

2019 DISABILITY PRIORITY AGENDA PUBLIC POLICY PRIORITIES

Over the past several years, New York has advanced a number of initiatives intended to promote the independence and inclusion of people with disabilities. From the Olmstead Report, to the Employment First Initiative, and most recently, the ABLE Initiative, our community has supported and applauded the goals and intent of these initiatives. Yet, we have seen little advancement through legislation and financial investments to make the goals of these initiatives a reality. NYAIL's 2019 budget and legislative priorities would advance independence and community integration for New Yorkers with disabilities. Now more than ever, with dramatic policy changes being advanced at the Federal level, it is imperative that New York follows through on its promises to our community and enact laws to protect the civil rights and programs that allow people with disabilities to live independent, integrated lives in their communities. Below are NYAIL's 2019 legislative priorities.

Housing

- ❖ Make discrimination by landlords based on a tenant's source of income illegal under State Human Rights Law. A.10077 (Mosley) and S.8606 (Parker) of 2018.

Employment

- ❖ Prohibit the practice of paying people with disabilities below the minimum wage in New York State. A.11290 (Skoufis) of 2018.
- ❖ Waive the State's sovereign immunity to claims under the Americans with Disabilities Act (ADA) and Section 504. A.1092 (Lifton).

Government Operations

- ❖ Provide a necessary voice for people with disabilities in state government by reactivating the duties of the State Office for the Advocate for Persons with Disabilities. S.1674 (Skoufis).
- ❖ Pass critical voting reforms including early voting, automatic voter registration and same day voter registration to make it easier for people with disabilities to vote. A.780 (Lavine) and S.1102 (Myrie).

Transportation

- ❖ Require transportation service providers, including taxis, limousines, and Transportation Network Companies (TNCs), to have accessible vehicles.
- ❖ Require counties to expand paratransit beyond ADA minimums, including ensuring riders can connect to other paratransit services between counties.

Legal Reform

- ❖ Increase statute of limitations for child victims of sexual abuse by passing the Child Victims Act A.2683 (Rosenthal) and S.2440 (Hoylman).

HOUSING

- ❖ **Make discrimination by landlords based on a tenant's source of income illegal under State Human Rights Law. A.10077 (Mosley) and S.8606 (Parker) of 2018.**

There is a housing crisis in New York State for people with disabilities due to the lack of affordable and accessible housing. People with disabilities who are on fixed incomes, or who have low wage jobs are unable to afford to rent without a subsidy. In fact, more than a third of people with disabilities are severely rent burdened, spending more than 50 percent of their income on housing. A modest one bedroom costs an average of 133 percent of a person's SSI in New York State. Avoiding institutionalization or homelessness depends on having a housing rental subsidy. Yet, landlords turn down prospective tenants who have rental subsidies. This results in a situation where even with a subsidy, people with disabilities are often unable to find housing. New York must make discrimination based on tenant's source of income illegal under State Human Rights Law.

EMPLOYMENT

- ❖ **Prohibit the practice of paying people with disabilities below the minimum wage in New York State. A.11290 (Skoufis) of 2018.**

For too long, people with disabilities have been segregated from the rest of society, shut away in institutions and facility-based employment settings. At these segregated settings and enclave type jobs in the community, agencies have been permitted to pay individuals with disabilities well under minimum wage under section 14(c) of the Fair Labor Standards Act (FLSA). However, the Supreme Courts 1999 *Olmstead* decision held that people with disabilities have the right to live and receive services in the most integrated setting. This is in large part why CMS required New York to phase out its subminimum wage jobs in their Transformation Agreement. Subminimum wage jobs also violate the new Home and Community Based Settings (HCBS) rule and thus would no longer be eligible for Medicaid funding.

The majority of facility-based employment settings are segregated, focused on production style work, and fail to provide adequate training or employment to individuals with disabilities and thus do not result in competitive, integrated employment. Many people with disabilities are not suited to

production work and it is time we stop equating people with disabilities with this form of employment. We have also developed many successful employment models in the decades since 14(c) was enacted. It is time New York update its employment model away from segregated, subminimum wage settings to an Employment First model, developing each person's latent skills and talents and allowing them to become successfully employed like their nondisabled peers.

❖ **Waive the State's sovereign immunity to claims under the Americans with Disabilities Act (ADA) and Section 504. A.1092 (Lifton).**

State workers who have been discriminated against cannot sue their employer in Federal court for money damages, including lost wages. Businesses, schools, cities, counties, towns and villages and private employers cannot violate the ADA without the prospect of being held responsible in a court of law. State government must be held to the same standard. This bill would restore the same protections to state workers that they had from the passage of the ADA in 1990 until the *Garrett* decision in 2001---the same protections that ALL other workers still have.

GOVERNMENT OPERATIONS

❖ **Provide a necessary voice for people with disabilities in state government by reactivating the duties of the State Office for the Advocate for Persons with Disabilities S.1674 (Skoufis).**

The disability community desperately needs a voice in state government that represents all people with disabilities. Reinstating the Office for the Advocate for Persons with Disabilities is a critical first step. Originally established by Governor Mario Cuomo via Executive Order, this office was responsible for advising and assisting the Governor in developing policies designed to help meet the needs of people with disabilities and serving as the State's coordinator for the implementation of the Federal Rehabilitation Act of 1973 (this would now include the Americans with Disabilities Act and Olmstead).

As one of his first acts in office, Governor Cuomo continued Executive Order 26. However, despite the existence of the Office on the books, any advocacy function in State Government disappeared when the Justice Center reorganized itself without any advocacy functions. A new home for advocacy and independent living must be established.

- ❖ **Pass critical voting reforms including early voting, automatic voter registration and same day voter registration to make it easier for people with disabilities to vote. A.780 (Lavine) and S.1102 (Myrie).**

NYAIL supports expanding access to voters by implementing early voting, automatic voter registration and same day voter registration. These critical voting reforms will make it easier for everyone to participate in the voting process. The laws regarding equal opportunity are clear. Whenever and wherever elections are held and in whatever format, e.g., early voting, voter registration and same day voter registration, the State and localities must make all voting accessible to all voters with disabilities. This means that accessibility must be a priority when enacting these reforms.

Where forms are used, e.g., including but not limited to voter information, voter registration or ballots, they must be provided in alternative formats such as Braille and large print. Further, early voting accessibility requirements must be held to the same standard that they are on Election Day as stipulated by the Help America Vote Act (HAVA) and ADA. Further, it is critical that the State ensure full access to the polls during early voting by mandating that all polling sites are accessible and that they have a universally designed Ballot Marking Device (BMD) available during early voting as required by federal law.

TRANSPORTATION

- ❖ **Require transportation service providers, including taxis, limousines, and Transportation Network Companies (TNCs), to provide an equivalent level of accessible service to wheelchair and other mobility-impaired users, comparable to the level of service they offer other passengers.**
- ❖ **Require counties to expand paratransit beyond ADA minimums, including ensuring riders can connect to other paratransit services between counties.**

The limited availability of accessible transportation services is a major barrier faced by people with disabilities, often leading to unemployment, inability to access medical care, lack of access to voting sites, and isolation from friends, family, and full community participation. Providing accessible transportation is essential to the State's community integration obligations under *Olmstead*. New York City made some gains in getting a percentage of their taxis wheelchair accessible, however, much of this progress has been undermined by transportation network companies such as Uber, who are putting the accessible taxis out of business and who do not offer accessible vehicles of their own.

Outside New York City, there is virtually no wheelchair accessible taxi service. In some communities, paratransit is the only option; in others, there is nothing. It is imperative that all for-hire transportation services – including new transportation network companies – ensure a percentage of their fleet is accessible.

The Americans with Disabilities Act (ADA), mandates all counties provide Para Transit services to people with disabilities unable to take the fixed route bus. Service must be provided to locations within ¼ of a mile of the closest fixed route bus stop. While this is a minimum service, counties can and should provide transportation services to people with disabilities throughout their service area and connect them to Para Transit services in surrounding areas. Too often, people with disabilities are isolated and unable to work, go shopping, or to church because they don't have reliable transportation. There is a real need to ensure comprehensive Para Transit services are provided throughout the State.

LEGAL REFORM

- ❖ **Increase statute of limitations for child victims of sexual abuse by passing the Child Victims Act A.2683 (Rosenthal) and S.2440 (Hoylman).**

Children with disabilities are at a greater risk for sexual abuse than other children. According to a 2012 study, children with disabilities are 2.9 times more likely than children without disabilities to be sexually abused. Further, children with intellectual and mental health disabilities appear to be the most at risk, with 4.6 times the risk of sexual abuse as their peers without disabilities. (Lund, Emily M., and Vaughn-Jensen, J. "Victimization of Children with Disabilities"). These children may be unable to communicate what has happened, and if they do, it is likely they may not be believed.

Many children, particularly those with disabilities, rely on their parents, who may be the perpetrator, well into adulthood. Further, it often takes many years for victims to come to terms with what has happened to them. It is critical to allow victims well into adulthood to come forward and seek legal redress for these crimes.

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