

## **PART II: PROTECTIONS, SERVICES & SUPPORTS AUTHORIZED BY MAJOR LAWS**

### **CIVIL RIGHTS**

See also descriptions in Part I for:

**Americans with Disabilities Act**

**Individuals with Disabilities Education Act (IDEA)**

**Rehabilitation Act**

See also description below for **VOTING**

#### **Civil Rights of Institutionalized Persons Act (P.L. 96-247)**

Authorization: 1980

Overview: Authorized U.S. Department of Justice to sue states for alleged violations of the rights of institutionalized persons, including individuals in jails, juvenile correctional facilities, publicly operated nursing homes or institutions for people with psychiatric or developmental disabilities.

#### **Fair Housing Act (P.L. 100-430)**

Authorization: 1968, amended in 1988 to protect people with disabilities from discrimination

Overview: Prohibits discrimination on basis of race, color, religion, sex, disability, familial status and national origin in private housing; housing that receives Federal financial assistance; and State and local government housing. It is unlawful to discriminate in any aspect of selling or renting housing because of the disability of a buyer or renter, an individual associated with the buyer or renter, or an individual who intends to live in the residence. The Fair Housing Act requires owners of housing facilities to afford people with disabilities equal housing opportunities and requires owners to make reasonable exceptions in policies to accommodate tenants with disabilities.

#### **Air Carrier Access Act (P.L. 99-435)**

Authorization: 1986

Overview: Prohibits discrimination against individuals with disabilities in air transportation by domestic and foreign air carriers that provide regular services for the public. Requirements address a wide range of issues including boarding assistance and certain accessibility features in newly built aircraft and new or altered airport facilities.

## **Architectural Barriers Act (P.L. 90-480)**

Authorization: 1968

Overview: Requires new or altered buildings and facilities that are designed, constructed or altered with Federal funds, or leased by a Federal agency, to be physically accessible

## **Genetic Information Non-discrimination Act (P.L. 110-223)**

Authorization: 2008

Overview: Protects Americans against discrimination based on their genetic information when it comes to health insurance and employment. The law will pave the way for people to take full advantage of the promise of personalized medicine without fear of discrimination.

## **ECONOMIC SECURITY**

See also descriptions in Part I for:

**Social Security Disability Programs (SSDI) - Title II, Social Security Act**  
**Supplemental Security Income (SSI) - Title XVI, Social Security Act**

## **Temporary Assistance for Needy Families (TANF)**

Authorization: Personal Responsibility Act of 1996; Deficit Reduction Act of 2005 requires states to engage more TANF beneficiaries in productive work activities leading to self-sufficiency.

Overview: TANF ended federal entitlement to cash assistance for low income families. It is a block grant to States and tribes for federal funds each year to cover benefits, administrative expenses, and services targeted to needy families. States have wide flexibility to develop and implement programs to help move recipients into work and turn welfare into a program of temporary assistance. It replaced the programs known as Aid to Families with Dependent Children (AFDC), the Job Opportunities and Basic Skills Training (JOBS) program and the Emergency Assistance (EA) program. TANF is important for the disability community because of circumstances that may interfere with the recipient's ability to comply with the program's work activity requirements. Examples include having mental or physical conditions that are not severe enough to qualify for SSI or SSDI, but significant enough to interfere with daily living skills or caring for an adult or child family member with a disability.

## EDUCATION

See also description in Part I for:

**Individuals with Disabilities Education Act (IDEA) and Individuals with Disabilities Education Act Amendments of 1997**

### Higher Education

Authorization: Higher Education Opportunity Act (P.L. 110-315) in 2008 reauthorized Higher Education Act of 1965 (P. L. 89-329) as amended

Overview: The law was originally enacted to strengthen colleges and universities and to provide financial assistance for students in postsecondary and higher education. Over the years, concerns have increased about high dropout rates among students with disabilities. The most recent reauthorization had several significant disability policy provisions including: a Commission and model programs to increase access to instructional materials; model programs for students with intellectual disabilities; access to federal financial aid for students with intellectual disabilities and veterans with disabilities; and programs to train teachers and other personnel to teach students with disabilities.

### No Child Left Behind Act (NCLB)

Authorization: 2001, pending reauthorization as of fall 2008

Overview: NCLB made the most significant changes in the Elementary and Secondary Education Act (ESEA) since it was enacted in 1965. The legislation was based on four principles of the Bush Administration's education reform plan: to improve accountability for results; expand flexibility and local control; expand options for parents; and emphasize proven teaching methods. A description of all the provisions is beyond the scope of this publication, but one area is the most significant for students with disabilities. Under NCLB, state assessments measure what children know and learn in reading and math in grades 3-8. All students are tested annually. The assessment data is available in annual report cards on school performance and on statewide progress. Statewide reports include performance data disaggregated according to race, gender and other criteria – including disability.

The disability community generally supports the law because it has provided the long needed elements of setting high expectations, doing what works to improve results for students with disabilities and holding schools accountable for their academic progress. NCLB requires that schools have a plan to help all students meet challenging academic standards. It also specifically requires systemic accountability for the outcomes of all students, including students with disabilities, who historically have not had full access to highly qualified teachers as well as challenging curriculum, instruction and assessments.

A basic principle for the disability community is that all students with disabilities must be included in the NCLB accountability system. However, concerns have emerged about how to measure their educational progress, especially when students with disabilities are blamed for poor school results. It is expected that this issue will be widely debated during reauthorization.

## **EMERGENCY PREPAREDNESS**

Authorization: Title II of Americans with Disabilities Act

Overview: Issue has gained more attention in recent years because of natural disasters and concerns about possible acts of terrorism. Disability advocates working with a variety of federal officials to ensure that instructions and plans to address emergencies clarify public responsibilities for individuals with disabilities and their families.

## **EMPLOYMENT & TRAINING**

See descriptions in Part I for:

**Rehabilitation Act - vocational programs and Centers for Independent Living**

**Ticket to Work and Work Incentives Improvement Act (TWWIIA)**

**Workforce Investment Act (WIA)**

## **FAMILY SUPPORT**

See also description in Part I for:

**Developmental Disabilities Assistance and Bill of Rights Act**

Authorization: Child Abuse Prevention and Treatment Act (CAPTA) Amendments of 1995 (P.L. 104-235)

Overview: Created family resource and support program to support efforts to develop and operate a network of community-based, prevention-focused family resource and support programs.

Authorization: National Family Caregiver Support in Older Americans Act, as amended (P.L. 106- 501)

Overview: Funded to help states provide support services for family caregivers and grandparents or older individuals who are relative caregivers. Services include: information about available services and assistance to caregivers to access services as well as respite care. These resources are available to families who have older members with disabilities.

Authorization: Lifespan Respite Care Act of 2006 (P.L. 109-442)

Overview: Legislation was passed in 2006, but has not received authorizing funds as of fall 2008. It amends the Public Health Service Act to authorize the Secretary of the U.S. Department of Health and Human Services (DHHS) to award matching grants or cooperative agreements to eligible state agencies to: (1) expand and enhance respite care services to family caregivers (2) improve the statewide dissemination and coordination of respite care and (3) provide, supplement, or improve access and quality of respite care services to family caregivers. It defines "respite care" to mean planned or emergency care provided to a child or adult with a special need to provide temporary relief to the family caregiver. It instructs the DHHS Secretary to work cooperatively with the National Family Caregiver Support Program of the Administration on Aging and other respite care programs within DHHS to ensure coordination of respite care services for family caregivers of children and adults with special needs.

## **HEALTH CARE**

See also descriptions in Part I for:

**Medicaid - Title XIX, Social Security Act**

**Medicare - Title XVIII, Social Security Act**

**State Children's Health Insurance Program (SCHIP) - Title XXI, Social Security Act**

**Health care provisions for workers with disabilities - Ticket to Work and Work Incentives Improvement Act**

See description below for:

**Long Term Services and Supports**

An invaluable non-partisan source for facts, information, and analysis about major health care issues is the Kaiser Family Foundation at [www.kff.org](http://www.kff.org)

## **Home & Community-Based Services**

Authorization: Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) (P.L. 97-248)

Overview: Permitted coverage under state Medicaid plans for home care services for certain children with disabilities even when family's income and resources exceed state eligibility standards. To qualify, children must need certain level of home health care that compares to level of care provided in hospital, nursing home or ICF-MR (intermediate care facility for the mentally retarded) and cost of home care cannot exceed cost of institutional care. TEFRA is sometimes confused with the Katie Beckett Waiver, named after the child whose situation inspired it. Under Medicaid, TEFRA is a state plan option not a waiver.

## HOUSING

See also description in **Civil Rights** above

### Rent Subsidies (Section 8)

Authorization: Housing and Community Development Amendments of 1974 (P.L. 93-383)

Overview: Expanded the low-income rent subsidy program under Section 8 to include families consisting of single persons with disabilities. The legislation also extended the Section 202 direct loan program to nonprofit agencies to include projects that serve individuals with mental as well as physical disabilities.

### Supportive Housing for Persons with Disabilities (Section 811)

Authorization: National Affordable Housing Act of 1990 (P.L. 101-625) as amended

Overview: Program provides housing for people with physical or developmental disabilities or people with chronic mental illness who are 18 years or older and have very low incomes. It is the only HUD program that produces affordable and accessible housing for non-elderly people with disabilities. Under Section 811, non-profit organizations can receive funding to develop fully accessible rental housing which may include supportive services as well. The Section 811 law also allows HUD to use program funds for tenant-based rental assistance.

### Affordable Housing

Authorization: Housing and Economic Recovery Act of 2008, among its numerous provisions is National Affordable Housing Trust Fund Act

Overview: The national Housing Trust Fund is the first new federal housing production program since the HOME program was created in 1990 and the first new production program specifically targeted to extremely low income households since the Section 8 program was created in 1974.

## LONG TERM SERVICES & SUPPORTS

See **also Health Care** section above

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## **Home and Community-Based Waiver**

Authorization: Section 1915(c) of Social Security Act

Overview: The Social Security Act authorizes multiple waiver and demonstration authorities to allow states flexibility in operating their Medicaid programs. Section 1915(c) (generally called the Home and Community-Based Services Waivers) gives the Secretary of the Department of Health and Human Services the authority to waive Medicaid provisions to allow individuals to receive long-term care services in community settings. This program is the Medicaid alternative to providing comprehensive long-term services in institutional settings.

## **Cash & Counseling Option**

Authorization: 1915(j) of Social Security Act, authorized by Deficit Reduction Act of 2005

Overview: This provision allows states to offer a self-directed service delivery model (often called "cash and counseling programs") for personal assistance services as a State plan option. Under these programs, beneficiaries can directly pay for personal assistance services identified in the service plan and budget. They may hire legally liable relatives (parent, spouses and others).

## **Home and Community-Based Services Option**

Authorization: Section 1915(i) of Social Security Act, authorized by Deficit Reduction Act of 2005

Overview: This provision expanded access to home and community-based services for people with disabilities and older individuals. It creates a new option for states to provide home-and community-based services (HCBS) without requiring states to use a waiver process. To add this new option, a state must file a Medicaid state plan amendment. States must also establish stricter eligibility criteria for institutional services than for community-based services. Consequently, for the first time, a state can offer HCBS services to people who would not otherwise qualify for its institutional services.

## **RESEARCH**

### **National Institute on Disability and Rehabilitation Research (NIDRR)**

Authorization: Title II of Rehabilitation Act (P.L. 93-112)

Overview: Created in 1978, NIDRR operates as one of three components of the Office of Special Education and Rehabilitative Services (OSERS) at the U.S. Department of Education. The other two components are the Rehabilitation Services Administration (RSA) and the Office of Special Education Programs

(OSEP). NIDRR's role is to conduct research and related activities to maximize the full inclusion, social integration, employment and independent living of individuals of all ages with disabilities. The Director of NIDRR chairs the Interagency Committee on Disability Research (ICDR). NIDRR offers individuals and institutions the opportunity to bid on competitive research grants.

## **National Institutes of Health (NIH)**

Authorization: Title IV, Part A of Public Health Services Act, as amended

Overview: The National Institutes of Health (NIH), a part of the U.S. Department of Health and Human Services, is the primary Federal agency that conducts and supports medical research. NIH has 27 different components called Institutes and Centers. These include the following that are of special interest for people with intellectual and related disabilities: National Human Genome Research Institute; Eunice Kennedy Shriver National Institute of Child Health and Human Development (NICHD) and the National Institute of Mental Health.

There is a network of Centers that receive core funding from NICHD or other mechanisms in NIH to prevent and treat disabilities through biomedical and behavioral research. These Centers were established in 1963 and are now known as the Intellectual and Developmental Disabilities Research Centers (IDDRCs). They were formerly called Mental Retardation Developmental Disabilities Research Centers (MRDDRCs).

## **TECHNOLOGY & TELECOMMUNICATIONS**

### **Access for People with Disabilities**

Authorization: Telecommunications Act of 1996 (P.L. 104-104) amended Communications Act of 1934

Overview: Sections 255 and 251(a) (2) require telecommunications manufacturers and service providers to ensure that equipment and services are accessible to and usable by individuals with disabilities, if readily achievable. The Federal Communications Commission (FCC) has authority to enforce this law.

### **Assistive Technology**

Authorization: Assistive Technology Act of 1998, as amended (PL 108-364) first passed in 1988 as the Technology Related Assistance for Individuals with Disabilities Act (PL 100-407). The Act, commonly known as the "Tech Act", was reauthorized in 1994, but was repealed in 1998 when the Assistive Technology Act (PL 105-394) was adopted.

Overview: Today, every state and U.S. territory has an Assistive Technology Act program (AT Program) to help individuals with disabilities gain access to assistive

technology devices. To learn about the available AT Programs in each state and U.S. territory, go to <https://www.resna.org/content/index.php?pid=132>. This web site is maintained by the organization that receives a technical assistance grant from the U.S. Department of Education, Rehabilitation Services Administration (RSA) that funds the state AT programs.

## TRANSPORTATION

See also **Civil Rights** section above for **Air Carrier Access Act**

### Access for People with Disabilities

Authorization: Urban Mass Transportation Act Amendments of 1970 (P.L. 91-453) as amended in 1974 (P.L. 93-503)

Overview: Requires eligible local jurisdictions to plan and design mass transit facilities and services so that people with disabilities have access to and can use them. Amendments required limits on fares or free rides for people with disabilities and elderly individuals.

Authorization: Federal-Aid Highway Act of 1973 (P.L. 93-87)

Overview: Authorizes use of funds to provide "reasonable access" to people with disabilities such as curb cuts at pedestrian crosswalks

Authorization: Amtrak Improvement Act of 1973 (P.L. 93-146) and Passenger Rail Investment and Improvement Act of 2008 (P.L. 110-432)

Overview: Authorizes Amtrak to ensure that individuals who are elderly or have disabilities have access to intercity passenger trains. The most recent reauthorization included language calling for Amtrak to submit a plan to Congress about how it will meet the 2010 ADA deadline to make all stations accessible. The Act also authorized funding to improve station accessibility.

Authorization: Intermodal Surface Transportation Efficiency Act of 1991 (P.L. 102-240)

Overview: Increased set asides funds to assist facilities to meet transportation accessibility needs of individuals who are elderly or have disabilities

Authorization: Over-the-Road Buss Accessibility Act of 2007 (P.L. 110-291)

Overview: Clarified that DOT has authority to examine bus accessibility when granting licenses for commercial buses

Authorization: Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)

Overview: SAFETEA-LU is the legislation that authorizes all highway and transit funding in the US and it expires September 30, 2009. In its last reauthorization, Congress approved a new program for people with disabilities, the New Freedom Program (Section 5317). This program is designed to encourage services and facility improvements to address transportation needs of persons with disabilities that go beyond those required by the ADA. To achieve these goals, it provides a new grant program for associated capital and operating costs and allocates funds through a formula based upon the population of persons with disabilities.

## **VOTING**

### **Access for People with Disabilities**

Authorization: Voting Accessibility for the Elderly and Handicapped Act (P.L. 98-435)

Overview: Requires polling places to be physically accessible to people with disabilities or for localities to provide alternate means of voting. Also requires states to make registration and voting aids available for voters with disabilities and those who are elderly, including telecommunications devices.

Authorization: National Voter Registration Act (also known as "Motor Voter Act") (P.L. 103-31)

Overview: Requires all State-funded programs that provide services to persons with disabilities to supply voter registration forms, provide assistance to complete forms, and transmit completed forms to appropriate officials.

Authorization: Help America Vote Act of 2002 (P.L. 107-252)

Overview: Provides funds for States and local governments to make polling places accessible to individuals with disabilities to ensure equal access and participation; to provide information about the accessibility of polling places, including outreach programs; and to train election officials, poll workers and election volunteers on how best to promote the access and participation of individuals with disabilities in federal elections.