

LEGISLATIVE ASSEMBLY

Read 1° 24 April 1991

(Brought in by Mrs Setches and Mr Kennan)

A BILL

about the provision of services for persons with disabilities and other matters related to persons with disabilities.

Disability Services Act 1991

The Parliament of Victoria enacts as follows:

1. Purposes

The purposes of this Act are—

- 5
- (a) to set out principles to be furthered with respect to persons with disabilities and objectives for providers of services and researchers; and
 - (b) to make various provisions about the funding for disability services.

2. Commencement

10 This Act comes into operation on a day or days to be proclaimed.

Section headings appear in bold italics and are not part of the Act (see **Interpretation of Legislation Act 1984**).

3. Definitions

In this Act—

“Disability” in respect of a person, means a disability—

- (a) which is attributable to an intellectual, psychiatric, sensory or physical impairment or a combination of those impairments; and 5
- (b) which is permanent or likely to be permanent; and
- (c) which results in—
 - (i) a substantially reduced capacity of the person for communication, learning or mobility; and 10
 - (ii) the need for continuing support services; and
- (d) which may or may not be of a chronic episodic nature. 15

“Minister for Community Services” means the Minister for the time being having responsibility for administering the **Community Services Act 1970**.

“Minister for Health” means the Minister for the time being having responsibility for administering the **Health Services Act 1988** and the **Mental Health Act 1986**. 20

“Organisation” means—

- (a) a body corporate; or 25
- (b) a local governing body established by or under a law of the State; or
- (c) a post-secondary education institution within the meaning of the **Post-Secondary Education Act 1978**; or 30
- (d) a State Government agency; or
- (e) any other society, association or body approved by the Minister for Community Services or the Minister for Health.

“Provider of services” means an organisation or a person that provides services to persons with disabilities. 35

“Research and development activities” means—

- (a) research with respect to the provision of services for persons with disabilities; or
- 5 (b) investigation of the need for services for persons with disabilities; or
- (c) the initiation of services for persons with disabilities; or
- (d) the planning of the provision of services for persons with disabilities; or
- 10 (e) the development of proposals for the provision of services for persons with disabilities; or
- (f) the development or implementation of training programs for—
 - 15 (i) persons engaged in the provision of services; or
 - (ii) the families of, and other persons who provide care for or assistance to, persons with disabilities; or
- 20 (g) the investigation of outcomes achieved by persons with disabilities by the provision of services; or
- (h) any other activities approved by the Minister for Community Services or the Minister for Health for the purposes of this definition.

25 **“Researcher”** means an organisation or person conducting research and development activities.

4. Persons eligible for funding

- 30 (1) The Minister for Community Services or the Minister for Health, as the case requires, may approve funding, out of the moneys that have been provided for the purpose, to a provider of services, a researcher or a person with a disability.
- (2) Providers of services or researchers in respect of whom funding is approved must be—
 - 35 (a) providing services or conducting research and development in a manner which furthers the principles set out in Schedule Two; and

(b) furthering the objectives set out in Schedule Three.

- (3) The Minister for Community Services or the Minister for Health, as the case requires, must have regard to furthering the objects set out in Schedule One when approving funding under sub-section (1). 5

5. Terms and conditions

- (1) Where the Minister decides to approve funding to the provider of a service or a researcher, the Minister may require the provider or researcher to enter into an agreement about the terms and conditions with which the provider or researcher must comply while receiving the funding. 10
- (2) An agreement must be in writing and signed by both parties.
- (3) The terms and conditions of the agreement may include the outcomes to be achieved by persons with disabilities and the rights of persons being provided with services by that provider or persons who are the subject of research programs of that researcher. 15

6. Delegation

The Minister for Community Services or the Minister for Health may by instrument in writing delegate any of his or her powers under this Act, other than this power of delegation, to the Director-General of Community Services or the Chief General Manager of the Department of Health, as the case requires. 20 25

7. Orders in Council

The Governor in Council may by Order in Council published in the Government Gazette—

- (a) add principles to those set out in Schedule Two, or repeal or amend those principles; and 30
- (b) add objectives to those set out in Schedule Three, or repeal or amend those objectives.

SCHEDULES

SCHEDULE ONE

Objects

The objects to the furthering of which the Minister for Health or Minister for Community Services must have regard are—

- (a) to ensure that persons with disabilities receive the services necessary to enable them to achieve their maximum potential as members of the community;
- (b) to ensure that services provided to persons with disabilities—
 - (i) further the integration of persons with disabilities in the community, and complement services available generally to persons in the community;
 - (ii) enable persons with disabilities to achieve positive outcomes, such as increased independence, employment opportunities and integration in the community; and
 - (iii) are provided in ways that promote in the community a positive image of persons with disabilities and enhance their self-esteem;
- (c) to ensure that the outcomes achieved by persons with disabilities by the provision of services for them are taken into account;
- (d) to encourage innovation in the provision of services for persons with disabilities.

SCHEDULE TWO

Principles

The principles which are to be furthered with respect to persons with disabilities are that—

- (a) persons with disabilities are individuals who have the inherent right to respect for their human worth and dignity; and
- (b) persons with disabilities, whatever the origin, nature, type and degree of disability, have the same basic human rights as other members of Australian society; and
- (c) persons with disabilities have the same rights as other members of Australian society to realise their individual capacities for physical, social, emotional and intellectual development; and
- (d) persons with disabilities have the same right as other members of Australian society to services which will support their attaining a reasonable quality of life; and
- (e) persons with disabilities have the same right as other members of Australian society to participate in decisions which affect their lives; and
- (f) persons with disabilities receiving services have the same right as other members of Australian society to receive those services in a manner which results in the least restriction of their rights and opportunities; and
- (g) persons with disabilities have the same right of pursuit of any grievance in relation to services as have other members of Australian society.

SCHEDULE THREE***Objectives***

The objectives for providers of services or researchers are that—

- (a) the services should have as their focus, the achievement of positive outcomes for people with disabilities, such as increased independence, employment opportunities and integration into the community; and
- (b) the services should contribute to ensuring that the conditions of the every-day life of people with disabilities are the same as, or as close as possible to, norms and patterns which are valued in the general community; and
- (c) the services should be provided as part of local co-ordinated service systems and be integrated with services generally available to members of the community, wherever possible; and
- (d) the services should be tailored to meet the individual needs and goals of the people with disabilities receiving those services; and
- (e) the program or the services should be designed and administered so as to meet the needs of people with disabilities who experience a double disadvantage as a result of their gender, ethnic origin, or Aboriginality; and
- (f) the program or the services should be designed and administered so as to promote recognition of the competence of, and enhance the image of, people with disabilities; and
- (g) the program or the services should be designed and administered so as to promote the participation of people with disabilities in the life of the local community through maximum physical and social integration in that community; and
- (h) the program or the services should be designed and administered so as to ensure that no single organisation providing services exercises control over all or most aspects of the life of a person with disabilities; and
- (i) the organisations or persons providing services to persons with disabilities, whether those services are provided specifically to persons with disabilities or generally to members of the community, should be accountable to those persons with disabilities who use their services, advocates of those persons, the State and the community generally for the provision of information from which the quality of their services can be judged; and
- (j) the program or the services should be designed and administered so as to provide opportunities for people with disabilities to reach goals and enjoy lifestyles which are valued by the community generally and are appropriate to their chronological age; and
- (k) the services should be designed and administered so as to ensure that persons with disabilities have access to advocacy support where necessary to ensure adequate participation in decision-making about the services they receive; and
- (l) the program or the services should be designed and administered so as to ensure that appropriate avenues exist for people with disabilities to raise and have resolved any grievances about services; and

SCHEDULE THREE—*continued*

- (m) the program or the services should be designed and administered so as to provide people with disabilities with, and encourage them to make use of, avenues for participating in the planning and operation of services which they receive and the State and organisations should provide opportunities for consultation in relation to the development of major policy and program changes; and
- (n) the program or the services should be designed and administered so as to respect the rights of people with disabilities to privacy and confidentiality; and
- (o) the activities of the provider of services which relate to persons with disabilities should be conducted in accordance with the Principles set out in Schedule Two.

