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HOUSE BILL NO. 2056

Offered January 23, 1995

A *BILL to amend the Code of Virginia by adding in Title 51.5 a chapter numbered 11 consisting of sections numbered 51.5-60 through 51.5-67, establishing the Individual and Family Support Act.*

Patron—Jackson

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 51.5 a chapter numbered 11 consisting of sections numbered 51.5-60 through 51.5-67 as follows:

CHAPTER 11.**INDIVIDUAL AND FAMILY SUPPORT ACT.**

§ 51.5-60. *Principles of family support.*

A. *The General Assembly accepts the following principles relative to supporting individuals with disabilities and their families:*

1. *All children, regardless of disability, need the nurturing, stable, and enduring relationships provided by families, regardless of the severity of the disability or the degree of support necessary.*

2. *Adults with disabilities should have the opportunity to make decisions for themselves, live in typical homes and communities and exercise their full rights and responsibilities as citizens.*

3. *The quality of life for individuals with disabilities is enhanced when they live and participate in their communities.*

4. *The life of the community is enriched by the inclusion of people with diverse abilities.*

B. *Further, the General Assembly recognizes that services and supports to individuals with disabilities and their families should:*

1. *Empower the individual and family through a person-directed approach. This approach maximizes the control of individuals and families over the services and supports they receive;*

2. *Respond with flexibility to the needs of the individual and family at any given point rather than fitting the person into existing programs;*

3. *Be consumer-focused, consumer-driven, and user-friendly;*

4. *Encourage and support the inclusion of people with disabilities into the community;*

5. *Build on existing social networks and natural sources of support;*

6. *Take into account the needs of the entire family;*

7. *Be comprehensive and coordinated across agencies and private businesses likely to provide resources and services;*

8. *Be equally available to individuals and families throughout the state and not limited to the location and types of existing services.*

C. *It is the intention of the General Assembly that these principles be embodied in practice through the planning, development, funding, and implementation of programs for persons with disabilities and their families. Therefore, the General Assembly of Virginia hereby finds and declares that the Commonwealth should establish and implement a comprehensive system of individual and family support as outlined in this chapter.*

§ 51.5-61. *Definitions.*

"Adult with a disability" means an individual eighteen years of age or older with a disability as described in this section.

"Child with a disability" means an individual who from birth through eighteen years of age meets the definition of disability in this section.

"Consumer" means the person or family receiving services and supports.

"Culturally competent" means assistance, services, and supports, that are conducted or provided in a manner that is responsive to the beliefs, interpersonal styles, attitudes, language, and behaviors of those individuals receiving services, and have the greatest likelihood of ensuring maximum participation of such individuals.

"Department" means the Department of Mental Health, Mental Retardation and Substance Abuse Services.

"Disability," means:

(a) *in the case of an individual six years of age and older, a severe chronic disability that:*

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

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60 (ii) is manifested before the person attains the age of fifty-five;
61 (iii) results in substantial functional limitations in two or more of the following areas of major life
62 activity: self-care, receptive or expressive language, learning, mobility, self-direction, capacity for
63 independent living or economic self-sufficiency; and
64 (iv) reflects the person's need for services and supports which are of lifelong or extended duration
65 and are individually planned and coordinated.
66 (b) In the case of infants and young children, birth through age five, a substantial developmental
67 delay or specific congenital or acquired conditions with a high probability of resulting in a disability if
68 services are not provided.
69 "Family" means a group of interdependent people residing in the same household that consists of a
70 child with a disability, or an adult with a disability who chooses to live in the same household, and one
71 or more of the following:
72 (i) A mother, father, brother, sister or any combination thereof;
73 (ii) An extended family member, such as a grandparent, aunt, or uncle;
74 (iii) An adoptive parent;
75 (iv) One or more persons to whom legal custody of a child or adult with a disability, as defined
76 herein, has been given by a court;
77 (v) A person providing short-term foster care that includes a family reunification plan with a
78 biological family;
79 (vi) A person providing long-term foster care for a child or adult with a disability as defined herein.
80 "Family support" means those supports that enable a family to care for its child or adult with a
81 disability at home.
82 "Individual supports" means those supports and services that enable adults with disabilities to live,
83 work, and be productive, contributing citizens in their communities.
84 "Integration and inclusion" with respect to individuals with disabilities and their families means:
85 (i) the use of the same community resources that are used by and are available to individuals and
86 families without disabilities;
87 (ii) the full and active participation in the same community activities and use of the same community
88 resources as individuals without disabilities, i.e., living, learning, working, and enjoying life in regular
89 contact with individuals without disabilities; and
90 (iii) having friendships and relationships with individuals and families of their own choosing.
91 "Lead agency" means the Department of Mental Health, Mental Retardation and Substance Abuse
92 Services.
93 "Regional individual and family support council" means the council established at the local level to
94 carry out the responsibilities specified in this chapter.
95 "Service coordination" means the consumer-centered and consumer-directed activities of coordinating
96 and monitoring services and supports for the individual or family to ensure that continuing needs are
97 appropriately met.
98 "State policy council" means the state-level Council for Individual and Family Support designated to
99 carry out the responsibilities specified in this chapter.
100 "Systems change activities" means efforts that result in laws, regulations, policies, practices, or
101 organizational structures that are consumer-centered and consumer-directed, and that facilitate and
102 increase access to, and provide funding for, individual and family support services for people with
103 disabilities.
104 § 51.5-62. Individual and family support services and agencies or private business.
105 A. The local family support agency or private contractors designated in this chapter shall provide
106 coordinators to assist families with information and service coordination as needed. The agency shall
107 direct and be responsible for coordinating a service plan with each individual and family at least
108 annually. The needs and preferences of the family shall be the basis for determining what goods and
109 services will be sought.
110 B. Services to adults shall be provided by local agencies or private businesses through an expansion
111 of personal assistance services (PAS) and independent living services (IL) and shall assist adults with
112 disabilities in planning and obtaining community living arrangements, employment services, and other
113 resources needed to achieve, to the greatest extent possible, independence, productivity, and integration
114 of persons with disabilities into the community. These services shall be provided in a manner that is
115 consumer-centered and -directed, respects the individual's dignity, personal responsibility,
116 self-determination, personal preferences, and cultural background.
117 C. When resources cannot be obtained through other sources, the program shall provide funds to
118 individuals and families so that they may purchase goods and services included in the service plans.
119 Such goods and services for the individual with a disability may include, but are not limited to: respite
120 care, personal and attendant care, child care, architectural and vehicular modifications, health-related
121 costs not otherwise covered, equipment and supplies, specialized nutrition and clothing, homemaker

services, transportation, utility costs, assistive technology, integrated community activities, housing, assistance in vocational training or support for employment and planning for the future.

D. The local agencies or private contractors shall conduct outreach to identify individuals and families in need of assistance and shall maintain a waiting list of individuals and families in the event that there are insufficient resources to provide services to all those who request them.

E. The Commonwealth, in developing, implementing, and evaluating the supports and services outlined below, shall adhere to the principles as stated in this chapter. Among these principles is the concept that approaches shall be centered on the needs of the adult, or in the case of the child, the needs of the family. Every opportunity shall be used to assure the maximum participation of adults with disabilities, or families of children with disabilities, in determining appropriate resources that will meet their stated needs. In addition, through the program structure, families and individuals with disabilities shall participate as partners in policy development and program oversight.

§ 51.5-63. Regional individual and family support councils.

Each region shall establish a regional individual and family support council comprised of one individual and one family member from each locality within each region. Applications to serve on the council will be available at community service boards, disability service boards, centers for independent living, community colleges, departments of social services, and other specified locations. The first regional council shall be selected on a first-come basis and representation in each locality shall be as described in this section. The first regional council applications shall be mailed to the lead agency and stamped with the date and time of arrival. Once the first council is in place, the process of selecting consumers to serve on regional councils shall be carried out by the State Policy Council for Individual and Family Support. Regional and state council members shall serve no longer than two years, and terms shall be staggered to enable continuity of the individual family support program.

Each regional council shall meet at least quarterly to advise the regional contract service agency or private contractor on matters related to local implementation of the program and to communicate information and recommendations regarding the individual and family support council to the State Policy Council.

One regional individual and one family representative shall be elected by the regional council members to serve on the State Policy Council.

§ 51.5-64. State Policy Council.

A. The State Policy Council shall have a total of eight individuals and eight family representatives who have alternates from their region in the event they are unable to attend. The State Policy Council shall meet at least bi-annually. The State Policy Council shall include one representative from the lead agency, one representative from the Department of Planning and Budget, one representative from the Virginia Institute for Developmental Disabilities, and one representative from the Department for the Rights of Virginians with Disabilities. The state and regional council may use the following entities in an advisory or consulting capacity: centers for independent living; personal assistance service; the Department of Rehabilitative Services; the Virginia Institute for Developmental Disabilities; the Early Intervention Interagency Coordinating Council; the Department of Mental Health, Mental Retardation and Substance Abuse Services; the Department for the Visually Handicapped; the Department for the Deaf and Hard-of-Hearing; the Department for the Aging; and the Department of Social Services.

B. The State Policy Council shall:

1. Elect a chairperson who shall be responsible for convening the Council;
2. Establish formal policies to govern its operations;
3. Inform and assist the lead agency in the performance of its responsibilities as described in this chapter, particularly the promotion of interagency agreements, regional contracts, and the promotion of meaningful participation by individuals and families in all aspects of the system of individual and family support;

4. Inform and assist state agencies in the development of policies and procedures relating to the provision of a statewide system of individual and family supports;

5. Inform and assist the lead agency in developing a strategic plan to implement individual and family support services, including the mission, purpose, and principles of the statewide system of individual and family support; the statement of individual-or family-centered outcomes; goals, objectives, and activities; the quality improvement or quality enhancement system; the appeals process; the eligibility criteria to be used for all programs, projects, and activities carried out under this chapter; and the plan for evaluating the statewide program;

6. Inform and assist the lead agency in implementing system change and activities and developing a five-year plan;

7. Inform and assist the lead agency in assessing consumer satisfaction with the statewide system of individual and family support;

8. Review, analyze, and comment on the strategic plan and updates to the plan, progress reports,

183 and annual budgets;

184 9. Inform and assist the lead agency in identifying federal and state barriers that impede the
185 development of a statewide system of individual and family support; and

186 10. Prepare and submit to the Governor, the General Assembly, and the Secretary of Health and
187 Human Resources, an annual report on the status of individual and family support services and make
188 such report available to the public.

189 C. The Council is authorized to hold such hearings and forums as may be necessary to carry out its
190 duties.

191 D. No member of the Council shall cast a vote on any matter that would provide direct financial
192 benefit to such member or otherwise give the appearance of a conflict of interest under the Code of
193 Virginia.

194 E. The Council may, consistent with state law, use such resources to reimburse members of the
195 Council for reasonable and necessary expenses of attending Council meetings and performing Council
196 duties (including child care and personal assistance services), and to pay compensation to a member of
197 the Council if such member is not employed or must forfeit wages from other employment for each day
198 the member is engaged in performing Council duties.

199 F. The State Policy Council, with the lead agency, shall adopt policies and procedures to:

200 1. Develop annual budgets;

201 2. Define program specifications;

202 3. Conduct annual evaluations of services provided by each local individual and family support
203 agency, including consumer satisfaction;

204 4. Coordinate the family support program and the use of its funds, throughout the state and within
205 each region, with other publicly funded programs;

206 5. Conduct consumer needs assessments and develop consumer service plans;

207 6. Establish a methodology for allocating resources to consumers within the funds available; and

208 7. Resolve grievances filed by consumers pertaining to actions of the individual and family support
209 program.

210 § 51.5-65. Duties of lead agency.

211 A. The lead agency for the family support program is the Department of Mental Health, Mental
212 Retardation and Substance Abuse Services.

213 B. The lead agency shall administer the statewide individual support services and shall coordinate
214 these services with other services provided to families and individuals.

215 C. The lead agency shall implement the family support program through contract with community
216 service boards, centers for independent living and private contractors within the eight regions. The
217 initial eight regions of Virginia shall be determined by the Department and a consumer from each
218 community services board family support program. The regions shall not divide community service
219 board or center for independent living catchment areas. Any further division of regions will be decided
220 by the State Policy Council.

221 D. These regional services shall serve adults and families with disabilities residing in their respective
222 regions. Each regional council shall serve at least twenty-five adults or families from each \$50,000
223 allocated.

224 § 51.5-66. Individual and family support services; program goals.

225 The program goals of individual and family support services shall:

226 1. Provide responsive and flexible support which is based on the stated needs and preferences of the
227 individual and the family;

228 2. Ease day-to-day demands on families and individuals with disabilities;

229 3. Strengthen the family's capacity to provide a nurturing and caring environment;

230 4. Support the life choices of the people with disabilities and their families;

231 5. Support and enhance the capacity of the individual and family to plan for the future;

232 6. Provide the supports necessary to ensure that independent living in homes of one's choice is an
233 available option for all adults, including those with disabilities;

234 7. Promote the involvement of people with disabilities and their families in the decisions that affect
235 them;

236 8. Provide supports and services from within the individual's community.

237 § 51.5-67. Virginia Individual and Family Support Fund.

238 A. There is hereby created in the state treasury a fund to be known as the Virginia Individual and
239 Family Support Fund, referred to in this chapter as the "Fund," which shall be administered by the
240 State Policy Council and the Department and which shall consist of moneys appropriated to the Fund
241 by the General Assembly.

242 In recognition of the principles stated in this chapter, the General Assembly declares that its purpose
243 in establishing this Fund is to create, subject to annual appropriation, a comprehensive statewide
244 individual and family support service program.

245 *The Department and the State Policy Council are hereby authorized to receive contributions, grants,*
246 *services, in-kind donations, and property from federal agencies, local government, or private sources to*
247 *use in carrying out the purposes of this chapter. Any moneys received pursuant to this section shall be*
248 *transmitted to the State Treasurer and credited to the Fund.*

249 *B. Any rights, entitlements, or supports created by this section are not to be considered a limitation,*
250 *modification, or infringement on existing rights, entitlements, or services otherwise expressly provided by*
251 *this chapter.*