

By Ms. Bump of Braintree, petition of Suzanne M. Bump, Paul Kollios, Lucile P. Hicks, Stephen J. Karol and Robert B. Ambler for legislation to establish a self-sufficiency trust fund to be administered for the Office of Handicapped Affairs. Human Services and Elderly Affairs.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety.

AN ACT TO ENHANCE THE AVAILABILITY OF HEALTH AND SOCIAL SERVICES FOR THE DISABLED.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 6A of the General Laws, as most recently amended by
2 Chapter 236 of the Acts of 1988, is hereby further amended by
3 inserting after Section 16 thereof the following new sections: —

4 Section 16B. As used in sections 16B through 16D, inclusive,
5 the following words and terms shall have the following
6 meanings: —

7 “Beneficiary”, a disabled person — named or unnamed — who,
8 pursuant to a trust agreement, is the intended recipient of health
9 and/or social services financed by trust funds.

10 “Disabled person”, any individual who, because of a chronic
11 mental, physical, or sensory impairment, is substantially
12 functionally limited with regard to one or more major life
13 activities, including self care; mobility; communication; learning;
14 self-direction, including, but not limited to money management;
15 and employment.

16 “Health and/or social services”, Services including, but not
17 limited to, habilitative, rehabilitative, therapeutic, residential,
18 home care, personal care, recreational, or case management
19 services, furnished by the Department of Mental Health,
20 Department of Mental Retardation, Massachusetts Rehabilita-

21 tion Commission, Massachusetts Commission for the Blind, and/
22 or Massachusetts Commission for the Deaf and Hard of Hearing,
23 or by any agency contracting with such department or
24 commission, or by any agency contracting directly with a
25 participating private trust.

26 “Participating private trust”, a private and/or charitable trust,
27 created by a not-for-profit corporation which is a 501(c)(3)
28 organization under the United States Internal Revenue Code, for
29 the purpose of financing care and support services including, but
30 not limited to, health and/or social services for one or more
31 disabled beneficiaries; provided that the manner in which funds
32 contained in any account held by such trust may be spent shall
33 be specified in a written trust agreement developed by the trustees
34 of such account, none of whom shall be a beneficiary of said trust.

35 “Trust agreement”, a written agreement developed by the
36 trustees of a participating private trust specifying the beneficiary
37 or beneficiaries of such trust, and any conditions or restrictions
38 on the future use of moneys contained in such trust, including any
39 limitations regarding the health and/or social services which may
40 be purchased on behalf of said beneficiary or beneficiaries.

41 “Trust Fund”, the Massachusetts Self Sufficiency Trust Fund.

42 Section 16C. There shall be established upon the books of the
43 Commonwealth a separate fund to be known as the Self
44 Sufficiency Trust Fund. Said Trust Fund shall consist of moneys
45 contributed by participating private trusts for the purpose of
46 purchasing health and/or social services on behalf of disabled
47 beneficiaries of such private trusts, and any interest or investment
48 earnings on such contributions; provided, however, that
49 contributions made on behalf of a named beneficiary shall be
50 credited separately to an account within the Trust Fund
51 maintained in the name of such beneficiary; provided further that
52 contributions made on behalf of unnamed disabled persons shall
53 be credited separately to an account, hereinafter known as the
54 Fund for the Disabled, maintained within the Trust Fund for the
55 purpose of supplementing appropriations from the General Fund
56 to pay for health and/or social services for low income disabled
57 persons; and provided further that deposits into the Fund for the
58 Disabled shall not be limited to contributions from participating
59 private trusts.

60 (2) The state treasurer, ex officio, shall be custodian of the
61 Trust Fund, and shall receive, deposit, and invest all moneys
62 transmitted to him under the provisions of paragraph (1), subject
63 to the provisions of paragraph (4), and shall credit interest and
64 earnings on the Trust Fund to the separate accounts named in
65 said Trust Fund on a pro rata basis.

66 (3) The state treasurer shall, subject to appropriation, and
67 subject to any conditions or restrictions set forth in trust
68 agreements accompanying Trust Fund contributions, make such
69 moneys available to the Executive Office of Elder Affairs and/
70 or one or more of the following departments within the Executive
71 Office of Human Services for the purpose of furnishing health
72 and/or social services to disabled beneficiaries, pursuant to the
73 terms of any such trust agreements: the Department of Mental
74 Health, the Department of Mental Retardation, the Massachu-
75 setts Rehabilitation Commission, the Massachusetts Commission
76 for the Blind, the Massachusetts Commission for the Deaf and
77 Hard of Hearing, the Department of Public Health.

78 (4) The treasurer shall not accept for deposit any contribution
79 from a participating private trust, if the commissioner of the
80 department or commission through which services funded by such
81 contribution would be provided does not agree to any conditions
82 or restrictions specified in the trust agreement governing the use
83 of such contribution.

84 Such commissioner shall, if he agrees to abide by the conditions
85 and restrictions on the future use of such moneys specified in such
86 trust agreement, authorize the state treasurer to accept
87 contributions from a participating private trust for deposit in the
88 Trust Fund, and shall subsequently accept such moneys from the
89 Trust Fund for the purpose of financing the provision of health
90 and/or social services pursuant to the trust agreement.

91 (5) In the event that such commissioner determines that
92 moneys already deposited in the Trust Fund cannot be used in
93 a manner consistent with the policies and procedures of such
94 department or commission, or upon request of the participating
95 private trust which contributed such moneys to the Trust Fund,
96 the remaining moneys in any account, including any interest or
97 earnings thereon, shall be promptly returned to that trust.

98 Section 16D. (1) The receipt by a disabled individual of health
99 and/or social services furnished pursuant to the provisions of
100 section 16C or pursuant to the terms of a trust agreement as
101 defined in section 16B, or the availability of funds not subject to
102 the control of said individual to pay for such health and/or social
103 services shall be disregarded in determining eligibility or
104 continuing eligibility for, or the amount of, public or medical
105 assistance furnished by any program administered by the
106 Commonwealth; provided, however, that for the purposes of this
107 paragraph, the term "health and/or social services" shall not be
108 deemed to include the provision of housing owned or subject to
109 the financial control of said individual.

110 (2) The receipt by a disabled individual of health and/or social
111 services furnished pursuant to the provisions of section 16C or
112 pursuant to the terms of a trust agreement as defined in section
113 16B, or the availability of funds not subject to the control of said
114 individual to pay for such health and/or social services shall not,
115 in any way, affect the eligibility of such individual for services,
116 either wholly or partially funded by the Commonwealth, which
117 said individual would otherwise be entitled to receive on account
118 of his disability. For the purposes of this paragraph, the phrase
119 "affect the eligibility of such individual for services" shall be
120 broadly interpreted, and shall include, but not be limited to,
121 influencing the priority attached to furnishing such state-funded
122 services to an individual; influencing the amount, duration, and/
123 or scope of such state-funded services; and/or influencing the
124 decision to furnish available state-funded services to such
125 individual instead of to another comparably impaired individual.