

Compendium: Bill 77, Services for Persons with Developmental Disabilities Act

This is a short but thorough account of the proposed *Services for Persons with Developmental Disabilities Act, 2008*.

Why do we need a new Act?

The government wants to improve services and supports for people who have developmental disabilities and their families. They want services and supports for people who have developmental disabilities to:

- be fair;
- be flexible; and
- keep working for a long time.

To make these changes happen, the government created the proposed *Services for Persons with Developmental Disabilities Act, 2008*. If passed, this new Act would replace the one that is now in place, called the *Developmental Services Act*. The *Developmental Services Act* was passed in 1974. It is 35-years-old and is outdated. The proposed new Act recognizes that people want more choice and control over their lives and that they can live independently with the right supports. This Bill has not yet passed. It is being reviewed by the government and the public. That is why you will read about “proposed legislation”. This guide tells you about what’s in the Bill right now. Some of these things could change, because the Bill goes through readings and debate in Parliament.

The proposed Act:

- defines developmental disability;
- defines who gets support and why;
- gives people with a developmental disability and their families more ways to get services;
- finds ways to make people and agencies account for the money they get. That means making sure that:
 - those who get money to pay for the services they need have a way to show how they spent that money;
 - service agencies that get money from the government have standards to follow. They also have to account for that money; and
- improves the government’s power to check service agencies to make sure they follow the proposed Act.

The Bill is divided into 11 sections:

1. Interpretation – What do these words mean?
2. Application – Who can get help?
3. Administration – Who makes sure these changes happen?
4. Funding of services – Can I get help to pay for services?
5. Application centres: access to services and funding – How do I get services?
6. Rules governing service agencies – What are the rules that agencies follow?
7. Enforcement – How do you know that agencies are following the rules?
8. General – What information do I need to give?
9. Transitional matters – What happens if I’m already getting help?
10. Consequential amendments and repeals – What has to change if this Bill passes?
11. Commencement – When do these changes start?

1. Interpretation

There are some words in the Bill that need to be defined. These are:

- developmental disability;
- services; and
- residential support services.

Developmental disability

The Bill states that a person with a developmental disability is someone who has “prescribed significant limitations in cognitive functioning and adaptive functioning”.

This means someone with a developmental disability needs help to do certain things. They are people who learn, understand or remember at a slower pace than others and this affects areas of their life such as personal care, language skills, learning and the ability to live without supports.

This person must also have had these limits before they turned 18.

Services

The Bill talks about services and supports for people with developmental disabilities. These include:

- housing support;

- help with daily activities;
- help taking part in the community;
- relief for caregivers; and
- expert services.

Housing support (called residential support services)

The proposed Act talks about residential supports for people who have different types of housing needs. These can include:

- housing for people who need complete support;
- group living with some support;
- host family homes; and
- homes for people who live on their own with some help.

2. Application

This proposed legislation applies to people with developmental disabilities who live in Ontario and are 18 or older.

3. Administration

The Minister of Community and Social Services is in charge of this government area. This Minister could ask one or more people to carry out this legislation. This person is called a Director.

Policy directives

Under the proposed legislation Directors could issue policy directives. These are rules that help service agencies and application centres do their job well. All service agencies and application centres would have to follow these rules.

The Director could send out directives that show agencies and application centres how to work. These are called performance standards. They could also check how well an agency or application centre is doing its job.

Directors could also send information that tells application centres how to:

- decide who gets funding and how that money gets used;
- decide what services, money and other resources to offer;
- create and manage waiting lists for those who need support; and
- decide who needs help most.

These directives would be on the Ministry website.

Application centres

An application centre is the place where people with developmental disabilities would go to find services and supports. In the Bill the Minister could decide which organizations can become application centres. Application centres would have to follow quality assurance rules and reporting requirements. The Minister could also:

- take away the organization's right to be an application centre; and
- agree to pay for some of the costs that come with doing this job.

4. Funding of services

The Minister could pay for services for those who have a developmental disability. They could do this either by:

1. setting up funding agreements or contracts with agencies that support people with a developmental disability; or
2. giving money to application centres. The application centres then provide money directly to people who have a developmental disability or their advocates.

Funding agreements with service agencies

Agencies offer specific services and supports to people with a developmental disability. The government decides which services and supports need to be provided.

If the agency does not follow the rules set out by the proposed Act or the Minister, then the Minister could stop the funding.

Direct funding agreements

A direct funding agreement means that money from the government is going directly to the person with a developmental disability or to someone acting for them.

People do not always have someone to act for them. In some cases, you might decide that the money goes to another person. This person is called a service coordinator. This person spends the money on supports that help the person with the developmental disability.

Before you can get any money, you would have to meet all of the terms set out by the application centre.

Use of funds

A direct funding agreement includes details about the kind of services and supports you can buy.

Once you have the money, you have to account for it. That means you have to give the application centre receipts. The receipts show how and where you used the money.

The application centre checks that the money it gives out is used the way it should be. If the money is not used properly, the application centre could end the agreement and stop the funding.

5. Application centres: access to services and funding

Application centres would be located throughout Ontario. These centres would let people who have a developmental disability:

- apply for funding to pay for the services they need; and
- find services.

The application centres would have a set of rules they use to decide if you can get services and supports or funding.

You cannot go to any application centre. You have to use the one in the area where you live.

Eligibility

To get funding or services and supports, people with a developmental disability (or their advocates) would fill out an application. The application centre would decide if the person meets the conditions to get supports. The conditions are those we defined for having a developmental disability, in section 1.

Once the application centre has decided, it has to tell you in writing whether or not you meet the conditions for services and supports and why.

If you do not meet the conditions, you can ask to have the decision reviewed.

Assessment of service needs

Once you meet the conditions, the application centre would work with you to decide what supports you need.

The application centre would create a profile for you. This tells you what services and supports you could get. It is based on your needs. It also depends on the services and supports that are available.

Prioritization

Under the proposed Act application centres have to decide who gets help first. Application centres may create waiting lists. Application centres must manage any waiting lists based on policy directives sent by the Director.

When a service (or funding) is ready for you to use, the application centre will let you know.

6. Rules governing service agencies

The government would set up rules for service agencies to follow. These could include:

- rules about how it runs (for example, who makes up the board of directors, the skills people need to work there);
- ways of checking that it is doing a good job;
- sending reports to the Minister;
- making sure that the agency follows policy directives; and
- making sure that they offer the services and supports they said they would when they got funding.

7. Enforcement

Enforcement means making people, agencies and application centres follow the rules.

Inspections

Directors could ask people to inspect service agencies and application centres. They want to know that the organization is following the rules the government set out. These people are called inspectors.

An inspector looks at the building and the equipment to make sure it is working well. The inspector could also:

- go into an agency or application centre when it's open. They do not have to let anyone know they are coming;
- ask if the staff have the skills they need;
- talk to anyone who is at the building;
- find out what services they offer; and
- ask for records or other documents that they need.

There are some limits on which buildings the inspector can go into. These are:

- housing that agencies own or operate for group living or for people who need complete support; and
- other homes set out in a regulation.

Compliance orders

Compliance orders are documents that Directors would write when agencies or application centres do not follow the proposed Act, other rules or policy directives. The compliance order would tell the agency or application centre what it needs to do. And it gives them a time in which to do this.

Before the Director could send an order that Director would have to first send a notice telling the agency:

- that an order is being created;
- what rule it is not following; and
- how much time they have to fix this issue.

The agency would then have 14 days to explain to the Director why they have not followed the rules. Based on that information, the Director would decide whether or not to send a compliance order.

If the agency or application centre does not fix the problem, the Minister could stop its funding. The Minister could also decide that this organization cannot be an application centre any more.

Immediate take-overs

Under the proposed Act there are times when the Minister could ask someone else to manage the service agency or application centre. These would be times when an agency or application centre:

- has used the money the government gave it wrongly; or
- if a service agency acts in a way that the Minister feels could harm someone with a developmental disability.

When this happens, the agency could ask for a review of the decision. The review would happen soon after the manager is chosen.

When a service agency has been taken-over, the appointed manager would have the power to run the agency or application centre for up to 2 years whether or not the agency agrees. Sometimes that time can be extended beyond the 2 years.

The manager is not to blame for anything the agency or application centre did wrong before the manager was there.

8. General

This section explains what information the government may collect and use from you and why.

Personal information

Under the proposed Act the Minister could collect personal information from those who are:

- applying for funding; and
- getting services and supports or funding based on this proposed Act.

The Minister could use this information to:

- make sure everyone obeys the proposed Act, regulations, and policy directives;
- check and update policy directives;
- see how well service agencies and application centres are performing;
- plan how to meet more service needs; and
- make sure these services and supports keep people who have a developmental disability safe.

The Minister would not collect personal information unless it is necessary to do so.

The Minister would not collect more facts than they need.

Offences

It is an offence for a person to:

- prevent an inspector from doing their job; or
- lie to the inspector.

It is an offence for a service agency or application centre to not follow quality assurance and reporting requirements.

If the person, agency or application centre is found guilty, they might have to pay a fine up to \$5,000.

Regulations made by the Minister

The Minister could make rules about how agencies or application centres:

- decide who can get supports;
- account for what they do;
- report on their work; and
- keep records.

Regulations made by Cabinet

Cabinet (the government) would make rules about:

- any topic in this proposed Act or about the regulations (rules) that will outline the details of the proposed Act;
- definitions of terms;
- what a Director does;
- the organizations that can become application centres and what they do;
- how funding works for agencies and for people who get money directly;
- applications for services and supports or funding (for example, who is eligible);
- how much power a manager has when an agency is taken over;
- reviews of a take-over decision;
- how service agencies operate and provide service and supports;
- residential support services, intensive support residences, and supported group living residences;
- staff and volunteer training needs; and
- how people can make a complaint or raise issues against application centres and service agencies.

Municipal power

Municipalities could work with an organization that wants to run a home for people with developmental disabilities. They could set up a contract that deals with the building, running or repairs on that home.

9. Transitional matters

People who already receive supports would not have to apply again. The same is true for anyone who may not be receiving supports now but has been told they are eligible to get services and supports from an agency.

There are 3 places that would run under their existing rules until they close. They are:

1. Rideau Regional Centre
2. Huronia Regional Centre
3. Southwestern Regional Centre

Contracts in place between the Ministry and service agencies before the proposed Services for Persons with Developmental Disabilities Act comes into effect would stay in place until the end of the fiscal year when the *Developmental Services Act* is repealed.

10. Consequential amendments and repeals

The *Developmental Services Act* would be repealed. That means it would no longer be in effect.

The proposed Act would include any changes to other Acts that need to be made because they refer to the *Developmental Services Act*.

11. Commencement

The proposed Act would take effect when it is proclaimed.