

2016 DISABILITY PRIORITY AGENDA

The New York Association on Independent Living (NYAIL) is dedicated to removing barriers to the full community integration of people with disabilities of all ages. NYAIL represents Independent Living Centers and the people with disabilities they serve. Independent Living Centers (ILCs) are controlled and primarily staffed by people with disabilities. ILCs provide community-based services and supports, including peer counseling, independent living skills training, individual and systems advocacy, and assistance with negotiating complex service systems to obtain health and long term care, housing, education, employment, and other services that empower people with disabilities to live independent, fully-integrated lives in their communities.

New York began the process of implementing *Olmstead* in October, 2013 when Governor Cuomo issued the long awaited *Olmstead* implementation plan, detailing how the State intends to comply with the Supreme Court's *Olmstead v. L.C* decision of 1999 to ensure individuals with disabilities receive services and supports in the most integrated setting appropriate to their needs. The State has since begun implementing initiatives under Money Follows the Person (MFP), the Balancing Incentive Program (BIP), and most recently the Community First Choice Option (CFCO), - all designed to advance the State's deinstitutionalization efforts and expand access to community based supports and services. In addition, the State has begun making progress toward implementing *Olmstead* with the Employment First Commission, whose report outlined policy recommendations all designed to increase access to competitive, integrated employment options for people with disabilities. NYAIL's 2016 legislative priorities support *Olmstead* implementation by addressing barriers to community living and ensuring individual rights. We urge the Legislature to support the following priorities:

PUBLIC POLICY PRIORITIES

HEALTH

- ❖ Authorize an exemption to the Nurse Practice Act to allow for advanced home health aides to perform certain advanced tasks under the supervision of a registered nurse. A.7188 (Glick) and S.5855 (Parker).

The establishment of Advanced Home Health Aides (AHHAs) is crucial in order to fully implement the Community First Choice Option (CFCO). The purpose of CFCO is to eradicate the silos and provide a comprehensive and seamless long term services and supports system for all people to access as an alternative to nursing facility/institutional

placement, regardless of age, diagnosis or severity of disability. This amendment to the Nurse Practice Act (NPA) would allow non-licensed professionals, who will be trained and certified as “advanced” aides, to perform assistance with and maintenance of skills necessary for the individual to accomplish health-related tasks. The Department of Health’s Advanced Home Health Aide workgroup, which consisted of a broad cross-section of impacted stakeholders, have come to a consensus regarding the establishment and implementation of AHHAs as outlined in this legislation and supporting guidance documents produced by the workgroup.

HOUSING

- ❖ Make discrimination by landlords based on a tenant’s source of income illegal under State Human Rights Law. A.3059 (Weprin).

Landlords often reject tenants with rental subsidies, such as Section 8 and subsidies tied to the Nursing Facility Transition and Diversion and Traumatic Brain Injury Medicaid Waivers. Many people with disabilities rely on subsidies and other assistance programs to live independently in the community. Discrimination based on source of income is illegal in various counties around the state including Nassau County, New York City and Buffalo.

- ❖ Incorporate inclusive home design/visitability features in new residential housing that receives financial assistance for construction from federal, state, county or local governments. A.6402 (Simon) and S.4597 (Krueger).
- ❖ A tax credit for purchase, construction or retrofitting of a principal residence to achieve universal visitability.

Most existing housing stock was not built to meet the needs of people with disabilities, including disabilities acquired as one ages. Housing built with basic accessibility features – known as “inclusive home design” or “visitability” - would meet the needs of people throughout the lifespan and allow homes to be visitable by friends and family members with disabilities. Renovation of new homes is much more expensive than including accessibility features at the start, when the home is constructed. In addition, providing an incentive to private homeowners in the form of a tax credit to include visitable standards when constructing or retro-fitting their homes will increase the stock of housing with basic accessibility features. The tax credit will also ease the financial burden of retro-fitting a person’s home after they acquire a disability, which helps keep individuals out of unwanted and costly institutions.

CIVIL RIGHTS

- ❖ Waive the State’s sovereign immunity to claims under the ADA and Section 504. A.5388 (Lifton)

The Americans with Disabilities Act (ADA) of 1990 and Section 504 of the Rehabilitation Act of 1973 each provide comprehensive protection for the civil rights of people with

disabilities under federal law. However, people with disabilities cannot sue the State for violations. This bill would allow the State to be sued in State or Federal court for any violation of the rights of state employees under the ADA, including the ADA's access and accommodation standards. In addition, it will insure the right of people with disabilities to bring a civil action against the state for failure to provide access to services, programs and activities provided by New York State to people with disabilities.

- ❖ Establish basic civil protections for people with intellectual and developmental disabilities in the guardianship process. S.4983 (Ortt).

Under the current 17A process, a family member can obtain “full” guardianship over an adult with a developmental disability without demonstrating that the individual has any actual incapacities that affect his or her ability to make sound decisions. This bill will provide vital legal protections for the person for whom guardianship is being sought. In addition, this bill imposes limitations on the powers of any guardian established after the bill takes effect, requiring guardians to encourage the individual to participate in decision-making, to consult with the individual before making any decisions, to be guided by the known wishes of the individual to the extent possible, and to only exercise authority in specific situations as warranted.

EMPLOYMENT

- ❖ Establish a small business tax credit for the employment of people with disabilities. A.5513 (Cusick) and S.4093 (Addabbo).

Working-age people with disabilities in the State have a 31.6% employment rate, resulting in an employment gap between people with and without disabilities of 41.1% (*Disability Status ADA 25*, Center for Independence of the Disabled, New York, 2015). The poverty rate for people with disabilities in New York State is 17% higher than for nondisabled New Yorkers. The tax credit created by this legislation would provide an incentive for small businesses to hire individuals with disabilities, increasing the opportunities for New Yorkers with disabilities to achieve gainful employment and self-sufficiency.

- ❖ Add disability-owned businesses to the Minority and Women Business Enterprise (MWBE) program. A.2910 (Weprin) and S.2342 (Marcellino).

The State needs to encourage self-employment business opportunities by including New Yorkers with disabilities in the State procurement program. Peers could have businesses certified in the Minority and Women Business Enterprise process under a “disability” minority classification. This is not intended to increase the current state procurement participation requirements, but would allow disability-owned businesses to participate in the existing program under a new classification.

- ❖ Directs the State Education Department’s Adult Career and Continuing Education Services-Vocational Rehabilitation (ACCES-VR) to include communication

support among the suite of vocational rehabilitation services currently offered.
A.5141 (Santabarbara) and S.4256 (Carlucci)

Many individuals with disabilities, including those on the autism spectrum, with traumatic brain injury, learning disabilities, Tourette's Syndrome, and other neuro-communication or speech/language disabilities, may have difficulty with interpersonal communication that can hinder their ability to find and maintain employment, even when they possess job skills, higher education, and access to existing vocational rehabilitation services. Communication support is defined as treatment and services that focus on improving communication-related skills. These include, but are not limited to, dialog strategies for initiating and exiting communication of intent, topic maintenance, dissolving hostile situations resulting from ineffective attempts at independent communication, preparing, strategizing and organizing information for written communication, and preparing for upcoming interpersonal communication situations.

TRANSPORTATION

- ❖ Require transportation service providers, such as taxis and limousines, to purchase accessible vehicles.
- ❖ Cap fares for paratransit at levels no higher than the base fares for transportation of non-disabled adults using the public transit system. S.3720 (Espaillat).

The limited availability of accessible transportation services is a major barrier faced by individuals with disabilities throughout the state, often leading to unemployment, the inability to access medical care, lack of access to voting sites, and isolation from friends, family, and full community participation. As such, it is imperative that all for-hire transportation services – including new ridesharing networks – ensure a percentage of their fleet is accessible. The increased availability of accessible transportation options will result in considerable savings to the state Medicaid program, as the cost of paying for ambulettes to transport wheelchair users to medical appointments will decrease significantly. In addition, many people with disabilities rely heavily on the provision of paratransit services; however, public transit budget woes have led to an increase in cost for such services. The paratransit bill would cap paratransit fares, under the premise that allowing transit fares for people with disabilities that are higher than those for non-disabled citizens is discriminatory.

For further information, please contact:

Meghan Schoeffling, Policy Analyst

Phone: (518) 465.4650

Email: mschoeffling@ilny.org