

APPENDIX A

Developmental
Disabilities Assistance and Bill of Rights Act of 2000

42 USC 15002.

8. DEVELOPMENTAL DISABILITY.

- A. In GENERAL - The term "developmental disability" means a severe, chronic disability of an individual that -
- i. is attributable to a mental or physical impairment or combination of mental and physical impairments;
 - ii. is manifested before the individual attains age 22; is likely to continue indefinitely; results in substantial functional limitations in 3 or more of the following areas of major life activity:
 - I. Self-care.
 - II. Receptive and expressive language.
 - III. Learning.
 - IV. Mobility.
 - V. Self-direction.
 - VI. Capacity for independent living.
 - VII. Economic self-sufficiency; and
 - iii. reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.
- B. INFANTS AND YOUNG CHILDREN - An individual from birth to age 9, inclusive, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting 3 or more of the criteria described in clauses (i) through (v) of subparagraph (A) if the individual, without services and supports, has a high probability of meeting those criteria later in life.

42 USC 15043. SEC. 143. SYSTEM REQUIRED

- a. SYSTEM REQUIRED - In order for a State to receive an allotment under subtitle B or this subtitle -
1. the State shall have in effect a system to protect and advocate the rights of individuals with developmental disabilities;
 2. such system shall -
 - A. have the authority to -
 - i. pursue legal, administrative, and other appropriate remedies or approaches to ensure the protection of and advocacy for, the rights of such individuals within the State who are or who may be eligible for treatment, services, or habilitation, or who are being considered for a change in living arrangements, with particular attention to members of ethnic and racial minority groups; and
 - ii. provide information on and referral to programs and services addressing the needs of individuals with developmental disabilities;
 - B. have the authority to investigate incidents of abuse and neglect of individuals with developmental disabilities if the incidents are reported to the system or if there is probable cause to believe that the incidents occurred;
 - H. have access at reasonable times to any individual with a developmental disability in a location in which services, supports, and other assistance are provided to such an individual, in order to carry out the purpose of this subtitle;
 - I. have access to all records of -
 - i. any individual with a developmental disability who is a client of the system if such individual, or the legal guardian, conservator, or other legal representative of such individual, has authorized the system to have such access;
 - ii. any individual with a developmental disability, in a situation in which -
 - I. the individual, by reason of such individual's mental or physical condition, is unable to authorize the system to have such access;
 - II. the individual does not have a legal guardian, conservator, or other legal representative, or the legal guardian of the individual is the State; and
 - III. a complaint has been received by the system about the individual with regard to the status or treatment of the individual or, as a result of monitoring or other activities, there is probable cause to believe that such individual has been subject to abuse or neglect; and
 - iii. any individual with a developmental disability, in a situation in which -
 - I. the individual has a legal guardian, conservator, or other legal representative;
 - II. a complaint has been received by the system about the individual with regard to the status or treatment of the individual or, as a result of monitoring or other activities, there is probable cause to believe that such individual has been subject to abuse or neglect;
 - III. such representative has been contacted by such system, upon receipt of the name and address of such representative;
 - IV. such system has offered assistance to such representative to resolve the situation; and
 - V. such representative has failed or refused to act on behalf of the individual;
 - J. (i) have access to the records of individuals described in subparagraphs (B) and (I), and other records that are relevant

to conducting an investigation, under the circumstances described in those subparagraphs, not later than 3 business days after the system makes a written request for the records involved; and
(ii) have immediate access, not later than 24 hours after the system makes such a request, to the records without consent from another party, in a situation in which services, supports, and other assistance are provided to an individual with a developmental disability -

- I. if the system determines there is probable cause to believe that the health or safety of the individual is in serious and immediate jeopardy; or
- II. in any case of death of an individual with a developmental disability: