

Department of Developmental and Mental Health Services
Division of Developmental Services
103 South Main Street
Waterbury, VT 05671-1601



**THE DEVELOPMENTAL
DISABILITIES ACT
OF 1996**

Division of Developmental Services
Department of Developmental and Mental Health Services
103 South Main Street
Waterbury, VT 05671-1601
(802) 241-2614

Introduction

Consumers, family members, advocates, service providers and state staff worked together over a two year period to revise Vermont's law about services for people with developmental disabilities. The Legislature enacted the law during its 1996 session. It takes effect July 1, 1996.

This booklet summarizes the highlights of the new law.

For a copy of the new law, or further information contact Gail Falk or Jennifer Garabedian at the Division of Developmental Services (241-2663).

The Purpose of the Developmental Disabilities Act

“It is the policy of the State of Vermont that each citizen with a developmental disability shall have the following opportunities:

- (1) To live in a safe environment with respect and dignity.
- (2) To live with family or in a home of his or her choice.
- (3) To make choices which affect his or her life.
- (4) To attend neighborhood schools, be employed and participate in activities to the extent that this purpose is not construed to alter or extend rights or responsibility of federal laws relating to special education.
- (5) To have access to the community support and services that are available to other citizens.”

18 V. S. A. § 8721

and are not counted as income in determining eligibility for state benefits.

18 V. S. A. § 8729

Definition of “Developmental Disability”

In this law, “developmental disability” means mental retardation, autism, or pervasive developmental disorder that:

- (1) Starts before age 18; and
- (2) Results in severe deficits in adaptive behavior.

18 V. S. A. § 8722 (2)

Family Services

A family as well as a person with a developmental disability can be a recipient and has rights.

18 V. S. A. § 8722 (3) and (5), and § 8728

The Division of Developmental Services will issue regulations stating how to decide whether a person has a “developmental disability” and how a family may receive services.

Principles of Service

Services and funds will evolve over time, but the principles of service are written into law.

“(1) Children’s services. Children, regardless of the severity of their disability, need families and enduring relationships with adults in a nurturing home environment. The quality of life of children with developmental disabilities, their families and communities is enhanced by caring for children within their own homes. Children with disabilities benefit from growing up in their own families; families benefit by staying together; and communities benefit from the diversity that is provided when people with varying abilities are included.

“(2) Adult services. Adults, regardless of the severity of their disability, can make decisions for themselves, can live in typical homes, and can contribute as citizens to the communities where they live.

“(3) Full information. In order to make good decisions, people with developmental disabilities and their families need complete information about the availability, choices and costs of services, how the decision making process works and how to participate in that process.

“(4) Individual support. People with developmental disabilities have differing abilities, needs and goals. To be effective and efficient, services must be individualized to the capacities, needs and values of each individual.

“(5) Family support. Effective family support services shall be designed and provided

with respect and responsiveness to the unique needs, strengths and cultural values of each family and the family's expertise regarding its own needs.

“(6) Meaningful choices.”...Effective services shall be flexible so they can be individualized to support and accommodate personalized choices, values and needs and assure that each recipient is directly involved in decisions that affect that person's life.

“(7) Community participation. When people with disabilities are segregated from community life, all Vermonters are diminished. Community participation is increased when people with disabilities meet their everyday needs through resources available to all members of the community.

“(8) Employment. The goal of job support is to obtain and maintain paid employment in regular employment settings.

“(9) Accessibility. Services must be geographically available so that people with developmental disabilities and their families are not required to move to gain access to needed services...

“(10) Health and safety. The safety and health of people with developmental disabilities is of paramount concern.

“(11) Trained staff. ...All individuals who provide services to people with developmental disabilities and their families must receive training...

“(12) Fiscal integrity. The fiscal stability of the service system is dependent upon skillful and frugal management and sufficient resources to meet the needs of Vermonters with developmental disabilities.”

18 V. S. A. § 8724

The Department's Name

The Department of Mental Health and Mental Retardation has a new name. It is now the Department of Developmental and Mental Health Services. The Division of Mental Retardation is now the Division of Developmental Services.

18 V. S. A. § 8722 (1)

The Department's Duties

As before, the Department will plan, coordinate, administer, monitor, and evaluate state and federally funded services. The department is also to:

- promote the Principles of Services;
- establish a statewide procedure to apply for services;
- encourage development of *non-profit* services;
- make sure that service providers get training;
- create a certification system for service providers;
- investigate and resolve complaints;
- promote positive images and public awareness of people with developmental disabilities and their families; and
- help people with developmental disabilities and their families participate in decisions that affect their lives.

18 V. S. A. § 8723

A Few Basics

The new law does not provide an entitlement for services. However, all people with developmental disabilities and their families can expect:

- information and referral;
- the opportunity to apply for services; and
- an assessment of needs.

18 V. S. A. § 8726 (c)

Training

All staff and caregivers who get paid to provide services must receive training in:

- abuse-reporting laws for adults and children;
- the principles and philosophy of services; and
- skills necessary to meet individual needs.

The Department must issue training standards by July 1, 1997.

18 V. S. A. § 8731

Funding and Services

The law does not guarantee support or services to all people who need or want them. Resources are limited to the funding approved each year by the Legislature. Each year, the System of Care Plan will describe what funding and services will get state support. The first System of Care will be written by July 1, 1997.

18 V. S. A. §§ 8722 (5) and 8725

The System of Care Plan

The System of Care Plan will be based on information from people with developmental disabilities, their families, guardians, and people who provide services.

The Plan will state:

- the criteria for deciding whether a person or family receives services and/or funds;
- what existing programs should continue;
- what new programs should be developed; and
- how the success of programs will be assessed.

The System of Care Plan is intended to keep the services dynamic: to require a regular review of what's working and what's not working, and to adapt to the changing needs and desires of Vermonters with developmental disabilities.

18 V. S. A. §§ 8722 (7) and 8725

Rights

Individuals and families who receive services have some specific rights in addition to the rights guaranteed to all citizens under state and federal law. All people who apply for services will get notice of these rights:

- To be free from aversive procedures and treatments.
- To privacy, dignity, confidentiality, and humane care.
- To associate with individuals of both genders.
- To communicate in private by mail and phone.
- To communicate in one's primary language and mode of communication.
- To be free from retaliation for voicing a complaint, exercising rights, or recommending policy changes.
- To maintain family contact, except when contact is restricted by court order.
- To refuse or terminate services, except when services are required by court order.
- To read and to challenge information in one's records.

Families have a right to receive services without relinquishing custody of a child, except when custody is terminated by a court because of neglect, abuse or abandonment. People who are committed to the Department because they present a major danger to public safety may experience some restriction to these rights.

18 V. S. A. § 8728

Complaints and Appeals

The law sets up several ways for people to voice complaints or make appeals

- (1) Eligibility decisions can be appealed to the Human Services Board.
- (2) The Department has a duty to investigate complaints about availability, quality, or responsiveness of services.

There will be a local system of dispute resolution for each program that provides services.

The Department will offer conflict resolution by independent mediators and arbitrators.

18 V. S. A. § 8727

Tax Exemption for Family Support Payments

Payments to a family for respite or other support of a person with a disability are exempt from state income tax

- (1) Eligibility decisions can be appealed to the Human Services Board.
- (2) The Department has a duty to investigate complaints about availability, quality, or responsiveness of services.
- (3) There will be a local system of dispute resolution for each program that provides services.

“Special Care Procedures”

The Department is authorized to work with the Board of Nursing to set up a program to train and supervise staff to perform “special care procedures” in community settings. “Special care procedures” are “necessitated by a specific medical need that a person with a developmental disability would perform but for the person’s disability.” The regulations for this program must be written by July 1, 1997.

18 V. S. A § 8732

Certification

All programs that receive funding from the Department must be certified. To be certified, a program must follow the principals and afford the rights listed in the Developmental Disabilities Act. The Department must adopt certification standards by July 1, 1997.

18 V. S. A. § 8730

Collaboration

The Department is to carry out all its legal duties “by collaborating and consulting with people with developmental disabilities, their families, guardians, community resources, organizations, and people who provide services throughout the state.” The Developmental Services Advisory Board (formerly the Mental Retardation Advisory

Board) will continue to play a key role in advising the Department on the needs of people with developmental disabilities and their families.

18 V. S. A. §. §8723 (1) and 8733