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Interested Party Testimony on Senate Bill 144
Senate Government Oversight and Reform Committee
September 20, 2017

Chairman Coley, Ranking Member Schiavoni, and members of the Senate Government Oversight and Reform Committee, thank you for the opportunity to provide interested party testimony in consideration of Senate Bill 144 ("SB 144"). My name is Michael Kirkman and I am the Executive Director of Disability Rights Ohio ("DRO"). DRO's mission is to advocate for the human, civil, and legal rights of people with disabilities in Ohio, DRO is designated by the Governor as the federally authorized and state-designated protection and advocacy system. DRO is also designated as the Client Assistance Program ("CAP") under the federal Rehabilitation Act,[1] and as the CAP provides advocacy to people who are applying for or are receiving vocational rehabilitation ("VR") services from Opportunities for Ohioans with Disabilities ("OOD"). The CAP is an intrinsic component of the state VR system under the Act, and federal payments to the VR program are contingent on the state having a properly constituted CAP in place.

BACKGROUND

DRO appreciates Senator Burke for bringing forward legislation that aims to establish a state rehabilitation council ("SRC" or "Council") here in Ohio. The creation of an SRC will bring Ohio into compliance with federal law[2] as established by the Rehabilitation Act of 1973, and allow people with disabilities to shape policy and services that affect them directly through vocational rehabilitation services.

This testimony will be divided into two sections: first, the importance of the SRC and how the establishment of the new Council will be focused and centered on people with disabilities, as well as make the VR system compliant with federal law; and second, discuss remaining concerns with the current language in the bill including the Client Assistance Program provision, compensation of the Council, and the name of the Council.

FEDERAL COMPLIANCE

Ohio is one of the last states to move to comply with changes in federal law to create a SRC that guides the VR agency. Currently, Ohio is the only state – in the region of states that includes Ohio, Indiana, Michigan, Kentucky, and West Virginia ("region") – that does not have a SRC governing their VR services. The formation of a SRC will bring Ohio into federal compliance, and the last to join its neighboring states in establishing this governance structure.
The current Ohio structure, with the OOD Commission and a Consumer Advisory Committee, lacks strong regulatory components. The implementation of a SRC fixes these structural issues

[1] 29 U.S.C. §732
[2] 29 U.S.C. §725

and enhances the ability of Ohioans with disabilities to participate in the provision of VR service. Through appointments made by the Governor, the SRC will be made up of 15 members, a majority of those people with disabilities (who do not work for OOD); this helps ensure direct input for people with disabilities and their organizations into the services provided by OOD.

Membership of the Council also includes: "four individuals each representing business, industry, or labor interests;" the Statewide Independent Living Council; the Client Assistance Program; the Workforce Investment Board; a parent training and information center; the Department of Education; and other disability-related entities. Through the inclusion of organizations that work to help people with disabilities find and maintain work in their communities, establishment of the SRC helps ensure that people with disabilities are fully integrated into their communities. Additionally, including a "vocational counselor who has knowledge of and experience with vocational rehabilitation services"[3] ensures that experience in the actual provision of the services is present. SB 144 also includes the Executive Director of OOD to serve as a non-voting *ex officio* member. The inclusion of these members ensures a variety of viewpoints on the Council.

The SRC is charged with multiple responsibilities as defined by federal statute, including evaluation of the state VR program and "in partnership with the designated state unit...identify, develop, agree to, and review State goals and priorities..."[4] SB 144 incorporates this language[5] which ensures individuals with disabilities oversight of VR services in Ohio. By implementing these responsibilities, coupled with a majority of members being people with disabilities, Ohio's VR system has the potential to become more person-centered, effective, and efficient in the administration of VR services.

SB 144 provides the requirement that OOD assist the SRC in "performing its duties and shall collaborate with the council in developing a resource plan in compliance with federal law." Federal statute requires the SRC to develop a resource plan in conjunction with OOD.[6] The inclusion of this language into SB 144 ensures Ohio's SRC is compliant with federal statute as well as provides that the SRC retain independence in an advisory capacity to OOD. This independence allows for input from people with disabilities and their organizations to have a more proactive role in the administration of VR services in Ohio helping those served live and work in their communities.

CAP, COMPENSATION, & NAME

The formation of a SRC, through SB 144, is essential for individuals with disabilities and brings Ohio's VR system under federal compliance; however, there remain three (3) concerns with the language DRO would like to address:

Client Assistance Program

[3] Ohio Sub. Senate Bill No. 144 § 3304.12 (A)(3)
[4] 29 U.S.C. § 725 (c)(2)
[5] Ohio Sub. Senate Bill No. 144 § 3304.14 (A)(3)
[6] 29 U.S.C. § 725 (d)

Firstly, the current bill requires "a full-time employee for a client assistance program..."[7] This requirement is not compliant with the current federal statute.[8] Federal statute requires "at least one representative of the client assistance program..." This requirement is not envisioned by the federal statute and infringes on the CAP to perform as an independent agency separate from the state. No other organization in the legislation has this same kind of requirement, other organizations are simply required to have "an individual who represents" (i.e. "an individual who represents the Ohio statewide independent living council"[9]). The committee should consider removing the "full-time employee" requirement from the legislation to ensure the SRC is fully compliant with federal statute.

Compensation

Secondly, the current language does not provide for the compensation of the SRC members. The current OOD Commission is compensated and it is important to continue holding the SRC at a similar level of importance in parity of other state commissions. With the commission structured as being represented by a majority of people with disabilities, the lack of compensation could result in a loss of wages and paying out-of-pocket for personal care expenses related to service on the Council, making service on the SRC inaccessible for potential candidates. This concern is echoed by Rehabilitation Services Administration's Technical Assistance Circular.[10]

Name of Council

Lastly, the current language names the SRC "the opportunities for Ohioans with disabilities council." DRO interprets federal law to hold that the Council is a separate entity from OOD. Thus, the name should reflect that the Council governs as an independent advisor. The name as provided by the current language would make Ohio one of the only states to use a title naming the VR agency in the name. While DRO makes no specific suggestion as to a name, by way of example, states in the region use: Indiana Commission on Rehabilitation Services, Michigan Council for Rehabilitation Services, Kentucky Statewide Council for Vocational Rehabilitation, and West Virginia State Rehabilitation Council.[11]

CONCLUSION

Again, DRO would like to thank Senator Burke for offering this vital legislation that would establish Ohio's state rehabilitation council, bring OOD under compliance with federal statute, and allow people with disabilities to have a voice in the provision of VR services in Ohio that allow for individuals to live and work in their communities.

Thank you again for the opportunity to provide testimony as an interested party on SB 144 and I will be open to taking any of your questions.

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[7] Ohio Sub. Senate Bill No. 144 § 3304.12 (A)(1)
[8] 29 U.S.C. § 725 (b)(1)(A)(iii)
[9] Ohio Sub. Bill 144 § 3304.12 (A)(12)
[10] RSA Technical Assistance Circular RSA-TAC-12-01 states:
"Compensation may be made for lost wages that occur as a direct result of participating in council activities."
[11] As found at:
http://www.ncsrc.net/coalition-members-resolution