

STATE OF NEW YORK

6233

2023-2024 Regular Sessions

IN ASSEMBLY

April 3, 2023

Introduced by M. of A. WEPRIN -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to establishing the office of community living; and to repeal certain provisions of the executive law, the education law and the private housing finance law relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The executive law is amended by adding a new article 19-E to read as follows:

ARTICLE 19-E

OFFICE OF COMMUNITY LIVING

Section 460. Purpose.

461. Office of community living.

462. Director; general responsibilities.

463. Additional powers of the office of community living.

464. Most integrated setting coordinating council.

465. Independent living centers.

466. New York access to home program.

467. Other responsibilities of the office of community living.

§ 460. Purpose. Persons with disabilities comprise a major segment of the state of New York's population and their particular needs and concerns must be considered as an integral part of the planning and implementation of all state programs and services affecting their lives and well-being. The office shall advocate on behalf of persons with disabilities and assure that persons with disabilities are afforded the opportunity to exercise all of the rights and responsibilities accorded to citizens of this state, and will promote and fund services that assist persons with disabilities to live independently in their home communities.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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1 § 461. Office of community living. There is hereby established within
2 the executive department an office of community living. The office of
3 community living shall advise and assist the governor in developing
4 policies designed to help meet the needs of persons with disabilities
5 and to encourage the full participation of persons with disabilities in
6 society. The office of community living shall be the state's coordina-
7 tor for implementation of the Americans with Disabilities Act, and, as
8 such, is charged with coordinating state activities which insure that
9 state programs do not discriminate against and are accessible to persons
10 with disabilities. The office of community living shall also coordinate
11 the state's efforts to comply with the United States Supreme Court's
12 Olmstead decision. In its 1999, Olmstead v. L.C. decision, the United
13 States Supreme Court ruled that New York, like all states, in accordance
14 with the Americans with Disabilities Act (ADA), have an obligation to
15 provide services to individuals with disabilities in the most integrated
16 setting appropriate to their needs. A comprehensive Olmstead implementa-
17 tion plan that will address integrated housing, employment, transporta-
18 tion, community services and other important issues will affirm New
19 York's position as a national leader on disability rights. As such, the
20 office of community living will assume responsibility of chairmanship of
21 the most integrated settings coordinating council. The office for commu-
22 nity living shall also be responsible for funding services that promote
23 and advocate for independence and community living for persons with
24 disabilities.

25 § 462. Director; general responsibilities. The head of the office
26 shall be the director, who shall be appointed by the governor by and
27 with the advice and consent of the senate. The director shall receive a
28 salary to be fixed by the governor within the amount appropriated there-
29 for. The director, subject to rules prescribed by the governor, may
30 appoint and fix the compensation of subordinates and employees of the
31 division within the amounts appropriated therefor.

32 § 463. Additional powers of the office of community living. The office
33 shall have the following additional powers:

34 1. Submission, reviews and recommendations. (a) Each division within
35 the executive department and all other departments of the state shall
36 submit to the office for review proposed legislation, regulations,
37 orders and plans which may significantly affect the lives or well-being
38 of persons with disabilities in the state. Such matters shall, in the
39 case of proposed legislation, be submitted at least thirty days prior to
40 submission to the legislature and, in the case of regulations, orders
41 and plans, at least thirty days prior to the effective date of this
42 article.

43 (b) The office shall review and report upon all matters of signif-
44 icance submitted to it. The office shall submit reports or other
45 comments where appropriate to the division or department which referred
46 such matter evaluating (i) the impact of the proposed legislation, regu-
47 lation, order, or plan upon persons with disabilities; (ii) the
48 relationship and impact of such proposals on existing programs affecting
49 persons with disabilities; (iii) the desirability of such proposals; and
50 (iv) modifications that would enhance the impact of the proposal upon
51 persons with disabilities or aid in the implementation of the new
52 proposal.

53 2. Cooperation. All state agencies contemplating actions that would be
54 subject to review under this order shall inform the office as early as
55 possible in the process of developing such proposals and shall cooperate
56 with the office in carrying out these responsibilities to assure that

1 appropriate consideration is given to the needs and concerns of persons
2 with disabilities.

3 § 464. Most integrated setting coordinating council. 1. Legislative
4 findings and intent. The Americans with Disabilities Act requires the
5 state of New York to ensure that people of all ages with disabilities
6 reside and function in the most integrated setting possible. This
7 requirement was recognized and upheld by the Supreme Court in the case
8 of Olmstead, Commissioner, Georgia Department of Human Resources, et al.
9 v. L.C., by Zimring, Guardian ad litem and Next Friend, et al. (138 F.
10 3d 893). While the state of New York provides community supports for
11 people of all ages with disabilities and while the state of New York
12 does operate a home and community-based waiver Medicaid program, the
13 legislature hereby finds that the state of New York has no centralized
14 mechanism in place to determine whether or not people of all ages with
15 disabilities are residing in the most integrated setting possible. In
16 order to ensure that the state of New York is in compliance with the
17 requirements of the Olmstead decision, the legislature hereby finds that
18 it is incumbent upon the state of New York to develop and implement a
19 plan to reasonably accommodate the desire of people of all ages with
20 disabilities to avoid institutionalization and be appropriately placed
21 in the most integrated setting possible.

22 2. Definitions. As used in this article, the following terms shall
23 have the following meanings:

24 (a) "Council" means the most integrated setting coordinating council.

25 (b) "Disability" means, with respect to an individual:

26 (i) a physical or mental impairment that substantially limits one or
27 more of the major life activities of such individual;

28 (ii) a record of such an impairment; or

29 (iii) being regarded as having such an impairment.

30 (c) "Most integrated setting" means a setting that is appropriate to
31 the needs of the individual with the disability and enables that indi-
32 vidual to interact with nondisabled persons to the fullest extent possi-
33 ble.

34 (d) "Office" shall mean the office of community living.

35 (e) "Eligible applicant" shall mean a city, town, village or not-for-
36 profit corporation in existence for a period of one or more years prior
37 to application, which is, or will be at the time of award, incorporated
38 under the not-for-profit corporation law and has substantial experience
39 in adapting or retrofitting homes for persons with disabilities.

40 (f) "Disabled veteran" shall mean a veteran who is certified by the
41 United States department of veterans affairs or the department of
42 defense as entitled to receive disability payments upon the certif-
43 ication of such department for a disability incurred by him or her in
44 time of war.

45 (g) "Access to home programs" or "programs" shall mean a series of
46 activities by an eligible applicant to administer funds to provide
47 either loans or grants to homeowners and renters and to oversee the
48 adaptation or retrofitting of eligible properties.

49 (h) "Eligible property" shall mean a housing unit that is the primary
50 residence of a person with a physical disability and a total household
51 income that does not exceed eighty percent of median income or a dis-
52 abled veteran who has a total household income that does not exceed one
53 hundred twenty percent of median income. A property shall not be consid-
54 ered an eligible property if the owner of the property is otherwise
55 obligated by federal, state or local law to provide the improvements
56 funded under this article.

1 3. Most integrated setting coordinating council; organization. (a) The
2 most integrated setting coordinating council is continued within the
3 executive department to have and exercise the functions, powers and
4 duties provided by the provisions of this article and any other
5 provision of law. The council shall be comprised of the director of the
6 office of community living, and the commissioners of: the department of
7 health, the office of persons with developmental disabilities, the
8 office of mental health, the department of transportation, the office of
9 children and family services, the office of addiction services and
10 supports, the department of education, and the division of housing and
11 community renewal. In addition, the council shall consist of the direc-
12 tor of the office for the aging, a representative from the justice
13 center for persons with special needs, six consumers of services for
14 individuals with disabilities, two to be appointed by the governor, two
15 to be appointed by the temporary president of the senate, and two to be
16 appointed by the speaker of the assembly, three individuals with exper-
17 tise in the field of community services for people of all ages with
18 disabilities, one to be appointed by the governor, one to be appointed
19 by the temporary president of the senate, and one to be appointed by the
20 speaker of the assembly, and three individuals with expertise in or
21 recipients of services available to senior citizens with disabilities,
22 one to be appointed by the governor, one to be appointed by the tempo-
23 rary president of the senate, and one to be appointed by the speaker of
24 the assembly.

25 (b) The director of the office of community living shall be the chair-
26 person of the council.

27 (c) The council shall meet as necessary to carry out its functions,
28 powers and duties, but such meetings shall occur at least once each
29 quarter.

30 4. Functions, powers and duties of the council. (a) The council shall
31 develop, update and oversee the implementation of a comprehensive state-
32 wide plan for providing services to individuals of all ages with disa-
33 bilities in the most integrated setting. Such plan shall include, but
34 not be limited to:

35 (i) the number of individuals of all ages with disabilities who are
36 currently institutionalized and are eligible for services in community-
37 based settings, the number of individuals residing in the community who
38 are dependent on the assistance of community-based services to avoid
39 institutionalization and any improvements necessary to be made to
40 current data collection systems or any new data collection initiatives
41 necessary to obtain such information;

42 (ii) the current assessment procedures utilized to identify individ-
43 uals of all ages with disabilities who could benefit from services in a
44 more integrated setting and the development of a single assessment proc-
45 ess for individuals of all ages with disabilities in need of services,
46 to be implemented by one community-based agency in each county with
47 expertise in community-based services for people of all ages with disa-
48 bilities through the use of a uniform assessment tool;

49 (iii) the identification of what community-based services are avail-
50 able to individuals of all ages with disabilities in the state of New
51 York and an assessment of the extent to which these programs are able to
52 serve people in the most integrated settings;

53 (iv) the identification of what improvements need to be made to the
54 system of community-based services to ensure that the system is compre-
55 hensive, accessible, meets the needs of persons who are likely to
56 require assistance in order to live in the community and provides high

1 quality, and adequate supports for individuals of all ages with disabili-
2 ties;

3 (v) an evaluation of the supports and services available to assist
4 individuals of all ages with disabilities who reside in their own homes
5 with the presence of other family members or other informal caregivers
6 and an evaluation of the supports and services available to address the
7 needs of individuals of all ages with disabilities who reside in their
8 own homes without family members or other informal caregivers;

9 (vi) an examination of how the identified community-based supports and
10 services integrate individuals of all ages with disabilities into the
11 community;

12 (vii) a review of what funding sources are available to increase the
13 availability of community-based services and an analysis of how the
14 varied funding sources available to meet the needs of individuals of all
15 ages with disabilities in the most integrated setting can be organized
16 into a coherent system of long term care which affords people reasonable
17 and timely access to community-based services;

18 (viii) an assessment of how well the current service system works for
19 different populations, including but not limited to, elderly people with
20 disabilities, people with physical disabilities, people with develop-
21 mental disabilities, people with mental illness, and people with HIV and
22 AIDS, and a review of changes that might be desirable to make services a
23 reality in the most integrated setting for all populations;

24 (ix) an examination of waiting lists for community-based services and
25 what might be done to ensure that waiting lists are created and accu-
26 rately maintained and that people are able to come off waiting lists and
27 receive needed community-based services at a reasonable pace;

28 (x) an examination of what information, education, outreach and refer-
29 ral systems might be useful to ensure that individuals of all ages with
30 disabilities receive the information necessary to make informed choices
31 regarding how their needs can best be met, including the evaluation of
32 the creation of a toll-free hotline with information on community-based
33 services for individuals of all ages with disabilities;

34 (xi) an evaluation of how quality assurance and quality improvement
35 can be conducted effectively as more people of all ages with disabili-
36 ties live in community-based settings; and

37 (xii) an examination of how the overall system of health and long term
38 care can best be managed so that placement in the most integrated
39 setting becomes the norm.

40 (b) The council shall contract with an independent organization with
41 expertise in the provision of community-based services for individuals
42 of all ages with disabilities and with expertise in the area of program
43 evaluation research to conduct an evaluation of the council's plan
44 created pursuant to subdivision one of this section and the implementa-
45 tion of such plan.

46 (c) Each commissioner and director serving on the council shall ensure
47 that his or her agency implements every aspect of the plan developed
48 pursuant to subdivision one of this section which falls under the
49 responsibilities of his or her agency. The council shall oversee the
50 implementation of the plan created pursuant to subdivision one of this
51 section and shall update such plan as necessary to ensure that waiting
52 lists for community-based services for people of all ages with disabili-
53 ties are moving at a reasonable pace and to ensure that the state of New
54 York is developing a system of long term care that allows individuals of
55 all ages with disabilities to reside and function in the most integrated
56 setting.

1 (d) The council shall provide an annual report to the governor, the
2 temporary president of the senate and the speaker of the assembly. Such
3 report shall detail the plan developed pursuant to subdivision one of
4 this section, any changes made to such plan, all steps taken to imple-
5 ment such plan and their outcome, and any future actions planned.

6 (e) The plan to be developed under this article shall not be construed
7 to increase, decrease, or change the statutory authority of any person
8 or entity and shall be implemented consistent with all otherwise appli-
9 cable law.

10 § 465. Independent living centers. 1. Declaration of intent. Independ-
11 ent living centers greatly assist persons with disabilities to integrate
12 and live more independently in the community. Since their inception,
13 service centers for independent living have enhanced the ability of
14 persons with disabilities to pursue an independent and active lifestyle
15 within their community. In order to achieve this, it is necessary for
16 the state to provide funding to maintain existing service centers
17 designed to promote independent living and to encourage the establish-
18 ment of new centers. To maximize the effectiveness of these centers in
19 promoting independent living for persons with disabilities, and to opti-
20 mally utilize independent living centers in helping the state to meet
21 its obligations to persons with disabilities, the responsibility for
22 independent living should be transferred from the education department
23 to the office.

24 2. Independent living centers; purpose and duties. An independent
25 living center shall be a community-based, non-residential program
26 designed to promote independent living for persons with disabilities.

27 (a) Such center shall:

28 (i) be a private not-for-profit corporation, pursuant to subparagraph
29 five of paragraph a of section one hundred two of the not-for-profit
30 corporation law; provided, however, that persons with disabilities
31 comprise at least fifty-one percent of the membership of the board of
32 directors;

33 (ii) be staffed by persons with persons with disabilities and other
34 persons experienced in assisting persons with disabilities;

35 (iii) provide services designed to meet the needs of persons with
36 disabilities, including such services as assisting persons with disabil-
37 ities to obtain housing, employment referral, transportation referral,
38 attendant care, independent living skills, peer counseling, advocacy
39 services, job training, health care, homemaker services, and other such
40 services as approved by the director;

41 (iv) train personnel for the purpose of attendant care in assisting
42 and serving persons with disabilities; and

43 (v) serve persons with disabilities.

44 (b) Such center may also, but need not limit itself to, provide disa-
45 bility awareness programs, peer counseling, role modeling and any other
46 appropriate services within elementary and secondary schools.

47 (c) Such service centers shall not be established or operated as a
48 residential or housing facility.

49 (d) Such service centers shall make maximum use of existing resources
50 available to persons with disabilities and shall not duplicate any
51 existing services or programs, to the extent that such services or
52 programs are available through other state sources to meet the needs of
53 persons with disabilities. Such centers shall however provide necessary
54 information and referral to assist a person with a disability in obtain-
55 ing such services and coordinate where possible the delivery of such
56 services to persons with disabilities.

1 (e) Such service centers shall be in compliance with all applicable
2 local laws and ordinances.

3 3. Office of community living; responsibilities. The office shall
4 assist individuals and organizations in the planning and establishment
5 of such service centers. The office shall ensure program accountability
6 and shall monitor and evaluate such centers.

7 4. Regulations. The office shall promulgate rules and regulations
8 necessary for the implementation of this article.

9 5. Distribution of funds. (a) Independent living centers shall be
10 funded out of appropriations available for such purposes to the extent
11 of the entire approved budget of such centers.

12 (b) Budgets submitted by independent living centers shall be approved
13 in accordance with regulations of the office.

14 (c) Independent living centers shall be located in the cities of Alba-
15 ny, Buffalo, Rochester, Syracuse, Utica, White Plains, Binghamton, King-
16 ston, Poughkeepsie, Jamestown, Yonkers, the counties of Queens, Kings,
17 Nassau, Bronx, Richmond and New York and the township of Brookhaven with
18 a satellite center in Central Islip in the county of Suffolk.

19 (d) Additional independent living centers shall be located in the
20 cities of Niagara Falls, Olean, Troy, Amsterdam, Newburgh, Corning,
21 Ithaca, Cortland, Auburn, Watertown, Plattsburgh, Batavia, Massena and
22 Glens Falls, the counties of Delaware and Rockland, the county of
23 Orange, in either the city of Middletown or Port Jervis or in the town
24 of Deerpark, Greenville, Mount Hope, Warwick or Wawayanda or in the
25 village of Goshen, in the county of New York to serve the Harlem commu-
26 nity, and in the counties of Putnam, Sullivan and Herkimer.

27 § 466. New York access to home program. 1. Statement of legislative
28 findings and purpose. The legislature hereby finds and declares that
29 there exists in the state of New York a serious need for financial and
30 technical resources to assist renters and property owners to make dwell-
31 ing units accessible for low and moderate income persons with disabili-
32 ties. Providing assistance with the cost of adapting homes will enable
33 many New Yorkers with disabilities to safely and comfortably continue
34 to, or return to, live in their residences instead of residing in an
35 institutional setting. To best accomplish this, the responsibility for
36 the program is transferred to the office.

37 2. Access to home contracts. (a) Within the limit of funds available
38 in the access to home program, the office is hereby authorized to enter
39 into contracts with eligible applicants to provide financial assistance
40 for the actual costs of an access to home program. The financial assist-
41 ance shall be either in the form of grants or loans, as the office shall
42 determine. No more than fifty percent of the total amount awarded pursu-
43 ant to this article in any fiscal year shall be allocated to access to
44 home programs located within any single municipality.

45 (b) The total payment pursuant to any one contract shall not exceed
46 five hundred thousand dollars and the contract shall provide for
47 completion of the program within a reasonable period, as specified ther-
48 ein, which shall not in any event exceed three years from its commence-
49 ment. Upon request, the office may extend the term of the contract for
50 up to two additional one year periods for good cause shown by the eligi-
51 ble applicant.

52 (c) The office may authorize the eligible applicant to spend up to
53 seven and a half percent of the contract amount for approved administra-
54 tive costs associated with administering the program.

55 (d) The office shall require that, in order to receive funds pursuant
56 to this article, the eligible applicant shall submit a plan which shall

1 include, but not be limited to, program feasibility, impact on the
2 community, budget for expenditure of program funds, a schedule for
3 completion of the program, affirmative action and minority-owned busi-
4 ness participation.

5 § 467. Other responsibilities of the office of community living. The
6 office is also responsible for administering the following programs,
7 some of which are being transferred from the justice center for persons
8 with special needs:

9 1. Information and referral services. Information and referral
10 services, including the toll-free information and referral telephone
11 line.

12 2. Technology-related assistance for individuals with disabilities
13 (TRAID) program. The TRAIID program's mission is to coordinate statewide
14 activities to increase access to and acquisition of assistive technology
15 in the areas of education, employment, community living and information
16 technology/telecommunications. The program serves individuals of all
17 ages and disabilities. The program supports regional TRAIID centers
18 (RTCs) which provide information, training, device demonstration, reuse,
19 exchange, and loans. The TRAIID program also provides technical assist-
20 ance and advocacy on how to obtain and use assistive technology services
21 and devices.

22 3. Adult home advocacy program. The adult home advocacy program,
23 which has been in operation since 1995, is now under the jurisdiction of
24 the office. The program assists individuals with mental health disabili-
25 ties who reside in adult homes in the city of New York and Long Island
26 in understanding their legal rights and promotes and protects their
27 rights, including legal and non-legal advocacy services, training on
28 residents' rights supporting self-advocacy and leadership initiatives,
29 and the development and support of resident councils is provided by
30 qualified non-profit agencies which are awarded contracts through a
31 competitive bidding process.

32 4. Advocacy. Advocacy is a core function of the office. Advocacy is an
33 active process with the goal of making the social system, public and
34 community-based or private entities more responsive to the needs of
35 persons with disabilities who are served by that system. Advocacy is
36 not a singular approach, but a continuum of strategies including: self-
37 advocacy, citizen advocacy, and systems advocacy.

38 § 2. Article 25 of the executive law is REPEALED.

39 § 3. Section 559 of the executive law is REPEALED.

40 § 4. Article 23-A of the education law is REPEALED.

41 § 5. Article 25 of the private housing finance law is REPEALED.

42 § 6. This act shall take effect on the first of April next succeeding
43 the date on which it shall have become a law, provided, however, that
44 the governor is authorized to take, notwithstanding any law to the
45 contrary, whatever steps are necessary to effectively and efficiently
46 transfer the functions transferred to the office of community living
47 from other agencies of the state so that the office of community living
48 may fully commence operation on the effective date of this act.