

# **WEST VIRGINIA LEGISLATURE**

## **2021 REGULAR SESSION**

**Introduced**

### **Senate Bill 16**

BY SENATORS ROMANO, CAPUTO, WELD, BALDWIN,  
JEFFRIES, LINDSAY, TAKUBO, MARONEY, AND HAMILTON

[Introduced February 10, 2021; referred  
to the Committee on Military; and then to the Committee on  
Finance]



1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
2 designated §9-11-1 and §9-11-2, all relating to providing continued eligibility for  
3 developmental disability services to dependents of military service members; defining  
4 terms; establishing dependents retention of rights for developmental disability services  
5 provided conditions are met; providing dependents be placed on waiting list for services;  
6 establishing a process to reestablish services for dependent upon return to state;  
7 prohibiting payment for services rendered outside state; and providing for rulemaking.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 11. CONTINUED ELIGIBILITY FOR DEVELOPMENTAL DISABILITY  
SERVICES FOR DEPENDENTS OF MILITARY SERVICE MEMBERS.**

**§9-11-1. Definitions.**

1 As used in this article:

2 “Dependent” means a spouse, birth child, adopted child, or step-child of a military service  
3 member.

4 “Legal resident” means a person who maintains West Virginia as his or her principal  
5 establishment, home of record, or permanent home and to where, whenever absent due to military  
6 obligation, he or she intends to return.

7 “Military service” means service in the armed forces or armed forces reserves of the United  
8 States, or membership in the West Virginia National Guard.

9 “Military service member” means a person who is currently in military service or who has  
10 separated from military service in the previous 18 months through either retirement or military  
11 separation.

**§9-11-2. Dependent retention of eligibility for services; waiting list; continued eligibility  
requirements; prohibiting payment for services received outside state; waiver  
request; rulemaking.**

1           (a) A dependent, who is a legal resident of the state, having previously been determined  
2 to be eligible for developmental disability services provided by the Department of Health and  
3 Human Resources (DHHR), including waiver services provided under the Home and Community  
4 Based Services programs authorized under Section 1915(c) of the Social Security Act, shall retain  
5 eligibility for those developmental disability services as long as he or she remains a legal resident  
6 of the state, regardless of having left the state due to the military service member's military  
7 assignment outside the state, and as long as he or she is otherwise eligible for those services.

8           (b) The DHHR shall permit a dependent who resides out-of-state to be placed on the  
9 waiting list for developmental disability services if the dependent left the state due to the military  
10 service member's military assignment outside the state, is otherwise eligible for those services,  
11 and furnishes the following:

12           (1) A copy of the military service member's DD-214 or other equivalent discharge  
13 paperwork; and

14           (2) Proof of the military service member's legal residence in the state, as prescribed by  
15 the DHHR.

16           (c) For dependents who received developmental disability services and who left the state  
17 due to the military service member's military assignment outside the state, upon the dependent's  
18 return to the state, and when a request for services is made, the DHHR shall:

19           (1) Determine the dependent's eligibility for services, which may include a request for  
20 waiver services provided under the Home and Community Based Services programs authorized  
21 under Section 1915(c) of the Social Security Act;

22           (2) Provide to the dependent notification of the determination of eligibility for services,  
23 which includes notification of a denial of services if applicable;

24           (3) Provide the dependent an opportunity to contest the DHHR's determination through  
25 the appeals processes established by the DHHR; and

26           (4) Resume services if the individual remains eligible.

27           (d) As a condition of continued eligibility for services under subsection (a) of this section,  
28 a dependent shall inform the DHHR of his or her current address and provide updates as  
29 requested by the DHHR.

30           (e) No payment pursuant to this section may be made for Home and Community Based  
31 Services provided outside the state of West Virginia.

32           (f) The DHHR shall request a waiver from the appropriate federal agency if a waiver is  
33 necessary to implement the provisions of this section.

34           (g) In order to implement the provisions of this section, the DHHR may propose rules for  
35 legislative approval in accordance with the provisions of §29A-3-1 et seq. of this code.