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REHABILITATION ACT AMENDMENTS

P.L 99-506

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SECTION-BY-SECTION ANALYSIS

SHORT TITLE; TABLE OF CONTENTS

Section 1. This section specifies the short title of the bill as the Rehabilitation Act Amendments of 1986 and includes a table of contents.

TITLE I-AMENDMENTS TO THE GENERAL PROVISIONS

Section 101. This section provides that the Commissioner of the Rehabilitation Services Administration be appointed by the Secretary instead of by the President (current law). The change will become effective upon a vacancy in the position. In addition, the section specifies the compensation rate for the Commissioner and specifies that the Commissioner must be an individual with substantial experience in rehabilitation and in rehabilitation program management.

Section 102. Under this section, effective October 1, 1988, the definition of the term "Federal share" is changed from 80 percent to 75 percent. In addition, section 110(b)(2) of the Act is amended by changing the percentage from 80 to 75. Further, the term "handicapped individual" is changed to "individual with handicaps" and the term "individual with severe handicaps" is modified. Additionally, the qualifying phrase "or combination of such units or organizations" to the term "Indian Tribe" is deleted. Further, the term "public or nonprofit agency or organization" is amended to include an Indian tribe; and the terms "Indian", "American Indian", "Indian America" and "Indian Tribe" are defined.

Section 103. This section requires that the Commissioner submit the Annual Report to the President and to the Congress at the same time. In addition, this Report would be required to include information on the activities and staffing: of the Office of Information and Resources for Handicapped Persons and an evaluation of the status of individuals with severe handicaps participating in programs under this Act.

Section 104. This section requires that the evaluations by the Secretary include the standards used in the evaluation.

Section 105. This section requires a State to designate those requirements that are State imposed to Federal requirements.

Section 106. This section directs the Secretary to conduct a study of indirect cost rates charged by State agencies providing rehabilitation services. The Report must be submitted no later than February 1, 1987.

TITLE II- VOCATIONAL REHABILITATION SERVICES

Section 201. This section re-authorizes the Act for a 5 year period, through September 30, 1991. It also authorizes for appropriation under title 1 (the basic State grant) \$1,301,862,400 for FY 1987 and for fiscal years *1988, 1989, 1990, and 1991* the amount determined under section 100(c) of the Act.

Section 202. This section of the bill amends the State plan provision in section 101 of the Act in nine ways.

First, it adds a provision requiring that the State plan include the results of a comprehensive, State-wide assessment of the rehabilitation needs of all individuals with severe handicaps residing within the State and the State's response to the assessment.

Second, a requirement is added that the State Justify the order of selection of individuals with handicaps for receipt of services when the State lacks funds to serve all those eligible for services.

Third, a requirement is added directing the State to describe the manner in which rehabilitation engineering services will be utilized to provide assistance to individuals with severe handicaps.

Fourth the term " qualified" is added before the term "personnel". Fifth, the "Alaska dollar" provision in current law is strengthened.

Sixth, the State must actively consult with Indian tribes and native Hawaiian organizations in the development of the State plan.

Seventh, it requires that in the formulation of the State plan and any revisions thereto, that the State conduct public meetings, allow for public comment, and include a copy of the comments and the State agency's response.

Eighth, it adds "community mental health program " to the list of agencies with whom the State agency administering the basic State grant program under title 1 may enter into a cooperative agreement.

Ninth , it adds a requirement that the State plan contain the plans, policies, and methods to be followed to assist in the transition from education to employment related activities.

Section 203. This section provides an opportunity for the submission of additional evidence and information relevant to a final decision by the Director regarding an individual's eligibility. The final decision must include a full report of the findings and the grounds for such decision. A copy must be provided to the affected individuals.

This section also requires that the individualized written rehabilitation program include long-range rehabilitation goals on an assessment determined through an evaluation of rehabilitation potential for the individual.

This section also authorizes a fair hearing board established by a State prior to January 1, 1986 and authorized to review eligibility determinations, which under current law may only be carried out by the Director.

Section 204. This section includes examination, where appropriate, by personnel skilled in rehabilitation technology for purposes of ascertaining rehabilitation potential. This section also makes more specific the requirement pertaining the provision of post employment services. language is to encourage the use of rehabilitation engineering services.

Section 205. This section extends the non-Federal share for construction to part D, programs for Indian tribes.

Section 206. This section makes changes to retain current policy regarding eligibility for assistance under section 110(b)(2) of the Act and places time limits on the process for reallocating unused funds among the States.

Section 207. This section amends section 110 of the Act to entitle Indian tribes to at least one-quarter of 1 percent but no more than 1 percent from the basic State grant to be used to fund programs under part D of title I.

Section 208. This section strengthens the maintenance of effort provision and provides for a waiver under exceptional and unforeseen circumstances.

Section 209. This section specifies that the Governor, after the date of enactment may remove a Client Assistance Program Agency only for "good cause@ The bill also permits the Commissioner to raise the minimum allotment for CAP agencies under specified circumstances. Further, this section directs the Secretary to pay the CAP agency directly the amount approved in its application, except as specifically prohibited by or an otherwise provided in State law. Finally, section 209 of the bill authorizes for appropriations for the CAP program such sums as may be necessary for each of the fiscal years 1987 through 1991.

Section 210. This section authorizes the payment of funds under the innovation and expansion program through fiscal year 1991.

Section 211. This section sets the match for the Indian Rehabilitation program at 90:10; permits the non-Federal share to be cash or in-kind; and authorizes the Commissioner to waive the match. It also directs the Secretary to give priority consideration to applications for the continuation programs which have been previously funded.

Section 212. This section requires evaluation of cooperative efforts between Indian Rehabilitation Programs and other rehabilitation programs.

Section 213. This section directs the Secretary to conduct a study of the special problems and needs of Indians with handicaps on and off the reservation.

TITLE III- RESEARCH AND TRAINING

Section 301. This section authorizes for appropriation such sums as may be necessary for the National Institute on Handicapped Research for each of the fiscal years 1987 through 1991.

Section 302. This section amends section 202 of the Act in seven ways. First, it requires that the Director disseminate results of evaluations to Indian tribes and that representatives from the Bureau of Indian Affairs and the Indian Health Service be included in the interagency committee.

Second, this section provides for the appointment of the Director by the Secretary instead of by the President; and establishes the rate of compensation. Third, this section requires that the Director establish a Center for research and training concerning the delivery of rehabilitation services to rural areas.

Fourth, the Director is required to make grants to institutions of higher education for the training of researchers in the field of rehabilitation of individuals with handicaps. Fifth, the Director must submit to Congress within one year policy recommendations for so agency or mechanism to ensure the development and production and marketing of technological devices and the efficient distribution of such devices to persons with handicaps.

Sixth, the Director must conduct a study of health insurance practices and policies which affect individuals with handicaps and report back to the appropriate committees of Congress by February 1, 1990.

Finally, the National Institute is redesignated the National Research Institute on Disability and Rehabilitation.

Section 303. This section adds to the Inter-agency Coordinating Committee representatives from the Assistant Secretary of the Interior for Indian Affairs and the Director of the Indian Health Service.

Section 304. This section authorizes the Director to make grants to and contracts with Indian tribes and tribal organizations. This section also establishes a minimum of \$400,000 for a grant awarded to a Centre except Centres which have received a grant under section 204 of the Act before the date of enactment of the Rehabilitation Act Amendments of 1986. This section also adds a requirement that all research grants made under this section in excess of \$400,000 (Not only grants for Centres) include an part of the peer review process consideration of past performance.

This section also directs the Rehabilitation Engineering Research Centres to not only develop (current law) but also to disseminate innovative methods of applying advanced technology.

This section also adds the requirement that Rehabilitation Engineering Research Centres demonstrate innovative models for the delivery to rural and urban areas of cost-effective rehabilitation engineering services that promote utilization of engineering and other scientific research to assist in meeting the employment and independent living needs of individuals with severe disabilities.

This section also adds a requirement that the Director, in awarding grants for spinal cord injuries and research, take into account the location of any Centre and appropriate geographic and regional allocation of Centres.

This section also makes the age of elderly Indians eligible for study as 55 instead of 60 and provides for studies to be conducted of the rehabilitation needs of American Indian populations and of effective mechanisms for the delivery of rehabilitation services to Indians residing on and off the reservation.

Finally, this section inserts the term APsychological@ wherever the term "psychiatric" is used with respect to model demonstration and research programs.

TITLE IV-SUPPLEMENTARY SERVICES AND FACILITIES

Section 401. This section authorizes the appropriation of such sums as may be necessary for the construction of rehabilitation facilities, staffing, and planning assistance for each of the fiscal years 1987 through 1991.

Section 402. This section authorizes appropriations for training grants at such sums for each fiscal year 1987 through 1991.

Section 403. This section adds the requirement that personnel be specifically trained to identify, assess, and meet the individual rehabilitation needs of individuals with severe handicaps.

This section also directs that recipients give due regard to the training of individuals with handicaps as part of the effort to increase the number of qualified personnel available to provide rehabilitation services.

This section also authorizes the Commissioner to provide technical assistance to State rehabilitation agencies and rehabilitation facilities.

This section also adds an exception from the provision limiting the use of a grant to four years to support any one course of study to an individual for persons with handicaps if the grantee determines that the individual's handicap seriously affects the completion of training within the four year period.

This section also adds a requirement that persons repay Federal funds received for trainee ships and scholarships if they subsequently become employed at a for-profit rehabilitation agency.

This section also adds "rehabilitation engineering" to the list of possible training projects.

This section also authorizes for appropriation such sums as may be necessary for training projects for each of the fiscal years 1987 through 1991.

Section 404. This section authorizes for appropriation such sums as may be necessary for comprehensive rehabilitation Centres for each of the years 1987 through 1991.

Section 405 This section authorizes for appropriation such sums as may be necessary for special project and supplementary services for each of the fiscal years 1987 through 1991.

Section 406. This section authorizes special demonstration programs for operating programs to meet the special needs of isolated populations of individuals with handicaps, particularly among American Indians residing on or outside of reservations.

Section 407. This section adds authority to fund supported work demonstrations and projects and a definition of the term. This section also permits a State to use funds under title I of the Act for training and traditional short-term post-employment services for supported employment for individuals with severe handicaps for whom competitive employment has not traditionally occurred. This section also permits supported employment to be paid for out of title III of the Act, other Federal programs, or non-Federal sources.

This section also adds to the list of research topics for which a grant may be awarded under section 204(a) of the Act studies analyses, and other activities related to supported employment; includes authority for including supported employment for vocational services for handicapped individuals; and includes

authority for making grants for specialized personnel in providing employment training for supported employment.

Section 408. This section authorizes the appropriation of such sums as may be necessary for special recreational programs for each of the fiscal years 1987 through 1991.

Section 409. This section requires that the National Council on the Handicapped prepare a report on the status of individuals with handicaps in areas such as employment, education, insurance, health, housing, transportation, and recreation.

Title IV-ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Section 501. This section provides that the number of public members of the Architectural and Transportation Barriers Compliance Board is increased from 11 to 12. The number of handicapped members is increased from five to six. A policy is included for dealing with successor appointments.

This section also adds the requirements that: the chairperson and vice-chairperson of the Board may not both be members of the general public or Federal officials, the chairperson and vice-person must be elected to serve for terms of one year; and the position of chairperson and vice-chairperson must annually rotate between a member of the general public and a Federal official.

This section also adds a requirement that the Board's policy regarding a quorum must include the provisos that half of the members in attendance are from the public and that proxies are not used for purpose of establishing a quorum. This section also authorizes for appropriation such sums as may be necessary for the Board for each of the fiscal years 1987 through 1991.

Section 502. This section includes the Assistant Secretary of the Interior for Indian Affairs on the Interagency Coordinating Council.

TITLE VI- EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH HANDICAPS

Section 601. This section adds "the needs of Indian tribes" to the existing requirement that in the awarding of grants under title VI the Secretary must take into account the needs of underserved States. This section also adds to the existing provision pertaining to the equitable apportionment of funds under title VI that the Secretary take into consideration individuals residing on Indian reservations.

Section 602. This section authorizes the appropriation of such sum as may be necessary for part A of title VI of the Act for each of the fiscal years 1987 through 1991.

Section 603. This section requires the submission of an evaluation report by recipients of Projects With Industry grants consistent with prescribed standards. This section also provides for a five year funding cycle, annual review of the grant, and opportunity for renewal for an additional five-year period. Finally, this section provides that the Commissioner must consider past performance in renewing grants.

Section 604. This section authorizes the appropriation of such sums as may be necessary to carry out section 621 and 622 for each of the fiscal years 1987 through 1991.

TITLE VII- COMPREHENSIVE SERVICES FOR INDEPENDENT LIVING

Section 701. This section authorizes the appropriation of such sums as may be necessary to carry out part A (comprehensive services), part, B (Centers for Independent Living), part, C (Independent Living Services for Older Blind Individuals) and part; D (Protection and Advocacy of Individual Rights) for each of the rural years 1987 through 1991. With respect to part D, the provisions of section 1913 of title 18 of the U.S. Code are applicable.

TITLE VIII-TECHNICAL AND CONFORMING AMENDMENTS TO THE ACT

Section 801. This section makes changes throughout the bill to make it gender free.

Section 802. This section makes certain technical and conforming amendments.

TITLE IX-AMENDEMENTS TO OTHER LAWS

Section 901. This section amends section 205 of the Helen Keller National Center Act to authorize to be appropriated to carry out the Act such sums as may be necessary for each of the fiscal years 1987 through 1989.

Section 902. This section provides such sums as may be necessary for the President's Committee on Employment of the Handicapped for each of the fiscal years 1987 through 1991.

TITLE X-EFFECTIVE DATE

Section 1001. This section establishes the effective date as October 1, 1986, except as otherwise provided.