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# USA: Comprehensive Rehabilitation Services Amendments Act Of 1978

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# USA: Comprehensive Rehabilitation Services Amendments Act Of 1978

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## **USA**

### **COMPREHENSIVE REHABILITATION SERVICES AMENDMENTS ACT OF 1978.**

#### **LEGISLATIVE HISTORY**

**P.L 95-602 [page 35]**

#### **SECTION-BY-SECTION SUMMARY**

##### **SHORT TITLE**

The first section of the bill provides that the bill may be cited as the Comprehensive Rehabilitation Services Amendments of 1978".

##### **TITLE I-AMENDMENTS TO THE REHABILITATION ACT OF 1973**

**SECTION 101 Vocational rehabilitation services; authorisation of appropriations.**

Section 101 authorises permanent authorisations for the basic State vocational rehabilitation program under part (B) of title 1 of the Rehabilitation Act of 1973 (hereinafter in this summary referred to as the "act"). For fiscal year 1979, section 101 authorises \$808 million for the allotments to which States are entitled under section 110 of the act. For each subsequent fiscal year, authorisations are based on the authorisation for fiscal year 1979 with adjustments made to take into account increases in the consumer price index. Section 101 also authorises an additional \$50 million for each fiscal year beginning on or after fiscal year 1980 for the purpose of increasing the basic allotments under section 110 of the act.

Section 101 authorises \$100 million for allotments for innovation and expansion grants under section 120 of the act for fiscal year 1979 and for each of the four subsequent fiscal year.

Section 101 also authorises 1 percent of the amount appropriated for allotments under section 110 of the act for the purpose of awarding demonstration grants to Indian tribes under section 130 of the act for fiscal years 1979 through 1983. Section 101 also authorises such sums as may be necessary to carry out section 131, relating to grants to Indian tribes to administer their own vocational rehabilitation programs.

Section 101 amends the maintenance of effort provisions of section 111(a) of the act to insure that each State can receive its Federal share of the cost of vocational rehabilitation services in an amount equal to 80 percent of its expenditures for such services.

Section 101 amends section 120 of the act to permit a State to receive financial assistance under both the Vocational Rehabilitation Act and the Rehabilitation Act of 1973 for a period of up to five years.

#### SECTION 102 State plans.

Section 102 provides that State plans shall be required to be submitted every three years rather than each year.

Section 102 amends the State plan requirements of section 101 (a) of the act as follows: section 102 requires States to insure the availability of personnel trained to communicate in a client's native language or mode of communication when offering vocational rehabilitation services; Section 102 requires State agencies to co-ordinate services to handicapped individuals under the Education of the Handicapped Act and the Vocational Education Act; section 102 requires the State to provide adequate vocational rehabilitation services to handicapped American Indians residing in the State; and section 102 requires the State to provide for the establishment and maintenance of information and referral programs to assist handicapped persons.

Section 102 amends subsections (h) and (c) of section 101 of the act relating to administrative and judicial review of State plans. Section 102 provides that any withholding of payments under section 101(c) of the act shall continue until the filing of any appeal under section 101 (d) of the act until the Commissioner of the Rehabilitation Services Administration (hereinafter in this summary referred to as the "Commissioner") is satisfied that the State from which money is withheld is complying with its State plan. Section 102 amends the judicial review procedures of section 101(d) of the act to provide for review in the United States Court of Appeals for the circuit in which the State appealing any administrative determination is located, and provides for other appropriate procedures to shorten the length of time required to adjudicate an appeal under such section.

#### SECTION 103 Scope of services; telecommunication services.

Section 103 authorizes the use of recorded material for the blind and captioned films or video cassettes for the deaf. This section also authorizes the use of existing telecommunications systems to assist in the rehabilitation of handicapped persons.

#### SECTION 104 State allotments.

Section 104 increases the minimum State allotment for the vocational rehabilitation program under part B of title 1 of the act to ensure that no State shall receive less than one-third of 1 percent of the total amount of funds appropriated for the program, or \$3 million, whichever is greater.

#### SECTION 105 Client assistance

Section 105 provides authorisations for client assistance projects and removes the limitation that such projects may be provided in no more than 20 States. Section 105 also provides that counsellors in such client assistance projects may assist handicapped persons in pursuing legal, administrative, or other appropriate remedies to ensure the protection of their rights.

#### **SECTION 106 American Indian vocational rehabilitation services.**

Section 106 provides for the establishment of American Indian vocational rehabilitation services under a new part D of title 1 of the act. Section 106 provides that the Commissioner may make grants to Indian tribes under section 130 of the act for demonstration projects under which the tribes shall develop the capacity to administer vocational rehabilitation services for handicapped American Indians residing on or near to Indian reservations. Section 106 also provides that grants may be made to Indian tribes under section 131 of the act to provide vocational rehabilitation services to handicapped Indians residing on or near to reservations, which services shall be administered by the tribes as a substitution for the services previously administered by the State (unless the State chooses to continue to offer additional services). Any State which ceases to offer vocational rehabilitation services to tribes receiving grants under section 131 of the act shall have its allotment under section 110 of the act reduced proportionately.

#### **SECTION 107 Declaration of purpose.**

Section 107 rewrites the Statement of purpose of title II of the act by stating that the purpose of such title is to develop a co-ordinated and comprehensive approach to rehabilitation and training.

#### **SECTION 108 Research and training: authorisation of appropriations.**

Section 108 authorises the following amounts:

1. National Institute of Handicapped Research: Such sums as may be necessary for fiscal year 1979, and for each of the four succeeding fiscal years.
2. Research: \$75 million for fiscal year 1979, \$85 million for fiscal year 1980, \$95 million for fiscal year 1981, \$100 million for fiscal year 1982, and \$125 million for fiscal year 1983.
3. Helen Keller National Centre for Deaf-Blind Youths and Adults: Such sums as may be necessary for fiscal year 1979 and for each of the 4 succeeding fiscal years.
4. Training: \$35 million for fiscal year 1979, \$40 million for fiscal year 1980, \$45 million for fiscal year 1981, \$55 million for fiscal year 1982, \$65 million for fiscal year 1983, and for each such fiscal year such additional sums as may be necessary.

## **SECTION 109 National Institute of Handicapped Research.**

Section 109 establishes a National Institute of Handicapped Research to carry out the research programs under section 203 of the act (section 202 of the current act) and to administer the Helen Keller National Centre for Deaf-Blind Youths and Adults under section 204 of the act (section 305 of the current act). The Institute shall be responsible for disseminating the findings of any rehabilitation research funded by the Institute., for co-ordinating Federal programs and policies relating to rehabilitation research, for conducting education programs to inform the public about ways of providing for the rehabilitation of handicapped persons, for conducting conferences and seminars to inform rehabilitation personnel of advances in rehabilitation research, and for producing such statistical reports as the Director of the Institute considers appropriate. The Institute shall also be responsible for developing a long-range plan for rehabilitation research. The Institute is specifically required to undertake two studies: One study related to the special needs of handicapped persons residing in rural areas and a Second study related to ways in which Federal programs might be reconstructed to eliminate disincentives for persons receiving benefits under such programs to engage in employment.

The Institute shall be headed by a Director appointed by the President and confirmed by the Senate, who shall direct and co-ordinate all research activities under the act. In addition to its other duties, the Institute is granted authority to sponsor new research activities to provide services to the deaf, and to distribute technological devices to handicapped persons.

## **SECTION 110 Research by private organisations**

Section 110 amends section 203(a) of the act (section 2&2(a) of the current act) to allow research projects under such section 203 to be conducted by private profit making organisations.

## **SECTION 111 Research and training centres.**

Section 111 amends section 203(b) of the act (section 202(b) of the current act). Section 111 provides that the National Institute of Handicapped Research, rather than the Commissioner, is responsible for establishing and supporting research and training centres and entering into jointly sponsored rehabilitation research projects with other Federal agencies. Section 111 provides that the Institute may conduct a research program concerning the use of existing telecommunications systems. Section 111 further provides for the conduct of a research program relating to rehabilitation of handicapped children and of adults aged 60 or older, the conduct of a research fellowship program to expand the number of rehabilitation ]professionals, and the conduct of a model research and demonstration project to assess the feasibility of establishing a centre to distribute captioned video cassettes to deaf individuals.

## SECTION 112 Training

Section 112 amends section 205 of the act (section 203 of the current act) and provides that the Commissioner shall administer all professional training activities under the act. Section 112 authorises the training of personnel specialising in job development and job placement for handicapped individuals. Section 112 provides that grants may be made available to train personnel in the fields of medical, social, and psychological rehabilitation. Section 112 authorises the Commissioner to provide grants to undergraduate schools of medicine to support programs in rehabilitation medicine in order to orient medical students to the care of handicapped individuals. Section 112 authorises the Commissioner to establish not more than 12 programs for the purpose of training interpreters to meet the communications needs of deaf individuals. Section 112 requires the Commissioner to develop a long-term rehabilitation manpower plan designed to target resources of areas of personnel shortages.

## SECTION 113 Special Federal responsibilities

Section 113 authorises funding for section 301 of the act, relating to grants for the construction of rehabilitation facilities, for section 302 of the act, relating to vocational training services for handicapped individuals, and section 304 of the act, relating to special projects and demonstration programs. Such authorisations provide for such sums as may be necessary to carry out such sections for fiscal year 1979 and for the 4 succeeding fiscal years.

Section 113 amends section 304(b) of the act to authorise the construction of rehabilitation facilities which promise to expand vocational rehabilitation services to handicapped individuals.

Section 113 also amends such section 304 by authorising two new programs: a program of interpreter referral services to be established through State agency units designated under section 101 (2) (A) of the act, and a program of reading services for the blind.

## SECTION 114 Loan guarantees

Section 114 amends section 303 of the act by removing the current provisions relating to mortgage insurance for rehabilitation facilities and substituting provisions which guarantee the payment of principal and interest on loans made to non-profit private entities by non-federal lender., and by the Federal Financing bank for the construction of rehabilitation facilities. Section 114 provides that the Commissioner may pay to the holder of such loans amounts sufficient to reduce by 3 percent per year the net effective interest rate otherwise payable on any such loan. The total of the principal of the loans outstanding at any limit with respect to which guarantees may be issued shall not exceed \$200 million.

## SECTION 115 Helen Keller National Centre for Deaf-Blind Youths and Adults.

Section 115 amends section 204 of the act (section 305 of the current act) by restating the purpose of the Centre and by providing that the Centre will seek to recover from States, private insurers, and other participating public and private agencies the cost of services provided to handicapped individuals by the Centre.

## SECTION 116 Comprehensive centres.

Section 116 redesignates section 305 of the act as section 204 and substitutes a new section 305 to establish a program for comprehensive rehabilitation centres. The comprehensive rehabilitation Centres shall provide a broad range of services to handicapped persons, including information and referral services, counselling services, and job placement, health, educational, social, and recreational services, as well as facilities for such activities. Such centres shall provide to local governmental units and to non-profit entities such information and technical assistance (including interpreters for the deaf) as may be necessary to assist those entities in complying with the act. State a, unit designated under section 101 (a) (2) (A) of the act may mart. grants to agencies or organisations to construct and operate such centres, or such State agency units may directly provide for the construction and operation of such centres. No State agency unit may approve a grant for the construction of a centre unless the application for such a grant meets the requirements specified in paragraphs (1), (2), (4), and (5) of section 306(b) of the act and contains assurances that any facility assisted by such grant shall be in close proximity to the persons eligible to use the centre.

## SECTION 117 National Council on the handicapped.

Section 117 amends the act by striking out the current title IV (which specifies secretarial

disabilities and contains general administrative provisions) and instituting a new title establishing a National Council on the capped. This Council is established within the Department of Health , Education, and Welfare and consists of twenty members appointed by the President. The Council shall establish general policies or, and review the conduct of, the Rehabilitation Services Administration and the National Institute of Handicapped Research. The Council shall make recommendations to the Secretary, the Commissioner, and the Director of the National Institute of Handicapped Research respecting ways to improve rehabilitation research and the administration of rehabilitation Services. The Council is responsible for responding and reviewing all applications for financial assistance submitted under section 112 (relating to client assistance projects), section 130 (relating to Indian demonstration projects), title, II (relating to research and training), and title 111 (relating to supplementary services and facilities). The Council is required to submit in March of each year an annual report which evaluates the current status of rehabilitation research in the United



States, and analyse the activities of the Rehabilitation Services Administration and the National Institute of Handicapped Research.

#### SECTION 118 Architectural and transportation barriers compliance board

Section 118 rewrites Section 502(a) (1) of the act to provide that handicapped individuals who are not Federal employees shall comprise a majority of the members of the Architectural Transportation and Communication Barriers Compliance Board (hereinafter in this summary referred to as the "Board").

Section 118 rewrites clause (1) of section 502(b) of the act to provide that the Board shall establish guidelines for standards under the Architectural Barriers Act of 1968 and shall enforce all standards prescribed by any Federal entity under that act. Section 118 further amends section 502(b) of the act by giving the Board the following new duties: (1) the Board is required to submit a report to the President and to the Congress assessing the amount of money required to be expended by each State to provide handicapped individuals with full access to all programs receiving Federal assistance; and (2) the Board is authorized to make final determinations with regard to compliance under section 504 of the act regarding architectural, transportation, and communication barriers confronting handicapped persons.

Section 118 authorizes the Board to provide technical assistance to any person or entity for the purpose of assisting such person or entity in complying with the act or with the accessibility standards under the Architectural Barriers Act of 1968.

Section 118 authorizes the Board to make grants to any State agency unit designated under section 101 (a) (2) (A) of the act for the purpose of conducting studies to provide the cost assessments required by clause (7) of section 502 (b) of the act.

Section 118 grants authority to the Board to sue and be sued in its own name, and to be represented by its own legal counsel in any court in the United States.

Section 118 authorizes for the purposes of the Board such sums as may be necessary for each fiscal year ending before October 1, 1983.

#### SECTION 119 Attorneys' fees.

Section 119 adds a new section 505 to title V of the act to provide that in any action to enforce section 501 section 503 or section 504 of the act, the court may allow the prevailing party, other than the United States, a reasonable attorneys' fee as part of the costs.

#### SECTION 120 Secretarial responsibilities.

Section 120 adds a new section 506 to title V of the act to "permit the Secretary to provide technical assistance to persons operating rehabilitation facilities and to any non profit entity for the purpose of assisting such persons or entities in removing architectural, transportation, or communication barriers. Section 120 also permits the Secretary to provide financial assistance to such persons or entities for the purposes described in the preceding sentence.

#### SECTION 121 Application of other laws.

Section 121 adds a new section 10 to the act which states that the act of December 5, 1974 (the Joint Simplification Act), and title V of the act of October 15, 1977, shall not apply to any programs under the act.

#### SECTION 122 Miscellaneous and technical amendments.

Section 122 rewrites the declaration of purpose of the act to provide a concise statement of the objectives of vocational and independent living rehabilitation services for the handicapped. Section 122 provides that the commissioner shall be governed by the policies of the National Council on the Handicapped in carrying Out the provisions of the act.

Section 122 amends paragraph (6) of section 7 of the act to provide that for purposes of sections 503 and 504 of the act the term "Handicapped individual" does not include any person who is an alcoholic or drug abuser in need of rehabilitation.

Section 122 amends sections 300 and 301 of the act to provide that funds may be made available for the staffing of rehabilitation facilities and not only for initial staffing.

Section 122 provides that the heading of title III shall be "Supplementary Services and Facilities" and that the heading of title V shall be "Special Federal Responsibilities."

Section 122 adds a new section 12 to the act which identifies the administrative authority and responsibilities of the Commissioner.

Section 122 adds a new section 13 to the act which "requires the Commissioner to submit to the President at the end of each fiscal year a complete report on the activities carried out under the act.

Section 122 adds a new section 14 to the act which requires the Secretary of Health, Education, and Welfare to evaluate the impact and effectiveness of programs carried out under the act.

Section 122 adds a new Section 15 to the act authorising the Commissioner to establish a clearinghouse to provide information to handicapped persons regarding services available to them under Federal programs.

Section 122 adds anew section 16 to the act which provided that no funds appropriated for activities under the act may be used for any purpose other than that for which the funds were specifically authorised.

## TITLE II-COMMUNITY SERVICES PROGRAMS; PROJECTS WITH INDUSTRY

### SECTION 201 Establishment of programs

Section 201 adds a new title to the act entitled "Employment Opportunities for Handicapped Individuals." Part A of the new title provides for a. community service employment program, administered by the Secretary of the Department of Labour, to provide full- or part-line community service employment to handicapped persons referred to the program by State vocational rehabilitation agencies. Such employment would pay at least the minimum wage and would not result in the displacement of other currently employed workers. The Secretary shall administer the program under part A by entering into agreements with public or private non-profit entities (including governmental units) under which the Secretary shall provide for not to exceed 90 percent of the costs of carrying out employment projects specified in the agreement. The Secretary may enter into such agreements only if the conditions specified in part are satisfied. Projects funded by the Secretary shall offer appropriate placement services to handicapped employees to assist them in obtaining unsubsidised employment when the project ends. To carry out part A of title VI of the act, Faction 201 authorises \$80 million for fiscal year 1979, \$100 million for fiscal year 1980, \$125 million for fiscal year 1981, \$150 million for fiscal year 1982, and \$115 million for fiscal year 1983.

Part B of the new title added by section 201 provides for two new programs tinder the act. Section 621 of the act (added by section 201) authorises the Commissioner to enter into jointly financed projects with industry for the purpose of providing handicapped individuals with on-the-job training and employment in a realistic work setting. Such projects shall he established under agreements entered into by the Commissioner and the prospective employer (with the advice of State vocational rehabilitation agencies). Under the agreements the Commissioner may pay for not more than 80 percent of the costs of any project, including costs for the distribution of special aids or equipment and for modification of any facilities of the employer if used primarily by handicapped persons. The employer must pay handicapped employees under the project the applicable minimum wage and provide benefits comparable to those afforded other employees.

Section 622 of the act (added by section 201) permits the Secretary to make grants to handicapped persons to enable them to operate commercial or other enterprises and to develop or market their services and products.

To carry out part B of title VI of the act, section 201 authorises \$25 million for fiscal year 1979, \$25 million for fiscal year 1980, \$30 million for fiscal year 1981, \$35 million for fiscal year 1982, and \$40 million for fiscal year 1983.

#### SECTION 202 Conforming amendments.

Section 202 makes conforming amendments in the table of contents.

### TITLE III-COMPREHENSIVE SERVICES FOR INDEPENDENT LIVING

#### *Comprehensive services.*

Section 301 adds a new title VII to the act, under which State vocational rehabilitation agencies could provide, in accordance with a 3-year plan, rehabilitation services to handicapped persons who need extensive services to develop their employment potential. Such persons, who may not be ready for vocational rehabilitation, would receive services to assist them in living more independently in their communities. Such services could include a wide range of services including health services, homemaker services, and attendant care. A handicapped person would apply for such services at an office of his or her State vocational rehabilitation agency. The agency would develop an individualised service plan for the handicapped person, would review its progress, and would seek to prepare each client for gainful employment.

Section 301 provides that the State vocational rehabilitation agencies could make grants to any organisation composed of or administered by handicapped persons to establish and operate centres for independent living. Such centres would provide a wide range of health, housing, vocational, transportation, and employment services to the handicapped individuals who live in the community.

Section 301 authorises appropriations for the independent living service program of \$80 million, \$130 million, and \$180 million for the first 3 fiscal years and such sums as may be necessary for the remaining 2 fiscal years. Section 301 also authorises appropriations for centres for independent living of \$50 million, \$80 million, and \$110 million for the first 3 fiscal years and such sums as may be necessary for the remaining 2 fiscal years.

#### SECTION 302 Individualized case plan

Section 302 amends section 101 (a) of the act by requiring States to include in State plans under such section 101(a) individualized case plans for persons eligible for services under the new title VII of the act.

### SECTION 303 Conforming amendment

Section 303 amends the table of contents of the act.

## **TITLE IV-INTERAGENCY PROGRAMS**

### SECTION 401 Research and demonstration Projects.

Section 401 authorises such sums as may be necessary for special research and demonstration projects, administered by the Secretary of Health, Education, and Welfare, to address the multiple and interrelated needs of the elderly, the handicapped, children, youths, and families.

### SECTION 402 Limitations on authorisations

Section 402 provides that no authorisation of appropriation in the bill shall be effective for any fiscal year beginning before October 1, 1978. Section 402 further provides that no new borrowing authority or authority to enter into contracts under the bill shall be effective except to such extent or in such amounts as are provided in advance in appropriations acts.

### SECTION 403 Effective date

Section 403 provides that the Comprehensive Rehabilitation Services Amendments of 1978 shall take effect on October 1, 1978.