



## 2010 DISABILITY PRIORITY AGENDA

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The New York Association on Independent Living (NYAIL) is dedicated to removing barriers to the full community integration of people with disabilities of all ages. NYAIL represents Independent Living Centers and the people with disabilities they serve. Independent Living Centers (ILCs) are controlled and primarily staffed by people with disabilities, and provide a variety of community-based services, such as peer counseling, independent living skills training, and assistance with obtaining housing, education, employment, and other necessary services that empower people with disabilities to live independent, fully integrated lives in their communities. We propose the following priorities to address barriers to community living and ensure the civil rights of people with disabilities are protected.

### PUBLIC POLICY PRIORITIES

#### HOUSING

- ❖ Incorporate the housing provisions of Section 504 of the Rehabilitation Act into State law. *A.9757 (Bing)*

Housing developers often fail to comply with Section 504's requirement to set aside a certain percentage of accessible units for people with disabilities when federal dollars are used for construction. By including these requirements in State law, the Department of Housing and Community Renewal (DHCR) will be fully empowered to enforce these requirements and ensure that the State is in compliance with federal standards.

- ❖ Establish standards for "visitability" in State law to require all newly constructed single-family houses, townhouses and ground-floor units of duplexes and triplexes built with public funds to be made accessible. *A. 9409 (Millman) and S.1499 (DeFrancisco)*

"Visitability" is a movement to change home construction practices so that new homes offer a few specific features that make the home easier for people with mobility impairments to live in and visit. The spirit of "visitability" is the belief that it is unacceptable that new homes continue to be built with gross barriers, given the ease of building basic access into the majority of new homes and the harsh

effects major barriers have on people's lives, including physically unsafe conditions, social isolation, and unwanted institutionalization.

- ❖ Make discrimination by landlords based on a tenant's source of income illegal under State Human Rights Law.

Landlords often reject tenants with rental subsidies, such as Section 8 and subsidies tied to the Nursing Facility Transition and Diversion and Traumatic Brain Injury Medicaid Waivers. Many people with disabilities rely on those subsidies and other assistance programs to live independently in the community. Discrimination based on source of income is illegal in New York City. The legislature should make source of income discrimination illegal throughout New York State.

## **CIVIL RIGHTS**

- ❖ Incorporate Title II of ADA into NYS Human Rights Law. *A.781-B (Paulin) and S.5396 (Huntley) – Veto message # 61*
- ❖ Waive the State's sovereign immunity to claims under the ADA and Section 504. *A.3651 (Lifton) and S.2833 (Krueger)*

The Americans with Disabilities Act (ADA) of 1990 and Section 504 of the Rehabilitation Act of 1973 each provide comprehensive protection for the civil rights of people with disabilities under federal law. Under the 1999 US Supreme Court *Olmstead* decision, people with disabilities are entitled to receive the services and supports they need to live in the community and avoid unwanted placement in nursing facilities and other institutions. Title II of the ADA provides protections against discrimination on the basis of disability in services provided by public entities, including State and local governments. **This bill was unanimously passed by the State legislature during the 2009 session, but vetoed by Governor Paterson.** This bill would clarify the scope of protections against discrimination by these entities, including in the provision of services, programs and activities. Public entities would be required to make reasonable accommodations and individuals with disabilities would gain critical access to the administrative enforcement mechanisms through the State Division of Human Rights. To date, more than 30 other states have incorporated Title II into State law, and none have reported any increased costs as a result. It is also essential that the State's immunity to suit under the ADA and Section 504 is waived.

## **ELECTION REFORM**

- ❖ Eliminate provisions in Section 4-104 (1-a) of State Election Law allowing waiver of polling place accessibility requirements. Require polling places to comply with ADA accessibility guidelines and ensure access surveys are conducted at all polling places. Require election workers to receive

mandatory training in disability etiquette and use of Ballot Marking Devices (BMD). *S.1058 (Addabbo) and A. 584 (Cahill) - Veto message # 60*

**This bill was unanimously passed by the State legislature during the 2009 session, but vetoed by Governor Paterson.** Eliminating waivers for inaccessible polling places does not require expensive construction, contracting and competitive bidding; it only requires identifying other sites to take the place of inaccessible ones. This is a no or low-cost solution that can be implemented anywhere in the State. According to the NYSBOE, there is approximately \$5 million currently available for accessibility modifications to polling sites, which includes prior accumulated State funding as well as federal funds. These funds can ONLY be used for this purpose. People with disabilities must be afforded the basic right as citizens to vote along with their families, friends, and neighbors and barriers to this right that remain in State Election Law must be removed.

### **MENTAL HEALTH**

- ❖ Amend State Social Services Law Section 384-b to eliminate subdivisions (4)(c) and (6)(a-e), which permit termination of parental rights on the basis of mental illness or mental retardation. *S. 2835 (Huntley) and A.6668 (Rivera)*

Parents with psychiatric and intellectual disabilities are vulnerable to the loss of custody and termination of their parental rights because of a long-standing bias in State law. Since 1976, State Social Services Law has included as grounds for the termination of parental rights, the inability “by reason of mental illness or mental retardation, to provide proper and adequate care...” of a child. The use of these disability-related grounds for termination promotes the discriminatory belief that parents with such disabilities are unable to care for their children and creates a presumption that these parents are unfit. The safety of children is adequately protected, however, by other provisions of SSL 384-b allowing termination based on a parent’s behavior rather than their disability.

### **TRANSPORTATION**

- ❖ Cap fares for paratransit transportation at levels no higher than the base fares for transportation of non-disabled adults utilizing the transit system. *S. 2933 (Duane) and A. 6489 (Kellner)*
- ❖ Require transportation service providers, such as taxis, limousines and shuttle services, to purchase accessible vehicles. *A.5549 (Titus)*

Title II of the Americans with Disabilities Act (ADA) prohibits discrimination against people with disabilities in the provision of transportation services. The limited availability of accessible transportation services is a major barrier faced by individuals with disabilities throughout the State, often leading to unemployment, the inability to access medical care, and isolation from friends,

family, and full community participation. Many people with disabilities rely heavily on the provision of paratransit services; however MTA budget strains have led to an increase in cost for such services. The paratransit bill would prohibit such fare hikes under the premise that authorization of transit fares for people with disabilities at a level higher than those for non-disabled citizens is discriminatory.

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