 110. Delegation and redelegation of authority.

The Department and its Director shall be the successors to all mental retardation and developmental disabilities-related authority delegated to the DHS and its Director, and the Director of the Department shall be authorized to act, either personally or through a designated representative, as a member of any committees, commissions, boards, or other bodies that include as a member the Director of the DHS with respect to mental retardation and developmental disabilities-related authority.

Sec. 111. Rescission.

All organizational orders and parts thereof in conflict with any of the provisions of this title are rescinded, except that any regulations adopted or promulgated by virtue of the authority granted by such orders shall remain in force until revised, amended, or repealed.

TITLE II. SUBORDINATE AGENCY STATUS CONFORMING AMENDMENTS

Sec. 201. Section 301(q) of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-603.01(17)), is amended as follows:

(a) Paragraph (54) is amended by striking the word "and" at the end.

(b) Paragraph (55) is amended by striking the phrase "established by Reorganization Plan No. 1 of 2003." and inserting the phrase "established by Reorganization Plan No. 1 of 2003; and" in its place.

(c) A new paragraph (56) is added to read as follows:

"(56) Department on Disability Services."

TITLE III. RIGHTS OF MENTALLY RETARDED CITIZENS CONFORMING AMENDMENTS

Sec. 301. The Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978, effective March 3, 1979 (D.C. Law 2-137; D.C. Official Code § 7-1301.01 *et seq.*), is amended as follows:

(a) Section 103 (D.C. Official Code § 7-1301.03) is amended as follows:

(1) A new paragraph (8C) is added to read as follows:

"(8C) "Department on Disability Services" or "DDS" means the Department on Disability Services established by section 103 of the Department on Disability Services Establishment Act of 2006, passed on 2nd reading on December 19, 2006 (Enrolled version of Bill 16-398).".

(2) Paragraph (19A) is repealed.

(b) Section 303 (D.C. Official Code § 7-1303.03) is amended by striking the phrase "Department of Human Services" wherever it appears and inserting the phrase "Department on Disability Services" in its place.

(c) Section 304 (D.C. Official Code § 7-1303.04) is amended as follows:

(1) Subsection (b)(3) is amended by striking the phrase "Department of Human Services" and inserting the phrase "Department on Disability Services" in its place.

(2) Subsection (c) is amended by striking the phrase "Department of Human Services" and inserting the phrase "Department on Disability Services" in its place.

(d) Section 305 (D.C. Official Code § 7-1303.05) is amended by striking the phrase "Department of Human Services" wherever it appears and inserting the phrase "Department on Disability Services" in its place.

(e) Section 306 (D.C. Official Code § 7-1303.06) is amended as follows:

(1) Subsection (a)(3) is amended by striking the phrase "Department of Human Services" and inserting the phrase "Department on Disability Services" in its place.

(2) Subsection (b) is amended by striking the phrase "Department of Human Services" and inserting the phrase "Department on Disability Services" in its place.

(f) Section 309 (D.C. Official Code § 7-1303.09) is amended as follows:

(1) Subsection (a) is amended by striking the phrase "Department of Human Services" wherever it appears and inserting the phrase "Department on Disability Services" in its place.

(2) Subsection (c) is amended by striking the phrase "Department of Human Services" and inserting the phrase "Department on Disability Services" in its place.

(g) Section 312a (D.C. Official Code § 7-1303.12a) is amended by striking the word "MRDDA" wherever it appears and inserting the word "DDS" in its place.

(h) Section 314(a) (D.C. Official Code § 7-1303.14(a)) is amended by striking the phrase "Department of Human Services" and inserting the phrase "Department on Disability Services" in its place.

(i) Section 406a(d) (D.C. Official Code § 7-1304.06a(d)) is amended by striking the word "MRDDA" and inserting the word "DDS" in its place.

(j) Section 411 (D.C. Official Code § 7-1304.11) is amended as follows:

(1) Subsection (a)(2) is amended by striking the phrase "Department of Human Services" and inserting the phrase "Department on Disability Services" in its place.

(2) Subsection (a-1) is amended by striking the word "MRDDA" and inserting the word "DDS" in its place.

(3) Subsection (b) is amended by striking the phrase "Department of Human Services" and inserting the phrase "Department on Disability Services" in its place.

(k) Section 504 (D.C. Official Code § 7-1305.04) is amended as follows:

(1) Subsection (b) is amended by striking the phrase "Department of Human Services" and inserting the phrase "Department on Disability Services" in its place.

(2) Subsection (c) is amended by striking the phrase "Department of Human Services" and inserting the phrase "Department on Disability Services" in its place.

(l) Section 509 (D.C. Official Code § 7-1305.09) is amended by striking the phrase "Department of Human Services" and inserting the phrase "Department on Disability Services" in its place.

(m) Section 512 (D.C. Official Code § 7-1305.12) is amended by striking the phrase "Department of Human Services" in the lead-in text and inserting the phrase "Department on Disability Services" in its place.

(n) Section 515 (D.C. Official Code § 7-1305.15) is amended by striking the word "MRDDA" and inserting the word "DDS" in its place.

TITLE IV. FISCAL IMPACT STATEMENT

Sec. 401. Fiscal impact statement.

The Council adopts the December 18, 2006 fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

TITLE V. EFFECTIVE DATE

Sec. 501. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

ENROLLED ORIGINAL

24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia