

ANNUAL REPORT 2021



CARL E. HEASTIE, SPEAKER
THOMAS J. ABINANTI, CHAIR

NEW YORK STATE ASSEMBLY
COMMITTEE ON PEOPLE WITH DISABILITIES



THOMAS J. ABINANTI
Assembly Member 92nd District

THE ASSEMBLY
STATE OF NEW YORK
ALBANY

CHAIR
Committee on People with Disabilities

COMMITTEES
Health
Codes
Judiciary
Environmental Conservation

December 15, 2021

Honorable Carl E. Heastie
Speaker of the Assembly
Legislative Office Building, Room 932
Albany, New York 12248

Dear Mr. Speaker:

I am pleased to submit the 2021 Annual Report for the Assembly Committee on People with Disabilities. I commend you for creating this new and needed standing committee. I appreciate your having appointed me its first chair. I also thank the members of the committee who are highly motivated to improve the lives of those with disabilities.

As a new committee, our first task was outreach to those with intellectual and developmental disabilities, as well as physical disabilities. We endeavored to make them aware of the committee. We also started and continue to assess their needs and the role that state government has played in assisting them. We are still learning about their limited access to needed services, affordable housing, suitable jobs, appropriate healthcare and about their other challenges to a quality life.

The Office for People with Developmental Disabilities (OPWDD) and other state agencies designed to serve the disability community have suffered from significant underfunding and inadequate staffing for last decade. There are significant gaps in available state services. There needs to be a re-assessment of how New York serves people with disabilities.

Further, as a group, people with disabilities appear to have been particularly hard hit by the COVID-19 pandemic. While services were inadequate before the pandemic, now many in the disability community are struggling without the care and services they need to live as independently as possible in our communities.

The Committee will continue to engage with people with disabilities, to assess their needs, to explore better ways to assist them and to ensure that people living with a disability are prioritized in the upcoming budget and legislative session. Programs and services that are effective must be expanded not cut; those that are not working need to be replaced by effective programs and

services. We will strongly advocate for sufficient resources for OPWDD and other agencies that provide services for people with disabilities.

Once again, thank you for your leadership and your support of the Assembly Committee on People with Disabilities. I look forward to working with you in the 2022 Legislative Session to improve the lives of those with disabilities.

Sincerely,

A handwritten signature in black ink, reading "Thomas J. Abinanti". The signature is written in a cursive style with a large, sweeping initial "T" and a long, horizontal flourish at the end.

Thomas J. Abinanti
Chair
Assembly Standing Committee on People with Disabilities

**2021 ANNUAL REPORT
OF THE
NEW YORK STATE ASSEMBLY
STANDING COMMITTEE ON PEOPLE WITH DISABILITIES**

**Thomas J. Abinanti
Chair**

Committee Members

Majority

Harvey Epstein
Karen McMahan
Khaleel Anderson
Chris Burdick
Stefani Zinerman
Taylor Darling

Minority

Melissa Miller
Joe Angelino

Committee Staff

Aileen Burke, Committee Clerk

Program and Counsel Staff

Jennifer Sacco, Assistant Secretary for Program and Policy
Kim Hill, Principal Analyst
Janice Nieves, Associate Counsel
Sarah Conklin, Secretary

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INTRODUCTION

The Committee on People with Disabilities focuses on ensuring that individuals with disabilities, which may include developmental as well as physical disabilities, are provided appropriate and necessary services to live a fulfilling life.

The Committee has legislative oversight of programs administered and licensed by the State Office for People with Developmental Disabilities. The Committee also has statutory oversight over the Developmental Disabilities Planning Council (DDPC).

The New York State Office for People with Developmental Disabilities is expected to serve well over 100,000 individuals with intellectual and/or developmental disabilities and their families in 2022. The Committee also works closely with the New York State Assembly Standing Committee on Mental Health, the Assembly Standing Committee on Health and the Assembly Subcommittee on Employment Opportunities for People with Disabilities.

During the 2021 session, the Committee reviewed a number of bills and addressed many issues aimed at providing quality services, enhancing protections, and increasing access to services for individuals with various disabilities.

This report describes the Committee's major legislative activities during the 2021 session.

STATE BUDGET HIGHLIGHTS

The State Fiscal Year (SFY) 2021-22 Enacted Budget included critical resources for individuals with developmental disabilities and their families. The Enacted Budget provided an increase of **\$12 million** for the Office of People with Developmental Disabilities (OPWDD) over the Enacted Budget for SFY 2020-21. In addition, the Legislature provided an increase of **\$72.4 million** over the Executive proposal. For SFY 2021-22, total OPWDD funding was **\$5 billion**.

Within OPWDD, the following proposals and appropriations were enacted in the 2021-22 Budget:

- \$20.8 million for Care Coordination Organizations rates;
- \$12 million for local assistance programs for non-Medicaid payments;
- \$10.5 million in funding for the fee-for-service Medicaid rate;
- \$1 million for the Institute for Basic Research; and
- \$1.2 million in funding for various Legislative initiatives for Intellectual and Developmental Disabilities.

Cost of Living Adjustment (COLA)

The Legislature provided a one percent cost of living adjustment (COLA) for human services providers, and authorized the COLA starting April 1, 2021, through March 31, 2022. The total SFY 2022 cost was **\$46.2 million** for all Mental Health agencies, with **\$26.9 million** for OPWDD providers.

Services for Individuals with Developmental Disabilities

The Enacted Budget provided an increase of **\$53.4 million** to support the development of new community-based service opportunities, including an expansion of certified housing supports, community habilitation, and rental subsidies to individuals living in an apartment, as well as the expansion of day programs, employment options and respite services.

COVID-19 FEDERAL FUNDING

As a result of the continued economic impact of COVID-19 the Federal government enacted the **American Rescue Plan Act of 2021** (ARPA). This legislation provided a 10 percent increase in Federal Medical Assistance Percentage (FMAP) for certain Medicaid expenditures for home and community-based services (HCBS) from April 1, 2021 through March 30, 2022. Funding is required to be used to expand and enhance investments in Medicaid-covered HCBS, address COVID related needs and increase HCBS capacity. New York State will have to utilize these funds prior to March 21, 2024.

The 2021-22 enacted budget included language that would authorize under DOH a sub-allocation or transfer of up to **\$740 million** to OPWDD to enhance HCBS services consistent with ARPA.

The Department of Health (DOH) collaborated with OPWDD and other state agencies that oversee and regulate HCBS programs and services to establish a spending plan. This spending plan would support funding under three categories:

- Supporting and strengthening the direct care workforce;
- Building HCBS capacity through innovations and systems transformation; and
- Investing in digital infrastructure.

SIGNIFICANT LEGISLATION

The Committee on People with Disabilities is committed to supporting and advancing legislation that will improve the lives of people with intellectual and developmental disabilities and allow them to live fuller lives receiving the care and services they need. This year, the Committee on People with Disabilities reported out and the Assembly passed the following significant legislative measures:

Essential Support Persons in Hospitals

A.4685-A (Pheffer Amato)/S.1035-A (Addabbo)
Chapter 689

The law prohibits hospitals from disallowing individuals with disabilities from having an essential support person accompany the patient for the duration of their hospitalization. The law defines a disability as any condition or disorder which prevents or makes it difficult for an individual to communicate a medical condition or certain specific medical or everyday need.

OPWDD Demonstration Programs

A.5364 (Gunther)/S.4998 (Mannion)
Chapter 670

The law provides statutory authority for OPWDD care demonstration programs to operate to ensure community-based services are able to offer to those with a developmental disability through March 31, 2024.

Developmental Disabilities Advisory Council (DDAC)

A.7358-A (Abinanti)/S.6293 (Mannion)
Chapter 683

Currently the Developmental Disabilities Advisory Council is composed of the OPWDD Commissioner, the Chairman of the conference of local mental hygiene directors, and 33 members appointed by the Governor. This law amends the composition of the council, requiring the appointments to be split between the Governor and the Legislature, beginning December 31, 2021.

Evaluation of State's Response to COVID-19

A.7381-A (Abinanti)/S.6294-A (Mannion)
Chapter 711

This law requires the Developmental Disabilities Advisory Council (DDAC) to evaluate and produce a report on the state's response to the COVID-19 state disaster emergency as it relates to individuals with intellectual or developmental disabilities.

OPWDD 5.07 Plan Demographic Data

A.7690 (Abinanti)/S.6277 (Mannion)

Chapter 412

This law requires certain demographic data to be included in OPWDD’s 5.07 statewide comprehensive plan for persons with developmental disabilities to the extent practicable.

Anti-Stigma Public Awareness Campaign

A.7356-A (Woerner)/S.6300-A (Mannion)

Passed Assembly

This bill would establish a public awareness campaign to combat the stigma and stereotyping of individuals with intellectual and developmental disabilities and to educate the general public. It also requires OPWDD to consult with stakeholders and consumer advocates to ensure each campaign is culturally competent and linguistically appropriate.

HEARINGS AND ROUNTABLES

A. Employment Opportunities for People with Disabilities

On October 20, 2021, the Assembly Standing Committees on People with Disabilities and Labor and the Subcommittee on Employment Opportunities for People with Disabilities convened a public hearing on employment opportunities for people with disabilities. The purpose of this hearing was to examine the availability of employment opportunities for people with disabilities, with a specific focus on the availability of services to assist individuals in accessing employment.

Various stakeholders testified at the hearing, including the New York State Office for People with Developmental Disabilities, the New York State Department of Labor and the Office of Adult and Career and Continuing Education Services within the New York State Education Department. The agency representatives detailed the programs and services their respective organizations regularly provide to people with disabilities in an effort for them to seek employment and provided information regarding what they are currently working on to improve the employment rate of people with disabilities across the state. They also outlined some of the roadblocks and barriers that they have been experiencing.

Additionally, well over 70 advocates, service providers, people with disabilities and/or their family members also provided valuable testimony at the hearing or through written submissions. Many of them described a dire situation regarding employment opportunities and services for people with disabilities, citing the 65 percent unemployment rate, unsuccessful attempts to get services through any state agency, COVID-19 shutdowns, lack of employer incentives to hire people with disabilities, anti-disability stigma and more.

There were a handful of witnesses who testified about their professional commitment to appropriately matching employers and people with disabilities that have resulted in successful, long-term employment opportunities.

Additionally, a substantial difference of opinion regarding the value of sheltered workshops and subminimum wage for people with disabilities was a reoccurring theme throughout the day. The witnesses spoke about both the pros and cons of this issue without a real proposal for common ground amongst all members of New York's disability community.

The chair of the committee and committee members are continuing to review and discuss the evidence presented and to explore various alternatives, including appropriate legislation, to assist people with disabilities obtain and retain suitable employment.

APPENDIX A

2021 SUMMARY SHEET

SUMMARY OF ACTION ON ALL BILLS
REFERRED TO THE COMMITTEE ON

People with Disabilities

TOTAL NUMBER OF COMMITTEE MEETINGS HELD 2

<u>ASSEMBLY</u>	<u>SENATE</u>	<u>TOTAL</u>
<u>BILLS</u>	<u>BILLS</u>	<u>BILLS</u>

BILLS REPORTED FAVORABLE TO:

Codes	2	0	2
Judiciary	0	0	0
Ways and Means	6	0	6
Rules	0	0	0
Floor	2	0	2
TOTAL	10	0	10

COMMITTEE ACTION

Held For Consideration	0	0	0
Defeated	0	0	0
Enacting Clause Stricken	0	0	0
REMAINING IN COMMITTEE	7	1	8
BILLS REFERENCE CHANGED TO:			
TOTAL	0	0	0

APPENDIX B

FINAL ACTION ON BILLS REPORTED BY THE STANDING COMMITTEE ON PEOPLE WITH DISABILITIES IN 2021

ASSEMBLY BILL # SPONSOR	SENATE BILL # SPONSOR	FINAL ACTION	DESCRIPTION
A.4685-A Pheffer- Amato	S.1035-A Addabbo	Chapter 689	The law prohibits hospitals from disallowing individuals with disabilities from having an essential support person accompany the patient for the duration of their hospitalization. The law defines a disability as any condition or disorder which prevents or makes it difficult for an individual to communicate a medical condition or certain specific medical or everyday need.
A.5364 Gunther	S.4998 Mannion	Chapter 670	The law provides statutory authority for OPWDD care demonstration programs to operate to ensure community-based services are able to offer to those with a developmental disability through March 31, 2024.
A.6069-A Abinanti	S.6695-A Mannion	Amended and recommitted to Assembly Committee on Ways and Means	This bill would create a bill of rights for family and guardians of people with developmental disabilities that reside in residences certified or approved by the Office for People with Developmental Disabilities.
A.7356-A Woerner	S.6300-A Mannion	Passed Assembly	This bill would establish a public awareness campaign to combat the stigma and stereotyping of individuals with intellectual and developmental disabilities and to educate the general public. It also requires OPWDD to consult with stakeholders and consumer advocates to ensure each campaign is culturally competent and linguistically appropriate.
A.7357-A Abinanti	S.6274-B Mannion	Reported to Assembly Committee on Ways and Means	This bill would establish a pilot program to create an assistance hotline for individuals with intellectual and developmental disabilities and/or complex behavioral needs so they have a place to call to seek information about services offered by OPWDD.
A.7358-A Abinanti	S.6293-A Mannion	Chapter 683	Currently the Developmental Disabilities Advisory Council is composed of the OPWDD Commissioner, the Chairman of the conference of local mental hygiene directors, and 33

			members appointed by the Governor. This law amends the composition of the council, requiring the appointments to be split between the Governor and the Legislature, beginning December 31, 2021.
A.7359 Abinanti	S.6295 Mannion	Reported to Assembly Committee on Ways and Means	This bill would require OPWDD to purchase and provide essential personal protection equipment to all direct support professionals, care recipients and group home providers in the event of a declaration of a state emergency that relates to public health. Additionally, OPWDD would be required to replace and replenish PPE as needed.
A.7381-A Abinanti	S.6294-A Mannion	Chapter 711	This law requires the Developmental Disabilities Advisory Council (DDAC) to evaluate and produce a report on the state's response to the COVID-19 state disaster emergency as it relates to individuals with intellectual or developmental disabilities.
A.7690 Abinanti	S.6277 Mannion	Chapter 412	This law requires certain demographic data to be included in OPWDD's 5.07 statewide comprehensive plan for persons with developmental disabilities to the extent practicable.
A.7691 Abinanti		Referred to Assembly Codes Committee	This bill would require the installation of surveillance cameras with sound capability in public common areas of certain residential facilities, community residences, and residential and day schools and programs.

APPENDIX C

LAWS ENACTED IN 2021

ASSEMBLY BILL # SPONSOR	SENATE BILL # SPONSOR	FINAL ACTION	DESCRIPTION
A.4685-A Pheffer- Amato	S.1035-A Addabbo	Chapter 689	The law prohibits hospitals from disallowing individuals with disabilities from having an essential support person accompany the patient for the duration of their hospitalization. The law defines a disability as any condition or disorder which prevents or makes it difficult for an individual to communicate a medical condition or certain specific medical or everyday need.
A.5364 Gunther	S.4998 Mannion	Chapter 670	The law provides statutory authority for OPWDD care demonstration programs to operate to ensure community-based services are able to offer to those with a developmental disability through March 31, 2024.
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A.7381-A Abinanti	S.6294-A Mannion	Chapter 711	This law requires the Developmental Disabilities Advisory Council (DDAC) to evaluate and produce a report on the state's response to the COVID-19 state disaster emergency as it relates to individuals with intellectual or developmental disabilities.
A.7690 Abinanti	S.6277 Mannion	Chapter 412	This law requires certain demographic data to be included in OPWDD's 5.07 statewide comprehensive plan for persons with developmental disabilities to the extent practicable.