

CHAPTER 1041**PERSONS WITH DISABILITIES – PERSONAL ASSISTANCE
AND FAMILY SUPPORT SERVICES***H.F. 2302*

AN ACT creating a personal assistance services program for persons with disabilities and a comprehensive family support program for families of persons with disabilities to be administered by the department of human services.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. **LEGISLATIVE INTENT.** The purpose of this Act is to ensure the inclusion of persons with disabilities in the general population, community, and work force of the state through the establishment of a personal assistance services program and a comprehensive family support program for families of persons with disabilities to be administered by the department of human services. It is intended that the use of state funds be maximized by drawing upon all sources of funding available for personal assistance services. The department of human services has been selected to administer the program in coordination with other state and local agencies in order to implement appropriate services while maximizing and distributing funding in a cost-effective manner.

Sec. 2. **NEW SECTION. 225C.46 PERSONAL ASSISTANCE SERVICES PROGRAM.**

1. As used in this section, unless the context otherwise requires:

a. (1) "Disability" means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of the individual, a record of physical or mental impairment that substantially limits one or more of the major life activities of the individual, or being regarded as an individual with a physical or mental impairment that substantially limits one or more of the major life activities of the individual.

(2) "Disability" does not include any of the following:

- (a) Homosexuality or bisexuality.
- (b) Transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders.
- (c) Compulsive gambling, kleptomania, or pyromania.
- (d) Psychoactive substance abuse disorders resulting from current illegal use of drugs.
- (e) Alcoholism.

b. "Major life activity" includes functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, or working.

c. "Personal assistance services" means services performed by a person to assist an individual with a disability with tasks which that individual would typically do if the individual did not have a disability. The services are intended to enable an individual with a disability to live in the individual's home or community rather than in an institutional setting and may include but are not limited to any of the following:

- (1) Dressing.
- (2) Bathing.
- (3) Access to and from bed or a wheelchair.
- (4) Toilet assistance, including bowel, bladder, and catheter assistance.
- (5) Eating and feeding.
- (6) Cooking and housekeeping assistance.
- (7) Employment support.
- (8) Cognitive assistance with tasks such as handling money and scheduling.
- (9) Fostering communication access through interpreting and reading services.

d. (1) "Substantially limits" means either of the following:

(a) Unable to perform a major life activity that the average person in the general population can perform.

(b) Significantly restricted as to the condition, manner, or duration under which an individual can perform a particular major life activity as compared to the condition, manner, or duration under which the average person in the general population can perform that same major life activity.

(2) The following factors may be considered in determining whether an individual is substantially limited in a major life activity:

(a) The nature and severity of the impairment.

(b) The duration or expected duration of the impairment.

(c) The permanent or long-term impact, or expected permanent or long-term impact of or resulting from the impairment.

2. Eligibility for the personal assistance services program shall be limited to individuals with a disability, who have Iowa or federal taxable income of less than forty thousand dollars, who are residents of this state, and who are at least eighteen years of age or are emancipated minors. For the purposes of this subsection, "emancipated minor" means a person under eighteen years of age who is married or who is living separate and apart from the person's parent, regardless of the duration of the separate residence, and is managing the person's own financial affairs regardless of the source or extent of the person's income.

3. An individual served under the personal assistance services program shall determine the components of the personal assistance services to be provided with the person who is providing the services to the individual. Based upon the components determined by the individual, the department shall develop a provider contract or other means of paying for services. The components may include but are not limited to all of the following:

a. Training of the person providing services.

b. Selection of the person providing services.

c. Management of the person providing services.

d. Performance standards for the person providing services.

e. Annual review or review upon demonstration of significant changes in the circumstances of the individual being provided with personal assistance services.

4. The department shall adopt rules providing for all of the following:

a. Coordination of personal assistance service activities and funding with other state and local agencies which provide services to individuals with disabilities or funding of such services.

b. The components of contracts between individuals with disabilities being provided personal assistance services and providers of personal assistance services.

c. Upon request of an individual with disabilities, provision of assistance in locating a provider of personal assistance services for the individual.

d. Upon request of an individual with disabilities, provision of technical assistance to the individual concerning the employment of a personal assistant or contracting for services with a personal assistance service provider.

e. Procedures for disbursement of funds. Funds for the purchase of personal assistance services shall be paid directly to individuals with disabilities pursuant to a contract or by other appropriate means of payment. The rules shall include provisions to track the use of the funds and to monitor contract compliance.

f. Implementation of the program in accordance with the funding appropriated for the program.

Sec. 3. NEW SECTION. 225C.47 COMPREHENSIVE FAMILY SUPPORT PROGRAM.

1. For the purposes of this section, unless the context otherwise requires:

a. "Individual with a disability" means an individual who is less than twenty-two years of age and meets the definition of developmental disability in 42 U.S.C. § 6001.

b. "Services and support" means services or other assistance intended to enable an individual with a disability to control the individual's environment, to remain living with the individual's family, to function more independently, and to increase the integration of the individual into the individual's community. Services and support may include but are not limited to funding

for purchase of equipment, respite care, supplies, assistive technology, and payment of other costs attributable to the individual's disability which are identified by the individual's family.

2. A comprehensive family support program is created in the department of human services to provide services and support to eligible families.

3. Eligibility for the comprehensive family support program is limited to families who meet all the following conditions:

- a. The family resides in the state of Iowa.
- b. The family includes an individual with a disability.
- c. The family expresses an intent for the family member who is an individual with a disability to remain living in the family's home.
- d. The family's taxable income is less than sixty thousand dollars in the most recently completed tax year.

4. A family may apply to the department for assistance under the comprehensive family support program. The department shall determine eligibility for the program in accordance with the provisions of this section.

5. The department shall design the program in consultation with the personal assistance and family support services council created in section 225C.48. The department shall adopt rules to implement the program which provide for all of the following:

- a. Eligible families maintain control of decisions which affect the families' children who are individuals with a disability.
- b. Existing local agencies are utilized to provide facilities and a single entry point for comprehensive family support program applicants.
- c. Technical assistance is provided to service and support providers and users.
- d. State, regional, and local media are utilized to publicize the family support program.
- e. A process is available to appeal the department's decisions involving families which apply for the comprehensive family support program and are denied services and support under the comprehensive family support program. The department shall make reasonable efforts to utilize telecommunications so that a family initiating an appeal may complete the appeal process in the family's local geographic area.
- f. Identification of the services and support included in the comprehensive family support program.
- g. Identification of payment for services and support directly to families, by voucher, or by other appropriate means to maintain family control over decision making.
- h. Implementation of the program in accordance with the funding appropriated for the program.

6. Services and support provided under the comprehensive family support program shall not be used to supplant other services and support available to a family of an individual with disabilities but shall be used to meet family needs that would not be met without the program.

Sec. 4. NEW SECTION. 225C.48 PERSONAL ASSISTANCE AND FAMILY SUPPORT SERVICES COUNCIL.

1. An eleven-member personal assistance and family support services council is created in the department. The members of the council shall be appointed by the following officials as follows: governor, five members; majority leader of the senate, three members; and speaker of the house, three members. At least three of the governor's appointments and one of each legislative chamber's appointments shall be a family member of an individual with a disability as defined in section 225C.47. At least five of the members shall be consumers of personal services. Members shall serve for three-year staggered terms. A vacancy on the council shall be filled in the same manner as the original appointment. The members of the council shall be entitled to reimbursement of actual and necessary expenses incurred in the performance of their official duties. The council shall elect officers from among the council's members.

2. The council shall provide ongoing guidance, advice, and direction to the department and other agencies working with the department in the development and implementation of the personal assistance services program created in section 225C.46 and the comprehensive family

support program created in section 225C.47. The council shall perform an annual evaluation of each program, and annually make recommendations concerning each program to the governor and general assembly. The department shall provide sufficient staff support to the council to enable the council to carry out its responsibilities.

3. The department shall consider recommendations from the council in developing and implementing each program, including the development of administrative rules. The department shall regularly report to the council on the status of each program and any actions planned or taken by the department related to each program.

4. This section is repealed effective July 1, 1998.

Sec. 5. IMPLEMENTATION OF PERSONAL ASSISTANCE SERVICES PROGRAM AND COMPREHENSIVE FAMILY SUPPORT PROGRAM.

1. The department of human services shall perform all of the following beginning July 1, 1994, in implementing the personal assistance services program under section 225C.46 and the comprehensive family support program under section 225C.47:

a. Based upon surveys and population samples, estimate the total population of individuals who would be eligible for each program. The department shall estimate the type and quantity of disabilities present among the population estimated and by use of surveys, interviews, and consultation with individuals with disabilities identify the desired components of personal assistance services contracts. The department shall initially develop a master contract and develop procedures to adapt the master contract to individual needs. For the comprehensive family support program, the department shall develop a payment system for services and supports which provides payment directly to families or utilizes vouchers or other payment mechanisms which maintain the decision-making ability of families. The department may use outside technical assistance or a consultant in implementing the provisions of this paragraph.

b. Identify and develop a working group of state and local agencies which are experienced in working with individuals with disabilities to develop a budget and funding plan for each program which may provide for incrementally implementing either or both programs over two or more fiscal years. The department may establish a separate working group for each program. Working group members shall include but are not limited to representatives of regional planning councils, Iowa governor's planning council for developmental disabilities, Iowa state association of counties, vocational rehabilitation division of the department of education, and independent living centers. The department shall coordinate its development activities for the personal assistance services program and the comprehensive family support program with the working group and provide for the input of the personal assistance and family support services council created in section 225C.48.

c. On or before November 1, 1994, develop a budget and funding plan and program design for state and federal funding of the personal assistance services program based upon the contract components identified pursuant to paragraph "a". The department shall not propose a budget and funding plan and program design which would create an unfunded mandate for counties. The budget and funding plan and program design shall be submitted to the governor and the general assembly for consideration and approval by the Seventy-sixth General Assembly, 1995 Session. The budget and funding plan and program design shall also be submitted for consideration by state agencies which may be subject to budget revision due to implementation of the program. The funding plan and budget shall include the following provisions:

(1) Cost offsets based upon the ability of an individual to pay.

(2) Integration of the personal assistance services program with other programs and assistance available to individuals with disabilities so as to avoid duplication and to maximize the use of financial resources.

(3) Inclusion of regional planning councils in the implementation of the personal assistance services program.

(4) Recommendations for developing medical assistance waivers and state plan amendments such as coverage of personal assistance services in order to maximize the potential for federal funding of the personal assistance services program.

(5) Recommendations to ensure that the program is able to operate within appropriated funds.

d. Beginning July 1, 1995, conduct final reviews and planning for implementation of individual personal assistance services contracts on January 1, 1996. Based upon financial resources available for the program and the relative cost and benefit of a particular service, the department shall negotiate the actual services to be included in a contract with the individual who will receive the personal assistance services under that contract.

e. On or before June 15, 1995, submit a budget and funding plan and program design for state and federal funding of the comprehensive family support program. The budget and funding plan and program design shall include the same provisions as required for the personal assistance program in paragraph "c". The department shall not propose a budget and funding plan and program design which would create an unfunded mandate for counties.

2. The initial terms of the personal assistance and family support services council created in section 225C.48 shall be as follows:

a. The governor shall appoint three members to a one-year term, one member to a two-year term, and one member to a three-year term.

b. The majority leader of the senate and the speaker of the house shall each appoint one member to a two-year term and two members to a three-year term.

Sec. 6. IMPLEMENTATION. Implementation of the comprehensive family support program in section 225C.47 as enacted by this Act shall be delayed until July 1, 1996, and is subject to the availability of funding appropriated for the program. However, if funding is available from a source other than the state, including but not limited to federal or private grants, the department, in consultation with the personal assistance and family support council, may institute pilot projects in one or more counties during the fiscal year beginning July 1, 1995, to test the comprehensive family support program. The council shall provide an evaluation of any pilot program and report the results to the governor and the general assembly.

Approved April 5, 1994

CHAPTER 1042

LEGISLATIVE REDISTRICTING STANDARDS

H.F. 109

AN ACT lowering the priority of the standard requiring legislative district boundaries to follow congressional district lines.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 42.4, subsection 6, Code 1993, is amended to read as follows:

6. In order to minimize electoral confusion and to facilitate communication within state legislative districts, each plan drawn under this section shall provide that each representative district is wholly included within a single senatorial district and that, so far as possible, each representative and each senatorial district shall be included within a single congressional district. However, the standards established by subsections 1 through 5 shall take precedence where a conflict arises between these standards and the requirement, so far as possible, of including a senatorial or representative district within a single congressional district.

Approved April 8, 1994