

Editorial: Special Needs Act a necessity

11:08 PM, May 26, 2012 |
Comments



Participants of the Yonkers Jawonio Advocacy Group meet the governor's special adviser on vulnerable persons, Clarence Sundram, (in back, wearing tie) after Gov. Andrew Cuomo's May 10 press conference about the proposed Protection of People with Special Needs Act at the College of New Rochelle. / Contributed photo

Written by

J A JOURNAL NEWS EDITORIAL

On Editorial Spotlight

Gov. Andrew Cuomo's proposed Protection of People with Special Needs Act is based on a special report, "The Measure of a Society: Protection of Vulnerable Persons in Residential Facilities Against Abuse and Neglect," by Clarence J. Sundram, the governor's special adviser on vulnerable persons.

The Editorial Board discussed the legislation with Sundram, who is founding chairman of the New York State Commission on Quality of Care for the Mentally Disabled, current special master and court monitor in class action lawsuits in Washington, D.C., and past president of the Board of Directors of Mental Disability Rights International.

View the Editorial Board's interview with Sundram about the legislation; go to <http://lohud.com/editorialspotlight> and click on "videos" to select the video

from the menu.

To view Sundram's report, visit <http://Justice4SpecialNeeds.com>.

See the bill

To view the proposed Protection of People with Special Needs Act, go to the Assembly's website, <http://assembly.state.ny.us>, and type in the bill number — S 07400 — in the Quick Bill Search window.

More

New York's most vulnerable residents — the 1 million whose disabilities leave them reliant on others for their care — deserve much more protection than has been provided under the state's diffuse care system. Gov. Cuomo's proposed Protection of People with Special Needs Act takes a giant leap toward providing such protection. The Assembly leadership and governor's office should work together — and quickly — to get the bill passed and pave the way for a new era of security for these citizens.

Horrific cases of abuse have come to light in the last several years. New York pioneered personalized care for people with developmental disabilities after a 1970s scandal that uncovered severe mistreatment of the disabled at Willowbrook State School and similar state institutions. Now, though, the state's record has appallingly regressed; a New York Times investigation last year uncovered abusive workers who went unpunished. Further, the 2007 death of Jonathan Carey, an autistic 13-year-old in state care, underscored the risks faced by group-home residents and those who receive other state-funded care. The current protections — a mishmash of guidelines and lax oversight are among the system's shortfalls — is New York's shame.

Assembly Speaker Sheldon Silver has committed to passing "some form" of the special needs legislation this session. The bill must preserve key safety measures, including a new proposed justice center, with real enforcement powers, a 24-hour, seven-day-a-week hotline and a database to track abusers.

Justice at center

The proposed Protection of People with Special Needs includes an aggressive overhaul in regulations, monitoring and oversight. The centerpiece is the Justice Center for the Protection of People with Special Needs, which would be empowered to investigate and prosecute abuse.

The bill would also create a 24/7 hotline for workers and others to report abuse, be it physical or emotional. It also would keep a registry to ensure workers who have harmed group home residents are never employed by a similar facility again.

The bill would streamline definitions of abuse and neglect, and standards for investigations as well. They now differ among the six state agencies that oversee some 11,700 program sites that provide care for people with physical, developmental and/or mental disabilities, according to a report by Clarence J. Sundram, the governor's special adviser on vulnerable persons. "These gaps and inconsistencies expose vulnerable people to needless risk of harm and complicate the challenge of teaching and training direct service staff," according to Sundram's report, which is the basis for the Protection of People with Special Needs Act.

The bill also includes a plan to set minimal educational and training standards for employees.

The legislation has been well-received by executives and consumers alike at Jawonio, a nonprofit that serves people with developmental disabilities and mental illness throughout the Hudson Valley. A group from the Yonkers Jawonio Advocacy Group attended the May 10 announcement at the College of New Rochelle, wherein Gov. Cuomo and Sundram unveiled the legislation. Jawonio chief communications officer Diana Hess said the consumers applauded the bill, knowing "that what they were hearing will truly make a difference in their lives and the lives of thousands of other people with disabilities and mental illness across the state."

Working with all

The Justice Center and special abuse hotline is not designed to supplant local law enforcement investigations, according to the legislation. Rockland District Attorney Thomas Zugibe said his office continues to review the bill, but told the Editorial Board, "I particularly am pleased to see the strong language in the bill that provides an enhanced mechanism for reporting abuse through a hotline, which would deal with one of the major issues we face in dealing with these cases — the delay in reporting and often the failure to report them at all."

The Justice Center could provide the expertise needed to investigate complex abuse cases in which the victim — and witnesses — could have limited ability to communicate. "The bill doesn't stop anyone from calling 911," Sundram told the Editorial Board.

The Justice Center is designed to offer “concurrent jurisdictions with district attorneys,” Sundram said.

Zugibe said investigating such cases present myriad challenges for law enforcement, and a special hotline could help. “Often, individuals don’t know if what they have witnessed or suspect is a crime and this gets that determination into the hands of investigators immediately,” Zugibe said.

The omnibus bill outlines methods of protection for vulnerable people from many different angles. After-the-fact tests of the law will likely turn up other approaches to improved safety. That is why yearly reviews built into the Justice Center legislation must be taken seriously.

Silver and some advocates for the disabled have said the current bill, which has already passed the Senate, lacks outside oversight. Among those critics is Michael Carey, whose son died in group home care; he is understandably wary of continued state oversight. The Cuomo administration has said it is establishing a nonprofit organization as a monitor, further bolstering the work of the proposed Justice Center.

“All efforts that move us in a direction that result in enhanced protection for people with special needs are steps in the right direction,” said Zugibe, who has established a Special Victims Center that includes in its duties investigating crimes against people with special needs.

The Assembly should move swiftly to see the legislation become law.