

HOUSE No. 2323

By Mr. Kollios of Millbury, petition of Paul Kollios for legislation to enhance the availability of health and social services for the disabled. Human Services and Elderly Affairs.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-One.

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 and 16C, the following
5 words and terms shall have the following meanings:

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

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

15 “Health and/or social services”, medical, habilitative,
16 rehabilitative, therapeutic, residential, home care, personal care,
17 recreational, or case management services furnished or purchased
18 by a state agency within the executive office of human services,
19 or by any entity contracting with such agency, or by any entity
20 contracting directly with a participating private trust on behalf
21 of a disabled person.

22 “Participating private trust”, a private and/or charitable trust,
23 created by a not-for-profit corporation which is a 501(c) (3)

24 organization under the United States Internal Revenue Code, for
25 the purpose of financing health and/or social services for one or
26 more disabled beneficiaries; provided that the manner in which
27 funds contained in any account held by such trust may be spent
28 shall be specified in a written trust agreement developed by the
29 trustees of such account, none of whom shall be a beneficiary of
30 said trust.

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

37 Section 16C. (1) The receipt by a disabled individual of health
38 and/or social services furnished pursuant to the provisions of a
39 trust agreement as defined in section 16B, or the availability of
40 funds not subject to the control of said individual to pay for such
41 health and/or social services shall be disregarded in determining
42 eligibility or continuing eligibility for, or the amount of, public
43 or medical assistance furnished by any program administered by
44 the Commonwealth; provided, however, that for the purposes of
45 this paragraph, the term “health and/or social services” shall not
46 be deemed to include the provision of housing owned or subject
47 to the financial control of said individual.

48 (2) The receipt by a disabled individual of health and/or social
49 services furnished pursuant to the terms of a trust agreement as
50 defined in section 16B, or the availability of funds not subject to
51 the control of said individual to pay for such health and/or social
52 services shall not, in any way, affect the eligibility of such
53 individual for services, either wholly or partially funded by the
54 Commonwealth, which said individual would otherwise be
55 entitled to receive on account of his disability. For the purposes
56 of this paragraph, the phrase “affect the eligibility of such
57 individual for services” shall be broadly interpreted, and shall
58 include, but not be limited to, influencing the priority attached
59 to furnishing such state-funded services to an individual;
60 influencing the amount, duration, and/or scope of such state-
61 funded services; and/or influencing the decision to furnish
62 available state-funded services to such individual instead of to
63 another comparably impaired individual.