

Senate Bill No. 174—Senators Rawson and Titus

Joint Sponsors: Assemblymen Marvel, Giunchigliani,
Parks, Leslie and Buckley

CHAPTER.....

AN ACT relating to persons with disabilities; requiring cooperative efforts to enable existing state programs to make available community-based services for the provision of minimum essential personal assistance to certain of those persons and to establish a program to govern the provision of those services; making an appropriation; and providing other matters properly relating thereto.

WHEREAS, People of all ages with severe functional disabilities are often forced to live in unsafe conditions or an institutional setting because of their inability to obtain essential personal assistance in their communities; and

WHEREAS, Many of those people require only minimal personal assistance to live safely and independently in their communities; and

WHEREAS, The potential cost for the state to provide institutional care for all those people far exceeds the cost to provide them with essential personal care in their communities; and

WHEREAS, Those people should have available at least such minimum essential personal assistance as is appropriate for them to avoid placement in an institutional setting without regard to their age, marital or family status, race, national origin, cultural background, religion, gender, sexual preference or geographic location; and

WHEREAS, Existing state programs provide a sufficient framework within which to make essential personal assistance available to those people; and

WHEREAS, It is the goal of this state to ensure that at least minimal essential personal assistance services are available to all residents of this state with severe functional disabilities who, if provided access to such services, will remain safely in their homes and communities and avoid being placed in an institutional setting, and to provide those people with meaningful choices and the maximum feasible amount of control over the essential personal assistance they receive; now, therefore,

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 426 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 11, inclusive, of this act.

Sec. 2. *As used in sections 2 to 11, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 8, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Advisory committee” means the advisory committee on personal assistance for persons with severe functional disabilities created pursuant to section 11 of this act.*

Sec. 4. *“Minimum essential personal assistance” means the assistance of a person with a severe functional disability for 6 hours or less per day in:*

1. *Eating;*
2. *Bathing;*
3. *Toileting;*
4. *Dressing;*
5. *Moving about; and*
6. *Taking care of himself.*

Sec. 5. *“Reasonably adequate state funding” means the amount of state funding that can reasonably be accommodated within state budgetary limitations, as determined by the governor and the legislature for each biennial session of the legislature.*

Sec. 6. *“Recipient” means a recipient of minimum essential personal assistance through a state personal assistance program.*

Sec. 7. *“Severe functional disability” means any physical or mental condition pursuant to which a person is unable, without substantial assistance from another person, to eat, bathe and toilet.*

Sec. 8. *“State personal assistance program” means a program established pursuant to NRS 422.396, 427A.250 or 615.173.*

Sec. 9. 1. *Each state personal assistance program must make available, within a reasonable period after receiving a request therefor and in accordance with any conditions upon the receipt of federal funding and considering the amount of reasonably adequate state funding, community-based services to provide minimum essential personal assistance to residents of this state with severe functional disabilities who would, with the provision of that assistance, be able to live safely and independently in their communities outside of an institutional setting.*

2. *The provisions of sections 2 to 11, inclusive, of this act must not be construed to:*

(a) Prevent a person with a severe functional disability from receiving more than 6 hours of minimum essential personal assistance per day from a state personal assistance program if such assistance is available pursuant to the program; or

(b) Prevent a person with a disability other than a severe functional disability from receiving services from a state personal assistance program if such assistance is available pursuant to the program.

Sec. 10. *The director of the department of human resources, in cooperation with the director of the department of employment, training and rehabilitation and in consultation with the advisory committee, shall:*

1. *Determine the amount of state funding necessary each biennium to carry out section 9 of this act.*

2. *Ensure that the amount of funding determined to be necessary pursuant to subsection 1 is included in the budgetary request of the appropriate department or agency for the biennium, and that the budgetary request includes funding for any increase in the number of cases handled by the state personal assistance programs.*

3. *Establish a program to govern the services provided to carry out section 9 of this act, within the limitations of any conditions upon the receipt of state or federal funding, including:*

(a) Minimum standards for the provision of minimum essential personal assistance, including, to the extent authorized by state and federal law, the provision of services in accordance with NRS 629.091;

(b) Minimum qualifications and training requirements for providers of minimum essential personal assistance;

(c) Standards for the financial operation of providers of minimum essential personal assistance;

(d) The development of an individual service plan for the provision of minimum essential personal assistance to each recipient;

(e) Procedures to appeal the denial or modification of an individual service plan for the provision of minimum essential personal assistance and to resolve any disputes regarding the contents of such a plan;

(f) Continuous monitoring of the adequacy and effectiveness of the provision of minimum essential personal assistance to each recipient;

(g) Mandatory requirements and procedures for reporting the abuse, neglect or exploitation of a recipient;

(h) The receipt of meaningful input from recipients, including surveys of recipients, regarding the extent to which recipients are receiving the services described in their individual service plans and their satisfaction with those services; and

(i) Continuing procedures for soliciting public input regarding the development, implementation and review of the program.

4. Review and modify the program established pursuant to subsection 3 as appropriate to provide recipients with as much independence and control over the provision of minimum essential personal assistance as is feasible.

5. Submit to each regular session of the legislature and make available to members of the public any recommendations for legislation to carry out section 9 of this act and to carry out or improve the program established pursuant to subsection 3.

6. Submit to each regular session of the legislature a report regarding the expenditure of any money received to carry out sections 2 to 11, inclusive, of this act, that must include information regarding:

(a) The fiscal and other effects of services provided to carry out section 9 of this act;

(b) The results of the program established pursuant to subsection 3; and

(c) The percentage change in the number of residents of this state with severe functional disabilities who are able to avoid or leave institutional care as a result of the receipt of minimum essential personal assistance through community-based services.

Sec. 11. 1. *The advisory committee on personal assistance for persons with severe functional disabilities is hereby created in the department.*

2. The governor shall:

(a) Solicit recommendations for the appointment of members to the advisory committee from organizations that are representative of a broad range of persons with disabilities and organizations interested in the provision of personal services to persons with functional disabilities.

(b) Appoint to the advisory committee such members as he deems appropriate to represent a broad range of persons with disabilities from diverse backgrounds, including, without limitation, one or more persons who are representative of:

- (1) The Nevada commission on aging and seniors with disabilities.*
- (2) The statewide independent living council established in this state pursuant to 29 U.S.C. § 796d.*
- (3) The state council on developmental disabilities established in this state pursuant to section 125 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000.*
- (4) Centers for independent living established in this state.*
- (5) Providers of personal services to persons with disabilities, including providers who receive state funding for that purpose.*
- (6) Persons with disabilities who receive personal assistance services.*

3. The majority of the members of the advisory committee must be persons with disabilities.

4. After the initial term, the term of each member is 2 years.

5. Members of the advisory committee serve without compensation, except that each member is entitled, while engaged in the business of the advisory committee, to the per diem allowance and travel expenses provided for state employees generally.

6. A majority of the members of the advisory committee constitutes a quorum for the transaction of business, and a majority of a quorum present at any meeting is sufficient for any official action taken by the advisory committee.

7. The advisory committee shall:

(a) At its first meeting and annually thereafter, elect a chairman from among its members.

(b) Meet at the call of the director, the chairman or a majority of its members quarterly or as is necessary, within the budget of the advisory committee, to provide the director with appropriate assistance to carry out the provisions of section 9 of this act.

Sec. 12. As soon as practicable after the effective date of this act, the governor shall appoint to the advisory committee on personal assistance for persons with severe functional disabilities created pursuant to section 11 of this act:

1. To the extent feasible, half of its members to serve initial terms of 2 years; and

2. The remainder of its members to serve initial terms of 4 years.

Sec. 13. 1. There is hereby appropriated from the state general fund to the director of the department of employment, training and rehabilitation for per diem allowances and travel expenses of the advisory committee on personal assistance for persons with severe functional disabilities created pursuant to section 11 of this act:

For the fiscal year 2001-2002..... \$5,000

For the fiscal year 2002-2003..... \$5,000

2. Any balance of the sums appropriated by subsection 1 remaining at the end of the respective fiscal years must not be committed for

expenditure after June 30 of the respective fiscal years and reverts to the state general fund as soon as all payments of money committed have been made.

Sec. 14. This act becomes effective upon passage and approval.