

**Sixty-sixth Legislative Assembly of North Dakota
In Regular Session Commencing Thursday, January 3, 2019**

SENATE BILL NO. 2105
(Human Services Committee)
(At the request of the Department of Human Services)

AN ACT to create and enact a new section to chapter 50-06.5 of the North Dakota Century Code, relating to duties of the designated state entity regarding independent living council and independent living centers and services; to amend and reenact sections 50-06.5-01, 50-06.5-02, 50-06.5-03, 50-06.5-04, 50-06.5-06, 50-06.5-07, and 50-06.5-08 of the North Dakota Century Code, relating to the independent living council and independent living centers and services; and to repeal section 50-06.5-05 of the North Dakota Century Code, relating to the state plan for independent living centers and services.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 50-06.5-01 of the North Dakota Century Code is amended and reenacted as follows:

50-06.5-01. Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Center for independent living" means a consumer-controlled, community-based, cross-disability, nonresidential, private, nonprofit agency that is designed and operated within a local community by individuals with ~~disabilities~~ a disability, that provides which can provide an array of independent living services and programs, and that does not offer permanent housing among its services and complies with the standards and assurances in accordance with section 796f-4 of the federal Rehabilitation Act of 1973, as amended [Pub. L. 93-112; 29 U.S.C. 701 et seq.].
2. "Consumer control" means power and authority vested in individuals with ~~disabilities~~ a disability and, when applied to a center for independent living, means ~~at least fifty-one more than fifty~~ at least fifty-one percent of the principal governing board; ~~and management, and staff are individuals with disabilities~~ a disability.
3. "Council" means the statewide independent living council.
4. "Designated state agency" ~~entity~~ means the vocational rehabilitation division of the department of human services as defined in the state plan for independent living.
5. "Director" means the director of the designated state agency ~~entity~~.
6. "Disability" means ~~a physical or mental impairment that substantially limits one or more of the major life activities of an individual, a record of a physical or mental impairment that substantially limits one or more of the major life activities of an individual, or being regarded as having a physical or mental impairment that substantially limits one or more of the major life activities~~.
7. "Independent living core services" means information and referral services; independent living skills training; peer counseling, ~~and including cross-disability peer counseling~~; individual and systems advocacy; services that facilitate the transition of an individual with a significant disability from a nursing home and other institutions to a home and community-based residence, with the requisite supports and services; to provide assistance to an individual with a significant disability who is at risk of entering an institution so the individual may remain in the community; and to facilitate the transition of youth who are individuals with a significant

disability, who were eligible for an individualized education program and who have completed their postsecondary education or otherwise left school, to postsecondary life or have reached the age of eighteen and are still receiving services in accordance with an individualized education program and have not completed their postsecondary education.

- 8-7. "Independent living services" includes independent living core services and other services and assistance that may include:
- a. ~~Counseling services, including psychological, psychotherapeutic, and related services;~~
 - b. ~~Services related to securing housing or shelter;~~
 - c. ~~Assistive technology;~~
 - d. ~~Interpreter and reader services;~~
 - e. ~~Personal assistance services, including attendant care and training of personnel providing those services;~~
 - f. ~~Surveys, directories, and other activities to identify appropriate housing, recreation opportunities, and accessible transportation and other support services;~~
 - g. ~~Services and technical assistance related to the implementation of the federal Americans with Disabilities Act and other related state and federal laws;~~
 - h. ~~Activities supporting, assisting, or maintaining life in the community;~~
 - i. ~~Transportation, including referral and assistance for transportation;~~
 - j. ~~Individual and group community integration activities;~~
 - k. ~~Training to develop skills that promote self-awareness and esteem, develop advocacy and self-empowerment skills, and explore career options;~~
 - l. ~~Appropriate preventive services to decrease the needs of individuals assisted under this chapter for similar services in the future;~~
 - m. ~~Community awareness programs to enhance the understanding and integration into society of individuals with disabilities; and~~
 - n. ~~Other services, as may be necessary, not inconsistent with this chapter as described in section 705 of the federal Rehabilitation Act of 1973, as amended [Pub. L. 93-112; 29 U.S.C. 701 et seq.].~~
8. "Individual with a disability" means an individual with a physical or mental impairment that substantially limits one or more of the major life activities of such individual, with a record of impairment, or who is regarded as having such an impairment.
9. "Individual with a significant disability" means an individual with a severe physical or mental impairment whose ability to function independently in the family or community or whose ability to obtain, maintain, or advance in employment is substantially limited and for whom the delivery of independent living services will improve the ability to function, continue functioning, or move toward functioning independently in the family or community or to continue in employment, respectively.

SECTION 2. AMENDMENT. Section 50-06.5-02 of the North Dakota Century Code is amended and reenacted as follows:

50-06.5-02. Statewide independent living council.

A statewide independent living council is established. The council shall adopt bylaws governing operations of the council. The council shall meet at least quarterly.

SECTION 3. AMENDMENT. Section 50-06.5-03 of the North Dakota Century Code is amended and reenacted as follows:

50-06.5-03. Membership Requirements of the statewide independent living council.

1. ~~The governor, or an entity designated by the governor, shall appoint the members of the council, except as provided in subdivision b of subsection 2. The appointing authority shall select members after soliciting recommendations from representatives of consumer-controlled organizations representing a broad range of individuals with disabilities. The council shall select a chairman from among its membership.~~ council shall meet or exceed the requirements of section 796d of the federal Rehabilitation Act of 1973, as amended [Pub. L. 93-112; 29 U.S.C. 701 et seq.], including composition and appointment of members.
2. The council must include:
 - a. ~~A majority of individuals with disabilities who are not state employees.~~
 - b. ~~At least fifty percent of the directors of the centers for independent living serving the state or the directors' designated representatives as chosen by all the directors of centers for independent living serving the state.~~
 - c. ~~Ex officio nonvoting members who are representatives from the designated state agency and representatives from other state agencies that provide services to individuals with disabilities.~~
 - d. Additional members may be:
 - (1) ~~Representatives from centers for independent living;~~
 - (2) ~~Parents and guardians of individuals with disabilities;~~
 - (3) ~~Advocates of and for individuals with disabilities;~~
 - (4) ~~Representatives from private businesses;~~
 - (5) ~~Representatives from organizations that provide services for individuals with disabilities; and~~
 - (6) Other appropriate individuals may not be established as an entity within a state agency, including a designated state entity. The council must be independent of and autonomous from the designated state entity and all other state agencies.
3. ~~The council must be composed of members who provide statewide representation, who represent a broad range of individuals with disabilities, and who are knowledgeable about the independent living philosophy and centers for independent living services and programs.~~
4. ~~A member of the council may not serve more than two consecutive three-year terms. The two consecutive three-year term limit does not include the term of a member appointed to fill a vacancy occurring before the expiration of the term for which appointed or the reduced terms of service of the members initially appointed to provide for the expiration of terms on a staggered basis as specified by the appointing authority. Any vacancy occurring in the membership of the council must be filled in the same manner as the original appointment. A vacancy does not affect the power of the remaining members to execute the duties of the council.~~ At least fifty percent of the directors of the centers for independent living serving the

state, or a designee if unable to meet the residency requirements of the state, must be members.

SECTION 4. AMENDMENT. Section 50-06.5-04 of the North Dakota Century Code is amended and reenacted as follows:

50-06.5-04. Duties of the statewide independent living council.

The council shall:

- ~~1. Jointly develop and submit, in conjunction with the designated state agency, the state plan as required.~~
- ~~2. Monitor, review, and evaluate the implementation of the state plan.~~
- ~~3. Coordinate activities with councils that address the needs of specific disability populations and issues under other federal and state law.~~
- ~~4. Prepare reports and make recommendations, as necessary, to the governor, legislative assembly, and designated state agency fulfill the duties as set forth in section 796d of the federal Rehabilitation Act of 1973, as amended [Pub. L. 93-112; 29 U.S.C. 701 et seq.] which include developing, monitoring, implementing the state plan for independent living; developing or assisting in the development of required state and federal reports; recordkeeping; coordinating with other state entities that provide similar or complementary services; and preparing, in conjunction with the designated state entity, a plan for the provision of resources needed to carry out the functions of the state plan for independent living and as defined within the federal Rehabilitation Act of 1973, as amended.~~

SECTION 5. AMENDMENT. Section 50-06.5-06 of the North Dakota Century Code is amended and reenacted as follows:

50-06.5-06. IndependentCenter for independent living centers.

1. Under the direction set forth in the state plan for independent living, the director, in cooperation with the council, shall award grants to eligible agencies from funds appropriated for this purpose.
2. ~~The director, with the cooperation of the council, may make a grant under this section to any eligible agency that has the power and authority to carry out the purposes of this chapter, that is determined by the director and the council to be able to plan, conduct, administer, and evaluate a center for independent living consistent with the standards and assurances, and that submits an application to the director as required.~~
3. In the administration of this section, the designated state ~~agene~~entity shall award grants to any eligible agency that is receiving funds for this purpose on June 30, 1992, unless the director finds that the agency involved fails to meet program and fiscal standards and assurances.
- ~~4.3.~~ The minimum annual allocation for each center must be established in response to recommendations of the council. Priority for distribution of these funds is as follows:
 - a. Centers funded through title VII of the Rehabilitation Act of 1973, as amended, but receiving less than the minimum annual allocation.
 - b. ~~New centers for independent living as planned by the council.~~
 - e. Expansion of current centers to serve unserved or underserved areas of the state.

5. ~~If there is no center for independent living serving a region or a region is underserved and funds are sufficient to support an additional center for independent living within the state, the director may award a grant under this section to the most qualified applicant consistent with the state plan and setting forth design of the state for establishing a statewide network of centers for independent living.~~

SECTION 6. AMENDMENT. Section 50-06.5-07 of the North Dakota Century Code is amended and reenacted as follows:

50-06.5-07. Standards and assurances.

1. ~~Each center for independent living that receives assistance under this chapter must~~shall ~~comply with the standards and assurances set out in subsection 2~~section 796f-4 of the federal Rehabilitation Act of 1973, as amended [Pub. L. 93-112; 29 U.S.C. 701 et seq.] to ensure that all programs and activities are planned, conducted, administered, and evaluated in a manner consistent with the purposes of this chapter.
2. The standards are:
 - a. ~~The center shall promote and practice the independent living philosophy of:~~
 - (1) ~~Consumer control of the center, regarding decisionmaking, service delivery, management, and establishment of the policy and direction of the center;~~
 - (2) ~~Self-help and self-advocacy;~~
 - (3) ~~Development of peer relations and peer role models; and~~
 - (4) ~~Equal access of individuals with disabilities to society and to all services, programs, activities, resources, and facilities whether public or private and regardless of the funding source.~~
 - b. ~~The center shall provide services to individuals with a range of disabilities. The center shall provide services on a cross disability basis for individuals with different types of disabilities, including individuals with disabilities who are members of populations that are unserved or underserved. Eligibility for services at any center for independent living may not be based on the presence of any one or more specific disabilities.~~
 - c. ~~The center shall facilitate the development and achievement of independent living goals selected by individuals who seek that assistance by the center.~~
 - d. ~~The center shall work to increase the availability and improve the quality of community options for independent living to facilitate the development and achievement of independent living goals by individuals with disabilities.~~
 - e. ~~The center shall provide independent living core services and, as appropriate, a combination of any other independent living services.~~
 - f. ~~The center shall conduct activities to increase the capacity of communities within the service area of the center to meet the needs of individuals with disabilities.~~
 - g. ~~The center shall conduct resource development activities to obtain funding from sources other than that available under this chapter.~~
3. The applicant shall provide, as the council may require, satisfactory assurance that:
 - a. The applicant is an eligible agency.

- b. The center will be designed and operated within local communities by individuals with ~~disabilities~~ a disability, including an assurance that the center will have a board that is the principal governing body of the center and a majority of that board will be composed of individuals with ~~disabilities~~ a significant disability.
- c. The applicant will comply with the standards and assurances set forth in this section.
- d. The applicant will establish clear priorities through annual and three-year programs and financial planning objectives for the center, including overall goals or mission for the center, a work plan for achieving the goals or mission, specific objectives, services priorities, and types of services to be provided along with a description that demonstrates how the proposed activities of the applicant are consistent with the most recent three-year state plan for independent living.
- e. The applicant will use sound organization, personnel assignment practices, including taking affirmative action to employ and advance in employment qualified individuals with ~~disabilities~~ a significant disability on the same terms and conditions required with respect to the employment of individuals with ~~disabilities~~ a disability under section 503796m of the federal Rehabilitation Act of 1973, as amended, and the federal Americans with Disabilities Act.
- f. The applicant will ensure that the majority of its staff, and individuals on its staff in decisionmaking positions, are individuals with ~~disabilities~~ a significant disability.
- g. The applicant will practice sound fiscal management, including making arrangements for an annual independent fiscal audit or review.
- h. The applicant will conduct annual self-evaluations, prepare an annual report, and maintain records, adequate to measure performance with respect to the standards containing information regarding, at least:
 - (1) The extent to which the center is in compliance with the standards and assurances.
 - (2) The numbers and types of individuals with ~~disabilities~~ a significant disability receiving services through the center.
 - (3) The types of services provided through the center and the number of individuals with ~~disabilities~~ a significant disability receiving each type of service.
 - (4) The source and amounts of funding for the operation of the center.
 - (5) The number of individuals with ~~disabilities~~ a significant disability who are employed by, and the number who are in management and decisionmaking positions in the center.
 - (6) The comparison, when appropriate, of the activities of the center in prior years, with the activities of the center in the most recent year.
- i. Individuals with ~~severe disabilities~~ a significant disability who are seeking services from the center will be notified by the center of the existence of the availability of the client assistance program and a way to contact that program.
- j. Aggressive outreach, regarding services provided through the center, will be conducted in an effort to reach populations of individuals with ~~disabilities~~ that a disability which are unserved or underserved by programs under this chapter, especially minority groups and urban and rural populations.
- k. Staff at centers ~~for independent living~~ will receive training on how to serve the unserved and underserved populations, including minority groups and urban and rural populations.

- ~~l. The center will submit to the council a copy of its approved grant application annual report and the annual audit or review required under subdivision g.~~
 - ~~m. The center will prepare and submit a report to the designated state agency entity, at the end of each fiscal year, that contains the information described in subdivision h and information regarding the extent to which the center is in compliance with the standards set forth in subsection 2.~~
 - ~~n. Each individual receiving independent living services will have an independent living plan if that individual requests one.~~
- 4.3. Services may be provided under this chapter to an individual with a significant disability regardless of age, to the parents and family of an individual with a significant disability, and to others in the community.

SECTION 7. AMENDMENT. Section 50-06.5-08 of the North Dakota Century Code is amended and reenacted as follows:

50-06.5-08. Independent living services and programs.

From sums appropriated in addition to those allocated for centers for independent living centers, the designated state agency entity may allocate funds, pursuant to the state plan:

- ~~1. To demonstrate ways to expand and improve independent living services.~~
- ~~2. To for independent living to support the operation of centers for independent living.~~
- ~~3. To support activities to increase the capacities of centers for independent living to develop comprehensive approaches or systems for providing independent living services.~~
- ~~4. To conduct studies and analyses, gather information, develop model policies and procedures, and present information, approaches, strategies, findings, conclusions, and recommendations to policymakers to enhance independent living services for individuals with disabilities.~~
- ~~5. To train individuals with disabilities and individuals providing services to individuals with disabilities and other persons regarding the independent living philosophy.~~
- ~~6. To provide outreach to populations that are unserved or underserved by programs under this chapter, including minority groups and urban and rural populations.~~

SECTION 8. A new section to chapter 50-06.5 of the North Dakota Century Code is created and enacted as follows:

Duties of the designated state entity.

The designated state entity:

1. Must be responsible for the establishment and maintenance of a council that meets the requirements of section 796d of the federal Rehabilitation Act of 1973, as amended [Pub. L. 93-112; 29 U.S.C. 701 et seq.].
2. Shall receive, account for, and disburse funds received, including title 29, United States Code, subchapter VII, part B funding; state matching funds; and other state funds allocated for centers for independent living and maintenance of the council as set forth in the state plan for independent living.
3. Shall ensure the council receives necessary and sufficient resources needed to fulfill the council's statutory duties and authorities under section 796d of the federal Rehabilitation Act of

1973, as amended [Pub. L. 93-112; 29 U.S.C. 701 et seq.], consistent with the state plan for independent living and in a manner consistent with state and federal regulations.

4. Shall comply with all applicable federal and state laws and regulations.
5. Shall sign the state plan for independent living signifying agreement to execute the responsibilities of the designated state entity identified in section 796c of the federal Rehabilitation Act of 1973, as amended [Pub. L. 93-112; 29 U.S.C. 701 et seq.].
6. Shall assist the council in the development of the plan for the provision of resources, including personnel necessary to carry out the functions of the council.

SECTION 9. REPEAL. Section 50-06.5-05 of the North Dakota Century Code is repealed.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-sixth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2105.

Senate Vote: Yeas 47 Nays 0 Absent 0

House Vote: Yeas 82 Nays 4 Absent 8

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2019.

Approved at _____ M. on _____, 2019.

Governor

Filed in this office this _____ day of _____, 2019,

at _____ o'clock _____ M.

Secretary of State