
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2641

Session of
1988

INTRODUCED BY KUKOVICH, BELFANTI, GODSHALL, LIVENGOD, NAHILL,
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MARKOSEK, HALUSKA, J. TAYLOR, MICHLOVIC, JOSEPHS, PRESSMANN,
FREEMAN, REBER AND VEON, AUGUST 8, 1988

REFERRED TO COMMITTEE ON JUDICIARY, AUGUST 8, 1988

AN ACT

1 Relating to the establishment of a program to provide for
2 services to certain persons whose ability to make decisions
3 is impaired.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Community
8 Support and Guardianship Services Act.

9 Section 2. Findings and declarations.

10 The General Assembly finds and declares that:

11 (1) All individuals should be permitted and encouraged
12 to participate as fully as possible in all decisions which
13 affect their lives.

14 (2) Some individuals with limitations may require
15 assistance from others in making and carrying out decisions.

16 (3) A continuum of services should be available to
17 support and encourage individuals in making and carrying out

1 their own decisions to the maximum extent of their ability.

2 (4) Substitute decisionmaking, including guardianship,
3 shall be used only to the extent that no less restrictive
4 alternative exists for assisting individuals in reaching
5 their own decisions and shall, whenever possible encourage
6 personal autonomy, independence and well-being, preferably in
7 the individual's own home.

8 (5) Where no alternative exists to the appointment of a
9 guardian, and when no other person or entity is willing and
10 able to serve as a guardian, the services of a guardian of
11 last resort shall be made available to the extent that they
12 can be appropriately provided with funds allocated for this
13 purpose.

14 Section 3. Statement of policy.

15 It shall be the policy of the Commonwealth of Pennsylvania to
16 support a system which encourages and assists individuals who
17 need assistance in decisionmaking to make their own responsible
18 decisions to the maximum extent of their ability.

19 Section 4. Definitions.

20 The following words and phrases when used in this act shall
21 have the meanings given to them in this section unless the
22 context clearly indicates otherwise:

23 "Area agency on aging." The designated local authority which
24 administers social and other services to individuals who are 60
25 years of age or older.

26 "Department." The Department of Public Welfare of the
27 Commonwealth.

28 Section 5. Establishment of program.

29 There shall be established in the Commonwealth of
30 Pennsylvania a program which provides a range of support

1 services for individuals whose ability to make or carry out
2 decisions is impaired. The services may include assistance to
3 individuals in making their own decisions or substitute
4 decisionmaking, such as guardianship. Services shall be provided
5 in a manner which supports and encourages individuals to live as
6 independently as possible and to make decisions for themselves
7 to the maximum extent of their ability and to reduce or
8 eliminate the need for services under this act.

9 Section 6. Powers and duties of department.

10 The department shall have the power and the duty to:

11 (1) Allocate available funds to counties.

12 (2) Adopt and enforce joint regulations with the
13 Department of Aging to implement this act.

14 (3) Assure accountability of recipients of funds under
15 this act.

16 (4) Coordinate all activities under this act with the
17 Department of Aging.

18 Section 7. Powers and duties of counties.

19 (a) Alternatives to guardianship services.--Counties may use
20 funds allocated by the department to contract with eligible
21 agencies to provide for the following:

22 (1) Assistance to individuals in decisionmaking,
23 including decisions concerning financial management.

24 (2) Assistance to individuals in securing needed
25 benefits and services.

26 (3) Representative payees or similar fiduciaries
27 established by agencies issuing benefits, attorneys-in-fact
28 pursuant to a power of attorney, and trustees.

29 (4) Assistance to private guardians in fulfilling their
30 duties.

1 (5) Assistance to courts, upon request, in reviewing
2 petitions for the appointment of a guardian, recommending
3 alternatives to guardianship, investigating petitions,
4 explaining petitions to respondents or monitoring private
5 guardianship arrangements.

6 (6) Preparation and filing of petitions for
7 guardianship, provided that the agency also offers services
8 to avoid unnecessary guardianships such as those described in
9 this subsection.

10 (7) Recruitment and supervision of volunteers who enter
11 into supportive relationships with individuals needing
12 assistance with decisionmaking.

13 (8) Such other similar services as are provided by
14 regulation.

15 (b) Assurance of guardianship services.--Counties shall use
16 funds allocated by the department to contract with eligible
17 agencies to provide guardianship services. Guardianship services
18 shall be provided only when no alternative exists to the
19 appointment of a guardian and when no other person or entity is
20 available to serve as guardian.

21 (c) Coordination with existing service systems.--

22 (1) Counties shall determine the number of eligible
23 agencies with which they contract and the amount of funds for
24 each such contract to carry out the purposes of this act. In
25 order to ensure proper coordination of these services with
26 other county human services, contracts with eligible agencies
27 to serve individuals with mental retardation or mental
28 illness shall be administered by the county mental health and
29 mental retardation administrator, and contracts to serve
30 individuals 60 years of age or older shall be administered by

1 the area agency on aging. In those counties in which the area
2 agency on aging is a private nonprofit corporation, all funds
3 determined by the county to be available to serve individuals
4 60 years of age or older shall be contracted with such area
5 agency on aging, which shall exercise the duties set forth in
6 this section.

7 (2) Counties, through this contracting process, shall
8 ensure cooperation between eligible agencies and other human
9 service agencies serving these individuals, in order to avoid
10 unnecessary duplication of services and to promote efficient
11 coordination of related services.

12 Section 8. Eligible agencies.

13 To be eligible to contract for funding under this act,
14 agencies shall:

15 (1) Be nonprofit organizations governed by an unpaid
16 board of directors no less than one-half of whom shall be
17 broadly representative of persons the agency serves, such as
18 elderly persons, persons with limitations or parents of
19 persons with limitations.

20 (2) Engage in no activities which have the potential to
21 conflict with their duties as guardians or with other duties
22 assumed under this act.

23 (3) Use funds appropriated under this act to serve
24 individuals without regard to their ability to pay.
25 Recipients of services shall be charged for services based on
26 their ability to pay in accordance with promulgated
27 regulations.

28 (4) Be locally based, if possible.

29 (5) Meet such other criteria as specified by regulation.

30 Section 9. Appropriation.

1 The sum of \$1,000,000, or as much thereof as may be
2 necessary, is appropriated to the Department of Public Welfare
3 to carry out the provisions of this act.

4 Section 10. Effective date.

5 This act shall take effect July 1, 1989.