

BY: Health and Government Operations Committee

AMENDMENTS TO HOUSE BILL NO. 1542

(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “and V. Turner” and substitute “V. Turner, Goldwater, Mandel, Boteler, Boutin, Bromwell, Costa, Donoghue, Elliott, Frank, Hammen, Hurson, Kullen, McDonough, Morhaim, Murray, Nathan-Pulliam, Oaks, and Weldon”; in line 2, strike “Commission” and substitute “Act”; strike in their entirety lines 3 through 24, inclusive, and substitute:

“FOR the purpose of transferring the Office of Personal Assistance Services and the Attendant Care Program of the Office from the Department of Human Resources to the Department of Disabilities; repealing a certain Advisory Committee; repealing a certain reporting requirement; establishing the Personal Assistance Services Advisory Committee; providing for the purpose and composition of the Advisory Committee; providing for the terms of the members of the Advisory Committee; requiring the Advisory Committee to submit certain reports to the Governor and the General Assembly at a certain time; defining certain terms; providing that employees of the Office of Personal Assistance Services of the Department of Human Resources who are transferred under this Act to the Department of Disabilities be transferred without any diminution of their rights, benefits, or employment status; providing that nothing in this Act may be construed to diminish certain powers and duties of the Department of Health and Mental Hygiene; requiring the publishers of the Annotated Code of Maryland, subject to the approval of the Department of Legislative Services, to propose certain corrections to the Code resulting from this Act; and generally relating to the Maryland Quality Home Care Services Act.”;

and strike in their entirety lines 25 through 30, inclusive, and substitute:

“BY transferring

Article 41 - Governor - Executive and Administrative Departments

(Over)

Section 6-701 through 6-706, respectively, and the subtitle “Subtitle 7. Attendant Care Program”

Annotated Code of Maryland
(2003 Replacement Volume and 2004 Supplement)

to be

Article 41 - Governor - Executive and Administrative Departments

Section 18-601 through 18-606, respectively, and the subtitle “Subtitle 6. Attendant Care Program”

Annotated Code of Maryland
(2003 Replacement Volume and 2004 Supplement)

BY repealing and reenacting, without amendments,

Article 41 - Governor - Executive and Administrative Departments

Section 18-601(a)

Annotated Code of Maryland
(2003 Replacement Volume and 2004 Supplement)
(As enacted by Section 1 of this Act)

BY repealing and reenacting, with amendments,

Article 41 - Governor - Executive and Administrative Departments

Section 18-601(c) and (d) and 18-606

Annotated Code of Maryland
(2003 Replacement Volume and 2004 Supplement)
(As enacted by Section 1 of this Act)

BY repealing

Article 41 - Governor - Executive and Administrative Departments

Section 18-604 and 18-605

Annotated Code of Maryland
(2003 Replacement Volume and 2004 Supplement)
(As enacted by Section 1 of this Act)

BY repealing and reenacting, with amendments,

Article - State Government

Section 9-1118
Annotated Code of Maryland
(2004 Replacement Volume)

BY adding to

Article - State Government
Section 9-1119
Annotated Code of Maryland
(2004 Replacement Volume)".

AMENDMENT NO. 2

On page 2, after line 19, insert:

“SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 6-701 through 6-706, respectively, and the subtitle “Subtitle 7. Attendant Care Program” of Article 41 - Governor - Executive and Administrative Departments of the Annotated Code of Maryland be transferred to be Section(s) 18-601 through 18-606, respectively, and the subtitle “Subtitle 6. Attendant Care Program” of Article 41 - Governor - Executive and Administrative Departments of the Annotated Code of Maryland.”;

and strike beginning with “SECTION 1.” in line 20 down through “MARYLAND” in line 21 and substitute “SECTION 2. AND BE IT FURTHER ENACTED”.

On pages 2 through 8, strike in their entirety the lines beginning with line 22 on page 2 through line 28 on page 8, inclusive, and substitute:

“Article 41 - Governor - Executive and Administrative Departments

18-601.

(a) In this subtitle the following words have the meanings indicated.

(c) “Department” means the Department of [Human Resources] DISABILITIES.

(Over)

(d) “Secretary” means the Secretary of [the Department of Human Resources] DISABILITIES.

[18-604.

(a) The Department shall create an Advisory Committee to provide guidance to the Department in the development of:

(1) The sliding payment scale; and

(2) Rules and regulations for and an annual report on the Attendant Care Program.

(b) The Committee shall consist of the following:

(1) 1 representative each from:

(i) The Division of Vocational Rehabilitation of the Department of Education;

(ii) The Medicaid Personal Care Program, Policy Administration, of the Department of Health and Mental Hygiene;

(iii) The Developmental Disabilities Administration of the Department of Health and Mental Hygiene;

(iv) The Department of Budget and Management;

(v) The Commission;

(vi) The Maryland State Independent Living Council;

(vii) The Governor's Committee on Employment of People With Disabilities;

(viii) The Maryland Planning Council on Developmental Disabilities;

(ix) The In-Home-Aid Service Program, Social Services Administration, of the Department of Human Resources; and

(2) 5 citizens, 2 of whom shall be disabled individuals; and

(3) 3 representatives from advocacy organizations for disabled individuals.]

[18-605.

The Department shall submit an annual report on the Attendant Care Program to the Legislative Policy Committee of the State legislature by September 1 each year. The reports shall include demographic, disability, and cost effectiveness data.]

[18-606.] 18-604.

The Department [of Human Resources] shall administer this subtitle and may adopt rules and regulations necessary to implement it.

Article - State Government

9-1118.

The Department shall oversee and administer the following programs:

(1) constituent services and ombudsmen programs; [and]

(2) the Assistive Technology Guaranteed Loan Program under Article 41, Title 14, Subtitle 9 of the [Code] CODE; AND

(3) THE ATTENDANT CARE PROGRAM UNDER ARTICLE 41, TITLE 18,

(Over)

SUBTITLE 6 OF THE CODE.

9-1119.

(A) THERE IS A PERSONAL ASSISTANCE SERVICES ADVISORY COMMITTEE IN THE DEPARTMENT.

(B) THE PURPOSE OF THE ADVISORY COMMITTEE IS TO PROVIDE GUIDANCE TO THE DEPARTMENT ON PERSONAL CARE, ATTENDANT CARE, AND HOME CARE SERVICES, INCLUDING:

(1) THE DEVELOPMENT OF STANDARDS FOR THE TRAINING OF PERSONAL CARE WORKERS;

(2) THE FEASIBILITY OF ESTABLISHING A REFERRAL SYSTEM OF INDIVIDUAL PROVIDERS;

(3) THE FEASIBILITY OF ESTABLISHING A REGISTRY FOR PERSONAL CARE WORKERS; AND

(4) COMPENSATION LEVELS PROVIDED TO PERSONAL CARE WORKERS FOR PERSONAL ASSISTANCE SERVICES.

(C) THE ADVISORY COMMITTEE CONSISTS OF THE FOLLOWING MEMBERS, APPOINTED BY THE GOVERNOR:

(1) 11 REPRESENTATIVES SHALL BE INDIVIDUALS WITH DISABILITIES WHO ARE CURRENT OR FORMER CONSUMERS OF PERSONAL HOME OR ATTENDANT CARE SERVICES;

(2) ONE REPRESENTATIVE EACH FROM:

(I) THE MARYLAND MEDICAL ASSISTANCE PROGRAM;

(II) THE MARYLAND DEPARTMENT OF AGING;

(III) THE STATE DEPARTMENT OF EDUCATION, DIVISION OF REHABILITATIVE SERVICES;

(IV) THE MARYLAND ASSOCIATION OF COMMUNITY COLLEGES OR ITS DESIGNEE;

(V) A LOCAL OFFICE ON AGING;

(VI) THE MARYLAND STATE INDEPENDENT LIVING COUNCIL;

(VII) AN ADVOCACY ORGANIZATION REPRESENTING SENIOR CITIZENS;

(VIII) AN ADVOCACY ORGANIZATION REPRESENTING INDIVIDUALS WITH DISABILITIES;

(IX) A PROVIDER OF HOME CARE OR PERSONAL ATTENDANT CARE SERVICES; AND

(X) A HOME HEALTH WORKER.

(D) (1) THE TERM OF A MEMBER IS 3 YEARS.

(2) THE TERMS OF THE MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR MEMBERS OF THE COMMITTEE ON JULY 1, 2005.

(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(Over)

(5) A MEMBER MAY NOT SERVE MORE THAN TWO CONSECUTIVE TERMS.

(E) THE OFFICE OF PERSONAL ASSISTANCE SERVICES SHALL PROVIDE STAFF TO THE ADVISORY COMMITTEE.

(F) THE ADVISORY COMMITTEE SHALL MEET AT LEAST FOUR TIMES A YEAR, IN MEETINGS OPEN TO THE PUBLIC.

(G) THE ADVISORY COMMITTEE SHALL SUBMIT A REPORT ON THE ADVISORY COMMITTEE'S RECOMMENDATIONS ON PERSONAL CARE ASSISTANCE SERVICES TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON OR BEFORE OCTOBER 1 OF EACH YEAR.

SECTION 3. AND BE IT FURTHER ENACTED, That the functions and activities of the Attendant Care Program are transferred from the Office of Personal Assistance Services of the Department of Human Resources to the Department of Disabilities.

SECTION 4. AND BE IT FURTHER ENACTED, That all employees of the Office of Personal Assistance Services of the Department of Human Resources whose positions are transferred to the Department of Disabilities by this Act shall be so transferred on the effective date of this Act without any diminution of their rights, benefits, or employment and retirement status.

SECTION 5. AND BE IT FURTHER ENACTED, That all persons who are classified employees of the Office of Personal Assistance Services of the Department of Human Resources as of July 1, 2005, and who are transferred to the Department of Disabilities as part of the transfer of the Attendant Care Program shall be transferred without any diminution of their rights, benefits, or employment status, including, if any, merit system and retirement status.

SECTION 6. AND BE IT FURTHER ENACTED, That nothing in this Act shall be construed to affect any of the powers and duties of the Department of Health and Mental Hygiene to administer the Living at Home: Maryland Community Choices Medicaid Waiver.

SECTION 7. AND BE IT FURTHER ENACTED, That except as otherwise provided in this Act, nothing in this Act affects the term of office of an appointed member of any board, commission, committee, or council. A person who is a member of such a unit on the effective date of this Act shall remain a member for the balance of the term to which the person was appointed, unless the person before the end of the term dies, resigns, or is removed pursuant to the provisions of law.

SECTION 8. AND BE IT FURTHER ENACTED, That all property, including real or personal property, records, fixtures, appropriations, credits, assets, liabilities, obligations, rights, and privileges held by the Office of Personal Assistance Services of the Department of Human Resources to carry out the exclusive functions of the Attendant Care Program transferred under this Act shall be transferred to the Department of Disabilities on the effective date of this Act.

SECTION 9. AND BE IT FURTHER ENACTED, That, except as otherwise provided by law, all existing laws, rules, and regulations, proposed rules and regulations, standards and guidelines, policies, orders and other directives, forms, plans, memberships, contracts, property, investigations, administrative and judicial responsibilities, rights to sue and be sued, and all other duties and responsibilities associated with the functions of the Office of Personal Assistance Services of the Department of Human Resources and the Attendant Care Program transferred from the Office of Personal Assistance Services prior to the effective date of this Act shall continue in effect under the Department of Disabilities, until completed, withdrawn, canceled, modified, or otherwise changed pursuant to law.

SECTION 10. AND BE IT FURTHER ENACTED, That all contracts, agreements, grants, or other obligations entered into by the Office of Personal Care Assistance Services of the Department of Human Resources and the Attendant Care Program transferred from the Office of Personal Care Assistance Services prior to October 1, 2005, are hereby declared to be valid, legal, and binding obligations of the Department of Disabilities, enforceable in accordance with their terms.

SECTION 11. AND BE IT FURTHER ENACTED, That the publishers of the Annotated Code of Maryland, subject to the approval of the Department of Legislative Services, shall propose the correction of any agency names and titles throughout the Annotated Code that are rendered incorrect by this Act and any necessary corrections shall be satisfied by passage of the Annual

(Over)

Corrective Bill of 2006.

SECTION 12. AND BE IT FURTHER ENACTED, That all appropriations including State and federal funds, held by the Office of Personal Assistance Services to carry out the exclusive functions of the Attendant Care Program transferred under this Act shall be transferred to the Department of Disabilities on the effective date of this Act.

SECTION 13. AND BE IT FURTHER ENACTED, That the terms of the initial members of the Personal Assistance Services Advisory Committee shall expire as follows:

(a) Three consumer members and two of the organizational or agency members in 2008;
and

(b) Three consumer members and three of the organizational or agency members in 2009.

SECTION 14. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2005.”.