President Signs DD Act!!!

On October 31st, President Bush signed the DD Act Amendments into law, P.L. 101-496. The law will be available in 3-5 weeks and individual copies can be obtained one of several ways: write to the Senate Document Room at;

Senate Document Room
Hart Senate Office Building Rm. B-04
Washington, DC 20510-7106

or you may write or call the House Document Room at;

House Document Room
House Annex #2 Rm. B-18
Washington, DC 20515
(202)225-3456

Please make sure you have the Public Law number available when ordering and if ordering by mail please enclose a mailing label. In the meantime the new amendments as they appeared in the Congressional Record of October 12, 1990; pp. 15200 to 15204, are attached!

DD Act FY 1991 Appropriations

The final budget figures are in. The DD Act programs were affected variously:

Basic State Grant: $64,409 million (4.0% increase)
Protection and Advocacy Systems: 20.982 million (2.4% increase)
University Affiliated Programs: 13.907 million (5.5% increase)
Projects of National Significance: 3.025 million ($225,000 increase)

The $65 million trigger to increase minimum allotments was not reached, although minimums must be increased using a previously permissive formula based on increases in the Consumer Price Index compared to the appropriations increases. The budget agreement states that inflationary/cost of living increases will be the minimum allowed over the next five years, but these will be established for gross budget categories such as the entire domestic discretionary category. Thus greater increases may be able to be achieved in individual programs.
Mr. WIRTH. Mr. President, I ask unanimous consent that the Senate companion Calendar 713, S. 2529, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WIRTH. Mr. President, I ask unanimous consent that Calendar 363, S. 1868, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WIRTH. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2753.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved. That the bill from the Senate (S. 2753) entitled "An Act to reauthorize the Developmental Disabilities Assistance and Bill of Rights Act," do pass with the following amendments:

(2) in paragraph (8), by striking "nondisabled citizens" each place such term appears and inserting "citizens without disabilities;"

(3) in subparagraph (A) of paragraph (8)—(A) by striking "and" at the end of clause (V); (B) by inserting "and integrated employment," after "activities" in clause (ii); and (C) by inserting before the matter at the end of subparagraph (A) the following new clauses:

"(iii) use of the same community resources by persons with developmental disabilities living, learning, working, and enjoying life in regular contact with citizens without disabilities, and

(iv) development of friendships and relationships with persons without disabilities;"

(4) in subparagraph (B) of paragraph (8), by striking "or in home-like settings;"

(5) in paragraph (9), by striking "specialized devices or services of a generic service;"

(6) in clause (iv) of paragraph (9)(B)— (A) by striking "models" and inserting "approaches, strategies;" and (B) by inserting "Federal, State and local" before "policymakers;"

(7) in paragraph (10), by striking "care management" and inserting "system coordination and community education;"

(8) in paragraph (12), by striking "and family support services" and inserting "individual, family and community supports;"

(9) in subparagraph (A)(17), by inserting "and their families" after "disabilities" each place such appears; and

(10) by striking paragraph (21) and inserting the following new paragraphs: (22) The term 'family support service' means services, supports, and other assistance provided to families with members with developmental disabilities, that are designed to: (A) strengthen the family's role as primary caregiver, (B) prevent inappropriate out of the home placement and maintain family unity, and (C) with members who have been placed out of the home.

Developmental Disabilities Assistance and Bill of Rights Act

SEC. 2. REFERENCE.

Except as otherwise provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a prior provision, the reference shall be considered to be made to a section or other provision of the Developmental Disabilities Assistance and Bill of Rights Act.

SEC. 3. FINDINGS AND PURPOSES.

Section 101 of the Act is amended—(1) in subsection (a)—(A) by striking "there are more than two" in paragraph (1) and inserting "in 1990 there are more than three"); (B) by redesigning paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and (C) by inserting after paragraph (6) the following new paragraph: "(7) a substantial portion of persons with developmental disabilities remain unerved or underserved;"); and—(2) in subsection (b)—(A) by striking "and" at the end of paragraph (21); (B) by redesigning paragraph (3) as paragraph (81); and (C) by inserting after paragraph (2) the following new paragraphs: "(3) to provide interdisciplinary training and technical assistance to professionals, paraprofessionals, family members, and individuals with developmental disabilities; (4) to advocate for public policy change and community acceptance of all people with developmental disabilities and their families so that such persons receive the services, supports and other assistance and opportunities necessary to enable such persons to achieve their maximum potential through increased productivity and integration into the community; (5) to promote the inclusion of all persons with developmental disabilities, including persons with the most severe disabilities, in community life; (6) to promote the interdependent activities of all persons with developmental disabilities, including persons with the most severe disabilities; (7) to recognize the contribution of all persons with disabilities that such persons share their talents at home, school and work, and in recreation and leisure time; and".

SEC. 1. DEFINITIONS.

Section 102 of the Act is amended—(1) in paragraph (5)— (A) by inserting "5 years of age or older" after "of a person;" (B) by striking the period at the end of subparagraph (E) and inserting a semicolon; and (C) by adding after and below subparagraph (E) the following: "except that such term, when applied to infants and young children means individuals from birth to age 5, inclusive, who have substantial developmental delay or specific con genital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided;"
Such term includes personal assistance services, assistive technology, vehicular and home modifications, support at work, and transportation.

"(26) The term ‘community supports’ means providing activities, services, support, and other assistance to persons with developmental disabilities and the families and communities of such persons, that are designed to—
(A) assist neighborhoods and communities to be more responsive to the needs of persons with developmental disabilities and their families,
(B) develop local networks which can provide informal support, and
(C) make communities accessible and encourage communities to offer their resources and opportunities to persons with developmental disabilities and their families.
Such term includes community education, personal assistance services, vehicular and home modifications, support at work, and transportation.

"(27) The term ‘system coordination and community education activities’ means activities that—
(A) eliminate barriers to access and eligibility for services, supports, and other assistance;
(B) enhance systems design and integration including the encouragement of the creation of local case management and information and referral statewide systems, and
(C) enhance individual, family and citizen participation and involvement.

"(28) The term ‘assistive technology device’ means any item, piece of equipment, or product system, whether acquired commercially, modified or customized, that is used to increase, maintain, or improve functional capabilities of a person with a developmental disability.

"(29) The term ‘assistive technology service’ means any service that directly assists a person with a developmental disability in the selection, acquisition, use, or operation of an assistive technology device. Such term includes—
(A) the evaluation of the needs of a person with a developmental disability, including a functional evaluation of the person in the person’s customary environment;
(B) purchasing, leasing or otherwise providing for the acquisition of assistive technology devices by a person with a developmental disability;
(C) selecting, designing, fitting, customizing, inspecting, applying for, and reparing or replacing assistive technology devices;
(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as therapies, interventions or services associated with existing education and rehabilitation plans and programs.

"(30) The term ‘prevention’ means activities which address the causes of developmental disabilities and the exacerbation of functional limitations, such as activities which—
(A) eliminate or reduce the factors which cause or predispose persons to developmental disabilities or which increase the prevalence of developmental disabilities;
(B) increase the early identification of existing problems to eliminate circumstances that create or increase functional limitations;
(C) mitigate against the effects of developmental disabilities throughout the person’s lifespan."

SEC. 4. SHARE.

Section 103 of the Act is amended—
(1) in subsection (a), by striking "located" and inserting "whose activities or products target people who live";
(2) in subsection (b), by striking "is located" and inserting "activities or products target people who live"; and
(3) in subsection (c) by inserting "part B or C of" before "this".

SEC. 5. REPORTS.

Section 107 of the Act is amended—
(1) in subsection (a)—
(A) by striking "each annual survey" and all that follows through the semicolon in paragraph (4) and inserting "any intermediate care facility for the mentally retarded in such State, and with respect to each annual survey pursuant to subsection (a) of section 1902(a)(31)(C) of the Social Security Act and each correction or reduction plan prepared pursuant to section 1915(b)(3) of such Act;" and
(B) in paragraph (5)—
(i) by striking "and advocacy for," and inserting "activities which address the implementation of the plan pursuant to subsection (f), including recommendations which result in increased independence, productivity, and integration into the community for persons with developmental disabilities;"
(ii) by striking "and advocacy for," and inserting "and other programs;"
(iii) by striking "the Handicapped" and inserting "persons with developmental disabilities;"
(iv) by striking "the Handicapped" and inserting "disabilities in subparagraph (C)(ii) (as so redesignated);" and
(v) by inserting after subparagraph (C) the following new subparagraph:
(5) in paragraph (2) of subsection (b)—
(A) by redesigning subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively;
(B) by inserting "and their families" after "disabilities" in subparagraph (C)(iii) (as so redesignated); and
(C) by inserting after subparagraph (C) the following new subparagraph:
"(D) assess, and if appropriate, update the findings of the report conducted pursuant to subsection (f), and report on any progress achieved concerning issues identified in the report conducted pursuant to such subsection in the previous fiscal year;"
(4) in paragraph (2)(C) of subsection (b)—
(A) by redesigning clauses (iii) through (vi) as clauses (v) through (viii), respectively; and
(B) by inserting after clause (ii) the following new clauses:
(iii) an analysis of the special and common needs of all subpopulations of persons with developmental disabilities;
(iv) consideration of the report conducted pursuant to subsection (f);";
(5) in paragraph (5)(D)(i) of subsection (b)—
(A) by striking "and the implementation" and inserting "the implementation"; and
(B) by striking the period at the end and inserting in lieu thereof the following: ", and activities which address the implementation of recommendations made in the report described in subsection (f), including recommendations which address unmet and underserved populations;"
(6) in paragraph (1) of subsection (d)—
(A) by striking "or the implementation" and inserting the "implementation"; and
(B) by striking "all of the State agencies designated under subsection (b)(1)(B) for the administration or supervision of the administration or" and inserting "the State agency designated under subsection (b)(1)(B);" and
SEC. 11. STATE PLAN.

Section 122 of the Act is amended—
(1) in paragraph (D)(b) of subsection (b), by striking the headed as follows: "The plan must designate the State agency (hereafter in this part referred to as the designated State agency) which, on behalf of the State, account for, and disburse funds under this part based on the State plan required in section 122, and shall provide required assurances and other administrative support services;"
(2) in paragraph (2)(C) of subsection (b)—
(A) by inserting ", and supports and other assistance after "scope of services;"
(B) by inserting "or policies effecting," before "federally;" and
(C) by inserting "or may be" before "eligible to;"
(3) in paragraph (2)(h) of subsection (b)—
(A) by redesigning subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively;
(B) by inserting "and their families" after "disabilities" in subparagraph (C)(iii) (as so redesignated); and
(C) by inserting after subparagraph (C) the following new subparagraph:
"(D) assess, and if appropriate, update the findings of the report conducted pursuant to subsection (f), and report on any progress achieved concerning issues identified in the report conducted pursuant to such subsection in the previous fiscal year;"
(4) in paragraph (2)(b)(8) of subsection (b)—
(A) by redesigning subparagraphs (i) through (vi) as clauses (v) through (viii), respectively; and
(B) by inserting after clause (ii) the following new clauses:
(iii) an analysis of the special and common needs of all subpopulations of persons with developmental disabilities;
(iv) consideration of the report conducted pursuant to subsection (f);";
(5) in paragraph (3)(g) of subsection (b)—
(A) by striking "and the implementation" and inserting "the implementation"; and
(B) by striking the period at the end and inserting in lieu thereof the following: ", and activities which address the implementation of recommendations made in the report described in subsection (f), including recommendations which address unmet and underserved populations;"
(6) in paragraph (1) of subsection (d)—
(A) by striking "or the implementation" and inserting the "implementation"; and
(B) by striking "all of the State agencies designated under subsection (b)(1)(B) for the administration or supervision of the administration or" and inserting "the State agency designated under subsection (b)(1)(B);" and
(C) by inserting at the end thereof the following new sentence: "State contributions pursuant to this paragraph may be counted as part of the State's non-Federal share of allotments under this part;"

(71 by adding at the end of subsection (e) the following new subparagraph:

"(St After October 1, 1990, the Planning Council may issue a request for a review of the designation of the designated State agency by the Governor and Government -by striking paragraphs (4) and (5) of subsection (f) and inserting the following new paragraph:

(4) Each State Planning Council shall utilize the information developed pursuant to paragraphs <1), (2), and (3) in developing the

SEC 12. STATE PLANNING COUNCILS.

Section 124 of the Act is amended—

(1) in subsection (a)—

(A) by striking "which will" and inserting "to" and

(B) by striking the period at the end thereof and inserting "the following new priority area activities:";

(2) in paragraph (1) of subsection (c)—

(A) by striking "may" and inserting "shall;" and

(B) by striking "hire" and inserting "fund all activities under this part (except administrative costs described in section 122(d)() and to hire;"

(S) in subsection (c)—

(A) by redesignating paragraph (2) as paragraph (3) and

(B) by inserting after paragraph (1) the following new paragraph:

(2) Each State Planning Council shall, consistent with State law, hire a Director of the State Planning Council — who shall be supervised by the Governor of the State Planning Council and who shall hire and supervise the staff of the State Planning Council; and

(4) in paragraph (1) of subsection (d) by striking "Jointly with" and inserting "and submit after consultation with".

SEC 12. STATE ALLOTMENTS.

Paragraphs 3, 4, 5 and 6 of subsection (a) of section 125 of the Act are amended to read as follows:

(5) (A) Except as provided in paragraph (4), for any fiscal year the allotment under paragraph (f) —

(i) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau may not be less than $20,000,000; and

(ii) to any other State not be less than the greater of $350,000 or the amount of the allotment (determined without regard to subsection (f) received by the State for the fiscal year ending September 30,1990.

(B) Notwithstanding subparagraph (A), if the amount of the allotments to be allotted to each State pursuant to subparagraph (A) in any fiscal year exceeds the total amount appropriated under section 130 for such fiscal year, the amount to be allotted to a State for such fiscal year shall be an amount which bears to the amount which is to be allotted to the State pursuant to such subparagraph as the total amount appropriated under section 130 for such fiscal year bears to the total amount required to be appropriated under such section for allotments to provide each State with the allotment required by such subparagraph.

(C) In any case in which amounts appropriated under section 130 for a fiscal year exceeds $350,000,000 the allotment under paragraph (f) for such fiscal year shall

(a) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau may not be less than $20,000,000; and

(B) to each of the several States, Puerto Rico or the District of Columbia may not be less than $20,000,000; and

(C) to each of the States, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau may not be less than $20,000,000; and

(D) to each of the several States, Puerto Rico or the District of Columbia may not be less than $20,000,000; and

(5) In determining, for purposes of paragraph (1)(B), the extent of need in any State for services persons with developmental disabilities to be provided, the Secretary shall, in arriving at the extent of the services described, pursuant to section 122(b)(2)(C), in the State paragraph (A)

(6) In any case in which the total amount appropriated under section 130 for a fiscal year exceeds the total amount appropriated under such section for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1) of the Rehabilitation Act of 1973, the Secretary shall increase each of the minimum allotments under paragraphs (3) and (4) by an amount which bears the same ratio to the amount of such minimum allotment (including any increase in such minimum allotment under this paragraph for prior fiscal years) as the amount which is equal to the difference between—

(A) the total amount appropriated under section 130 for the fiscal year, bears to the total amount appropriated under section 130 for such preceding fiscal year,

SEC 12. STATE ALLOTMENTS.

Section 125 of the Act is amended by striking "$62,200,000" and all that follows thereon through the period at the end thereof and inserting "$77,400,000 for fiscal year 1991, and

1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993."

SEC 12. SYSTEM REQUIRED.

Section 124 of the Act is amended—

(1) in subsection (a)—

(A) by striking subparagraph (C) of paragraph (2) and

(B) by striking "may" and inserting "shall;" and

(2) in subsection (b) by striking the "Secretary shall;" and

(3) any vacancy in the board shall be filled no later than 60 days after the date on which the vacancy occurs.

(5) As used in this section the term 'records' includes reports prepared or required to be made by any staff person rendering care or treatment, or reports prepared by an agency or staff person charged with investigating reports of incidents of abuse or neglect, injury or death occurring at such facility that describes incidents of abuse, neglect, injury or death occurring at such facility and the steps taken to investigate such incidents, and discharge planning records.

(7) If the laws of a State prohibit a system from obtaining access to records of persons with developmental disabilities the provisions of subparagraph (A) of paragraph (2) of subsection (a) shall not apply to such system.

(8) The date such system is no longer subject to such prohibition; or

(Tt) the expiration of the 1-year period beginning on the date of enactment of this Act, whichever occurs first.

(9) (11) Voting in this Act shall preclude the use of a State, or agencies or instrumentalities of a State, with developmental disabilities against a State, or agencies or instrumentalities of a State.
Developmental disabilities through data collection and analysis, technical assistance to program components, technical assistance for the development of information and referral systems, educating policymakers, Federal interagency initiatives, and enhancement of minority participation in public and private sector initiatives in developmental disabilities.” 

SEC 22. PART E AUTHORIZATION OF APPROPRIATIONS.

Section 163 of the Act is amended to read as follows:

SEC 30. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—To carry out this part, there shall be appropriated $3,650,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.

(b) LIMITATION.—At least 5 percent, but not less than $300,000, of the funds appropriated pursuant to the authority of subsection (a) shall be used to carry out those provisions of section 162a(a)(2).

Amend the title so as to read:

An Act to revise and extend the Developmental Disabilities Assistance and Bill of Rights Act.

Mr. HARKIN. Mr. President, I rise in support of the amendment in the fiscal years 1992 and 1993.

Third, the relationship between the developmental disabilities councils and the designated State agencies is clarified. Under the substitute, the plan must designate the State agency which, on behalf of the State, shall receive, account for and disburse funds based on the State plan and shall provide required assurances and other administrative support services.

In most States, the relationships between DD councils and their designated State agencies is working well, however, in some states the designated agency inappropriately directs the expenditures of DD basic State grant funds to its own priorities, contradicting or refocusing the intended activities in the State plan mandated by the DD Act. Under the amendment, this practice is unacceptable.

Councils must be conflict-free systems advocates in order to implement statutory mandates. With the exception of funds designated under section 122(d)(1) as “administrative”—totaling the lesser of 5 percent or $50,000 of the State grant for legal, accounting and other support services—Congress intends council decisions to be implemented by the State designated agency regarding the operation of Council and its staff, implementation of the approved State plan, planning coordination, administration of priority area activities and advocacy.

The responsibilities of the designated State agency are expressly limited to ensuring that expenditures are made in a manner consistent with State law according to the operations, contract agreements, the provision of assurances, and the provision of administrative support services and training.

Fourth, the substitute modifies the responsibilities of the Federal Interagency Committee.

Finally, the substitute clarifies the appointment of members to the boards of the protection and advocacy systems.

Again, I urge my colleagues to support the substitute amendment.

Mr. DURENBERGER. Mr. President, I rise to support HR. 5679, the Developmental Disabilities Assistance and Bill of Rights Act of 1990

As you know, the Senate passed its version of H.R. 5679 earlier this year. Between then and now we have worked closely with the House on their bill, and I am pleased to say that the House adopted most of the Senate's bill with only a few minor changes. I believe the suggested changes by the House are good ones and I encourage my colleagues to accept them as amended.

Although this little known act provides less than 2 percent of the total Federal funding for persons with developmental disabilities, it plays a significant role in shaping and guiding services for people with developmental disabilities. It is, in essence, the glue that holds the system together. It assists States in ensuring people with developmental disabilities receive the services and other assistance they need to achieve independence, productivity and integration into the community.

The continued support of the programs under the Developmental Disabilities Act will be critical if we are to ensure the rights granted under the Americans with Disabilities Act, just signed into law by President Bush, are not gone to waste by a system that does not facilitate independence, productivity, and integration.

Finally, Mr. President, I want to thank my good friend from Iowa, the chairman of the Subcommittee on Disability Policy for all his efforts on this bill. This bill before us is the product of his many hours of hard work to secure a balanced and bipartisan agreement that will move this program forward into the 21st century. I would also like to thank my colleagues MADIGAN, WAXMAN, LENT, and TAUKE for their fine work on this bill.

Mr. President, I urge my colleagues to support H.R. 5679.

Mr. WIRTH. Mr. President, I move that the Senate concur in the amendments of the House.

Mr. ARMSTRONG. I move to lay that motion on the table.

Mr. WIRTH. Mr. President, I move to reconsider the vote by which the motion was agreed to.

THE CALENDAR

Mr. WIRTH. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 962, 963, 964, 965, and 968, en bloc; that the bills be read for a third time and passed; that preambles,