

2004 SESSION SUMMARY
Anne L. Henry
Minnesota Disability Law Center
612/746-3754; 1-800-292-4150, x 254; ahenry@midmnlegal.org

2004 SESSION DISABILITY-RELATED PROVISIONS

1. Public Guardianship Terminology Changes

Chapter 146, Article 2, Section 14
Amends Minnesota Statutes Chapter 252A.
Effective August 1, 2004.

The public guardianship statute for persons with mental retardation was changed to conform with changes adopted in 2003 to the private guardianship statute. The term “guardian” now refers to full or limited guardianship of the **person** and the term “conservator” refers only to **estates**. There is no longer a public conservatorship of the person. Various reference changes were made to conform to the 2003 Private Guardianship Act.

2. Parent Fees For MA Services For Children With Significant Disabilities

Chapter 288, Article 3, Section 13.
Amends Minn. Stat. § 252.27.
Various effective dates.

No overall reduction in parent fees was adopted. Three non-budget items were adopted: (1) allowing dependents of any age to count in family size, (2) clarifying that the fee is for the services provided and (3) excluding capital gains used for a home from income.

3. Annual Home And Community-Based Services (HCBS) Waiver Report Expanded

Chapter 288, Article 3, Section 25.
Amends Minn. Stat. § 256B.49.
Effective August 1, 2004.

The content of the annual HCBS waiver report is expanded to include information on: the county of residence/financial responsibility, age and major diagnoses for persons eligible for the CADI (nursing facility level of care) and TBI (traumatic brain injury) waiver programs for those: 1) receiving services; 2) screened and waiting for waiver services; and 3) those residing in nursing facilities who are under age 65.

4. Stakeholder Consultation For Evaluation Of Consumer-Directed Services In MR/RC Waiver.

Chapter 288, Article 3, Section 32.
Effective August 1, 2004.

DHS is required to confer with interested parties during an independent evaluation of the consumer-directed community supports option, including a review of the funding reductions. A preliminary report to the Legislature is due February 15, 2005.

5. Disease Management Program Added To Medical Assistance.

Chapter 288.

Adds new Minn. Stat. § 256B.075.

Effective August 1, 2004.

DHS is to develop and implement a disease management program to improve care and reduce costs in both fee for service and prepaid Medical Assistance. A report is due to the Legislature with recommendations on January 15, 2005.

6. Release Of Mental Health Data To Law Enforcement.

Chapter 290, Section 9.

Amends Minn. Stat. § 13.46, subd. 7.

Effective August 1, 2004.

A community mental health center, a county mental health division or a mental health provider must disclose mental health data to a law enforcement agency if the client or patient is involved in an emergency and the information is necessary to protect the client, patient or another person. If a patient provides consent, mental health providers must release mental health data to Hennepin County Criminal Mental Health Court personnel in advance of receiving a copy of the consent. The disclosure is limited to information necessary to assess eligibility for participation in the Criminal Mental Health Court.

7. Service Animal Injury A Misdemeanor.

Chapter 159.

Adds Minn. Stat. § 609.226, subd. 4.

Effective August 1, 2004.

A dog owner who negligently or intentionally allows a dog to run uncontrolled which results in injuries to a service animal is guilty of a misdemeanor and can be required to pay restitution, costs and expenses.

8. Extended Employment Pilot Project.

Chapter 188, Sec. 1.

Effective May 13, 2004.

The Department of Employment and Economic Development is to conduct a one-year extended employment pilot project on the “industrial model” in Thief River Falls for persons who are severely disabled. An evaluation on the pilot will be completed by October 5, 2005.

9. Centers For Independent Living (CIL).

Chapter 188, Sec. 2.

Effective July 1, 2004.

The Department of Employment and Economic Development may transfer the CIL appropriation to the Vocational Rehabilitation program and acquire federal matching funds. The resulting matching funds will be equally divided between Vocational Rehabilitation and the Centers for Independent Living. The maximum amount of additional federal VR funds that may be shared with the CILs is \$2,438,000.

10. Day Training & Habilitation (DT&H).

Chapter 288, Article 1, Sec. 32-37, 73.

Amends and adds to Minnesota Statutes Chapter 245B.

Effective May 30, 2004.

Licensed capacity will be based on the total number of persons receiving facility-based day training and habilitation services at the site at any one time. Licensed capacity does not apply to persons receiving community-based services or the temporary use of the facility-based service site for the limited purpose of providing transportation to persons receiving community-based services from the license holder. The license holder must comply at all times with all applicable fire and safety codes. Minimum required staffing ratios are moved from rules to Minn. Stat. § 245B. Clarifies requirements governing consumer health and safety plans when reporting and responding to incidents. Adds language allowing for anticipated growth or decline in the county redetermination of need, at least every four years, for day training and habilitation services.

11. Fetal Alcohol Spectrum Disorder Funding Transfer.

Chapter 288, Article 6, Section 27.

Effective July 1, 2004.

Funding for Fetal Alcohol grants and administration is transferred from the Department of Health to the statewide organization focused solely on prevention and intervention. Annual reports must be made to the Commissioner of Health on the services and programs funded.

12. 2003 Changes Effective July 1, 2004.

MA-EPD: Two changes in Medical Assistance for Employed Persons with Disabilities:

(1) a new requirement that monthly earnings must be over \$65 per month; and (2) taxes must be withheld from wages or for the self-employed, estimated taxes must be paid on a quarterly basis.