

Chapter 586

(Senate Bill 851)

AN ACT concerning

Human Services – Department of Disabilities – Accessibility Programs

FOR the purpose of transferring the administration and management of the Telecommunications Access of Maryland and Telecommunications Devices and Distribution of Accessible Information for Disabled Individuals programs from the Department of Information Technology to the Department of Disabilities; adding a representative of the Governor’s Advisory Board for Telecommunications Relay as a member of the Maryland Commission on Disabilities; adding representatives from the Maryland Commission on Disabilities and the Governor’s Office of the Deaf and Hard of Hearing to the Governor’s Advisory Board for Telecommunications Relay; requiring the Department of Disabilities to provide staff, including a director, to the Governor’s Advisory Board for Telecommunications Relay; establishing the qualifications and duties of the director; requiring the Department of Disabilities to provide a system for eligible program participants who cannot access telecommunications relay services in a traditional manner; making conforming changes; and generally relating to programs administered by the Department of Disabilities.

BY transferring

Article – State Finance and Procurement

Section 3A–501 through 3A–506, respectively, and the subtitle “Subtitle 5. Telecommunications Access of Maryland”; and 3A–601 through 3A–606, respectively, and the subtitle “Subtitle 6. Telecommunications Devices and Distribution of Accessible Information for Disabled Individuals”

Annotated Code of Maryland

(2015 Replacement Volume and 2019 Supplement)

to be

Article – Human Services

Section 7–801 through 7–806, respectively, and the subtitle “Subtitle 8. Telecommunications Access of Maryland”; and 7–901 through 7–906, respectively, and the subtitle “Subtitle 9. Telecommunications Devices and Distribution of Accessible Information for Disabled Individuals”

Annotated Code of Maryland

(2019 Replacement Volume and 2019 Supplement)

BY repealing and reenacting, with amendments,

Article – Human Services

Section 7–114(b) and 7–120

Annotated Code of Maryland

(2019 Replacement Volume and 2019 Supplement)

BY repealing and reenacting, with amendments,

Article – Human Services

Section 7–801, 7–803, 7–804, 7–806, 7–901, 7–902, 7–903, 7–905, and 7–906

Annotated Code of Maryland

(2019 Replacement Volume and 2019 Supplement)

(As enacted by Section 1 of this Act)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 3A–501 through 3A–506, respectively, and the subtitle “Subtitle 5. Telecommunications Access of Maryland”; and 3A–601 through 3A–606, respectively, and the subtitle “Subtitle 6. Telecommunications Devices and Distribution of Accessible Information for Disabled Individuals” of Article – State Finance and Procurement of the Annotated Code of Maryland be transferred to be Section(s) 7–801 through 7–806, respectively, and the subtitle “Subtitle 8. Telecommunications Access of Maryland”; and 7–901 through 7–906, respectively, and the subtitle “Subtitle 9. Telecommunications Devices and Distribution of Accessible Information for Disabled Individuals” of Article – Human Services of the Annotated Code of Maryland.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Human Services

7–114.

(b) The Department shall oversee and administer the following programs and units:

(1) constituent services and ombudsmen programs;

(2) the Assistive Technology Guaranteed Loan Program under Subtitle 6 of this title; [and]

(3) the Office of Personal Assistance Services, including the Attendant Care Program under Subtitle 4 of this title;

(4) TELECOMMUNICATIONS ACCESS OF MARYLAND UNDER SUBTITLE 8 OF THIS TITLE; AND

(5) TELECOMMUNICATIONS DEVICES AND DISTRIBUTION OF ACCESSIBLE INFORMATION FOR DISABLED INDIVIDUALS UNDER SUBTITLE 9 OF THIS TITLE.

7–120.

(a) The Commission consists of:

(1) the following members, appointed by the Governor:

(i) one individual with a physical disability;

(ii) one individual who has experienced mental illness;

(iii) two individuals with a developmental disability, including one with an intellectual disability;

(iv) one individual who is blind;

(v) one individual who is deaf or hard of hearing;

(vi) one parent or foster parent of a child with a disability;

(vii) four members of the general public who have disabilities;

(viii) three representatives from statewide disability advocacy organizations;

(ix) one representative from the home health care industry;

(x) one representative from a statewide organization of providers of services and support for individuals with disabilities;

(xi) one representative from the Alliance of Local Commissions on Disability; and

(xii) two representatives from the Board, one of whom shall be selected by the Secretary and one of whom shall be the Secretary of Budget and Management or the designee of the Secretary of Budget and Management;

(2) one representative from the Senate of Maryland, appointed by the President of the Senate; [and]

(3) one representative from the Maryland House of Delegates, appointed by the Speaker of the House; AND

(4) ONE REPRESENTATIVE FROM THE GOVERNOR'S ADVISORY BOARD FOR TELECOMMUNICATIONS RELAY, APPOINTED BY THE CHAIR OF THE BOARD.

(b) In making the appointments required under subsection (a)(1) of this section, the Governor shall appoint members from among:

(1) the geographic regions of the State; and

(2) diverse backgrounds.

(c) A majority of the members shall be individuals with disabilities.

(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 the members of the Commission on October 1, 2007.

(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.

(5) A member may not serve more than two consecutive 3-year terms.

(e) A member who fails to attend at least 50% of the regularly scheduled meetings of the Commission during any 12-month period shall be considered to have resigned.

7-801.

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

(b) “Board” means the Governor’s Advisory Board for Telecommunications Relay.

(c) “Communications company” means a public service company, as defined in § 1-101 of the Public Utilities Article, or any other company, that provides a communications service.

(d) “Communications service” means:

(1) landline telephone service;

(2) wireless or cellular telephone service; or

(3) Voice over Internet Protocol (VoIP) service, as defined in § 8-601 of the Public Utilities Article.

(E) “DEPARTMENT” MEANS THE DEPARTMENT OF DISABILITIES.

[(e)] (F) “Dual party telephone relay program” means a service that provides full and simultaneous communication between a person or persons with a disability that

prevents them from using a standard telephone and a person or persons without that disability using conventional telephone equipment or other technology or equipment, whereby the disabled person or persons have their message relayed through an intermediary party using specialized telecommunications equipment.

[(f)] (G) “Program” means the dual party telephone relay program.

[(g)] (H) “Program participant” means a resident of the State who uses the dual party telephone relay program.

[(h)] (I) (1) “Specialized customer telephone equipment” means any communications device that enables or assists a person with a disability to communicate with others by means of the public switched telephone network or Internet protocol-enabled voice communications service.

(2) “Specialized customer telephone equipment” includes:

- (i) TDD/TT/TTY;
- (ii) amplifiers;
- (iii) captioned telephones;
- (iv) VRS equipment;
- (v) cell phones;
- (vi) pagers;
- (vii) puff blow devices;
- (viii) Braille–TTY devices; and
- (ix) equipment for the mobility disabled.

[(i)] (J) “Telecommunications device for the deaf” or “TDD/TT/TTY” means all types of mechanical devices that enable disabled individuals to communicate through messages sent and received through a telephone or wireless network.

7–803.

(a) The Board shall be composed of **[12] 14** individuals appointed by the Governor, who shall designate the chair, including:

- (1) five representatives of the deaf or hard of hearing community;

(2) one representative of the mobility–impaired community who requires the use of specialized customer telephone equipment;

(3) one representative of the speech–impaired community who requires the use of specialized customer telephone equipment;

(4) one representative of the senior citizen community who requires the use of specialized customer telephone equipment;

(5) one representative of the deaf–blind community; [and]

(6) three representatives of government, one of whom is a representative of the Public Service Commission;

(7) ONE REPRESENTATIVE FROM THE MARYLAND COMMISSION ON DISABILITIES; AND

(8) ONE REPRESENTATIVE FROM THE GOVERNOR’S OFFICE OF THE DEAF AND HARD OF HEARING.

(b) (1) The term of a member is 3 years.

(2) The terms of members are staggered as required by the terms provided for members of the Board on June 30, 2008.

(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.

(5) The Governor may remove a member for incompetence or misconduct.

(c) The members of the Board shall serve without compensation, but shall be reimbursed for all reasonable expenses incurred in the performance of their duties.

(d) By January 1 of each year, the Board shall file an annual report on its activities to the General Assembly in accordance with § 2–1257 of the State Government Article.

(e) The Board shall advise the Department with regard to the program’s:

(1) level of access to program participants; and

(2) quality of service.

7-804.

(a) The Department in consultation with the Board shall:

(1) establish and administer a program to provide cost-efficient, 24-hour, dual party relay service to program participants at a comparable level of access and quality that a standard telecommunication service provides to a person without a hearing or speech disability;

(2) develop the program in collaboration with State programs currently serving disabled individuals and with community agencies or other organizations that have established relay programs; and

(3) maintain an information and referral service to provide information about the availability of the relay service.

(b) The Department in consultation with the Board [may] **SHALL:**

(1) contract with a private vendor or nonprofit organization to provide the information and referral service required under subsection (a)(3) of this section; and

(2) provide appropriate staff assistance from the Department, **INCLUDING A DIRECTOR**, to assist the Board in carrying out its duties under this subtitle.

(C) THE DIRECTOR PROVIDED UNDER SUBSECTION (B)(2) OF THIS SECTION SHALL:

(1) BE AN INDIVIDUAL WHO IS:

(I) DEAF, HARD OF HEARING, DEAFBLIND, OR SPEECH DISABLED; AND

(II) IS A USER OF TELECOMMUNICATIONS RELAY SERVICES;

(2) DIRECT THE IMPLEMENTATION OF SERVICES AND PROGRAMS ESTABLISHED IN ACCORDANCE WITH THIS SUBTITLE AND SUBTITLE 9 OF THIS TITLE; AND

(3) ADVISE THE DEPARTMENT AND THE SECRETARY OF DISABILITIES ON REGULATORY POLICY AND THE ADMINISTRATION OF THE UNIVERSAL SERVICE TRUST FUND.

7-806.

(a) (1) Subject to paragraph (2) of this subsection, the programs under [§ 3A-504(a) of this subtitle and §§ 3A-602(a) and 3A-702 of this title] **§ 7-804(A) OF THIS SUBTITLE, § 7-902(A) OF THIS TITLE, AND § 3A-702 OF THE STATE FINANCE AND PROCUREMENT ARTICLE** shall be funded as provided in the State budget.

(2) For fiscal year 2019 and each fiscal year thereafter, the program under § 3A-702 of [this title] **THE STATE FINANCE AND PROCUREMENT ARTICLE** shall be funded at an amount that:

(i) is equal to the cost that the Department of Aging is expected to incur for the upcoming fiscal year to provide the service and administer the program; and

(ii) does not exceed 5 cents per month for each account out of the surcharge amount authorized under subsection (c) of this section.

(b) (1) There is a Universal Service Trust Fund created for the purpose of paying the costs of maintaining and operating the programs under:

(i) § [3A-504(a)] **7-804(A)** of this subtitle, subject to the limitations and controls provided in this subtitle;

(ii) § [3A-602(a)] **7-902(A)** of this title, subject to the limitations and controls provided in Subtitle [6] **9** of this title; and

(iii) § 3A-702 of [this title] **THE STATE FINANCE AND PROCUREMENT ARTICLE**, subject to the limitations and controls provided in **TITLE 3A, Subtitle 7 of [this title] THE STATE FINANCE AND PROCUREMENT ARTICLE**.

(2) Money in the Universal Service Trust Fund shall be held in the State Treasury.

(3) Money in the Universal Service Trust Fund may only be used:

(i) to fund the costs of the programs specified in paragraph (1) of this subsection; and

(ii) to pay for the administration of the Universal Service Trust Fund.

(c) (1) The costs of the programs under [§ 3A-504(a) of this subtitle and §§ 3A-602(a) and 3A-702 of this title] **§ 7-804(A) OF THIS SUBTITLE, § 7-902(A) OF THIS TITLE, AND § 3A-702 OF THE STATE FINANCE AND PROCUREMENT ARTICLE** shall be funded by revenues generated by:

(i) a surcharge to be paid by the subscribers to a communications

service; and

(ii) other funds as provided in the State budget.

(2) (i) The surcharge may not exceed 18 cents per month for each account and shall be applied to all current bills rendered for a communications service in the State.

(ii) The surcharge is payable at the time the bills for a communications service are due.

(3) The surcharge to be collected under this section applies only to a communications service for which charges are billed by, or on behalf of, a communications company to a subscriber of the communications service.

(d) (1) The Secretary shall annually certify to the Public Service Commission the costs of the programs under [§ 3A-504(a) of this subtitle and §§ 3A-602(a) and 3A-702 of this title] **§ 7-804(A) OF THIS SUBTITLE, § 7-902(A) OF THIS TITLE, AND § 3A-702 OF THE STATE FINANCE AND PROCUREMENT ARTICLE** to be paid by the Universal Service Trust Fund for the following fiscal year.

(2) (i) The Public Service Commission shall determine the surcharge for the following fiscal year necessary to fund the programs under [§ 3A-504(a) of this subtitle and §§ 3A-602(a) and 3A-702 of this title] **§ 7-804(A) OF THIS SUBTITLE, § 7-902(A) OF THIS TITLE, AND § 3A-702 OF THE STATE FINANCE AND PROCUREMENT ARTICLE**.

(ii) 1. In accordance with subsection (c)(2) of this section and subparagraph 2 of this subparagraph, the Public Service Commission shall set the surcharge for the following fiscal year at an amount that is no higher than necessary to generate sufficient revenues to fund the costs of the programs for the following fiscal year, as certified under paragraph (1) of this subsection.

2. In setting the surcharge under subparagraph 1 of this subparagraph, the Public Service Commission shall take into account whether the surcharge may be adjusted as a result of any uncommitted funds in the Universal Service Trust Fund at the end of the fiscal year that may be used to fund the costs of the programs for the following fiscal year.

(3) The Secretary shall, on 60 days' notice, direct the affected communications companies to add the surcharge determined by the Public Service Commission under paragraph (2) of this subsection to all current bills rendered for communications service in the State.

(e) (1) The affected communications companies shall act as collection agents for the Universal Service Trust Fund and shall remit all proceeds monthly to the

Comptroller for deposit to the Universal Service Trust Fund.

(2) The communications companies shall be entitled to credit against these proceeds in an amount equal to 1 1/2 percent of these proceeds to cover the expenses of billing, collecting, and remitting the surcharge and any additional charges.

(f) (1) The Secretary shall administer the Universal Service Trust Fund.

(2) The income derived from investment of money in the Universal Service Trust Fund shall accrue to the Universal Service Trust Fund.

(3) Any funds remaining at the end of a fiscal year in the Universal Service Trust Fund shall be carried forward within the Universal Service Trust Fund for the maintenance and operation of the programs specified under subsection (b) of this section in the following fiscal year.

(g) (1) The Legislative Auditor may conduct postaudits of a fiscal and compliance nature of the Universal Service Trust Fund and the expenditures made for purposes of [§ 3A-504(a) of this subtitle and §§ 3A-602(a) and 3A-702 of this title] **§ 7-804(A) OF THIS SUBTITLE, § 7-902(A) OF THIS TITLE, AND § 3A-702 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

(2) The cost of the fiscal portion of the postaudit examination shall be paid from the Universal Service Trust Fund as an administrative cost.

7-901.

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

(b) “Board” means the Governor’s Advisory Board for Telecommunications Relay established in Subtitle [5] 8 of this title.

(C) “DEPARTMENT” MEANS THE DEPARTMENT OF DISABILITIES.

[(c)] **(D)** “Program” means the program [developed and] administered by the Department in consultation with the Board [and the Department of Disabilities] to provide financial assistance for the purchase of specialized customer telephone equipment by eligible program participants.

[(d)] **(E)** “Program participant” means a person who:

(1) is a resident of the State;

(2) is certified by a licensed professional as having a disability which seriously limits or prohibits the use of the telephone or wireless network without

specialized customer telephone equipment;

(3) is certified by a licensed professional as being able to use specialized customer telephone equipment for which application is made;

(4) meets the financial eligibility requirements established by the Department [in consultation with the Department of Disabilities] as a recipient of:

(i) Transitional Emergency Medical and Housing Assistance (TEMHA);

(ii) Supplemental Security Income (SSI);

(iii) Social Security Disability Income (SSDI); or

(iv) Temporary Assistance for Needy Families (TANF); and

(5) at the time of application is not receiving similar services which are available and can be provided in a timely manner through another program.

[(e)] (F) “Qualified entity” means a nonprofit organization that:

(1) produces audio editions of daily newspapers, available for interstate distribution using high-speed computer and telecommunications technology; and

(2) provides a means of program administration and reader registration on the Internet.

[(f)] (G) “Specialized customer telephone equipment” or “equipment” means any communications device designed to assist program participants in using a telephone or wireless service provider’s network.

[(g)] (H) “System” means the method which the Department shall use to provide equipment to eligible program participants.

7-902.

(a) In accordance with the State budget and § [3A-506] **7-806** of this title, the Department, in consultation with the Board [and the Department of Disabilities], shall establish and administer a program:

(1) to provide specialized customer telephone equipment to eligible program participants; and

(2) to provide reimbursement of costs under § [3A-606] **7-906** of this subtitle.

(b) (1) In this subsection, “shopping facility” means an outdoor or indoor retail facility with a common pedestrian area housing more than five sales or rental establishments in which a majority of the tenants have a main entrance from the common pedestrian area.

(2) This subsection applies to a shopping facility that:

(i) provides a total number of four or more public pay telephones at the facility of which at least one is located in the common pedestrian area; and

(ii) is larger than 500,000 square feet.

(3) In accordance with the standards and regulations established by the Department, the owner, operator, manager, or other person having control of a shopping facility shall acquire and install at least one specialized communications device designed to enable customers with hearing or speech disabilities to access a telephone or wireless service providers network.

7–903.

(a) The Department, in consultation with the Board [and the Department of Disabilities], shall:

(1) provide a system for eligible program participants to obtain equipment, but no single eligible participant shall receive more than \$6,000;

(2) **PROVIDE A SYSTEM FOR ELIGIBLE PROGRAM PARTICIPANTS WHO CANNOT ACCESS TELECOMMUNICATIONS RELAY SERVICES IN A TRADITIONAL MANNER TO OBTAIN COMMUNICATION FACILITATORS OR RELATED SUPPORT SERVICES;**

(3) establish an information and referral service, including the toll-free numbers for the various access modes for the Maryland relay service and provide information about the availability of the equipment;

[(3)] (4) contract with private vendors or nonprofit organizations to provide the information and referral service and other auxiliary services;

[(4)] (5) as necessary, establish interagency agreements with other State agencies that provide technical assistance for disabled individuals to prevent duplicative programs; and

[(5)] (6) appoint appropriate staff to assist the Board in carrying out its activities under this subtitle.

- (b) The Board and the Department [of Disabilities] shall:
- (1) [assist the Department in the development of] **DEVELOP** regulations;
 - (2) develop and implement educational outreach programs; **AND**
 - (3) review and monitor the program[; and
 - (4) advise the Department on unusual hardship cases].

7-905.

The Department in consultation with the Board [and the Department of Disabilities] shall adopt regulations to carry out the purposes of this subtitle.

7-906.

(a) The Department in consultation with the Board [and the Department of Disabilities] shall enter into an agreement with the State Library Board, providing for an annual payment to be made to the State Library Agency in an amount equal to the cost incurred for the distribution of newspapers in a computerized audio format.

(b) Under the agreement, the State Library Agency shall provide eligible blind and disabled individuals with access to newspapers in a computerized audio format by a qualified entity.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2020.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 8, 2020.