



DRAFT MODEL LEGISLATION - STATE

American Caregivers Act

A BILL

To establish a state-authorized American Caregiver Service Program under which participants provide in-home childcare and non-medical senior care as part of a state authorized program, and to expand access to affordable, flexible care for families and older residents, and for other purposes.

SECTION 1. SHORT TITLE.

This Act may be cited as the “American Caregivers Act.”

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Legislature finds the following:

- (1) The State is facing a growing shortage of accessible and affordable in-home care for both children and older residents.
- (2) Most families prefer home-based, non-medical care, yet current options are often financially out of reach.
- (3) State regulations have limited flexible, companionship-based caregiving arrangements.
- (4) Many families are forced into institutional care or to leave the workforce.
- (5) Non-medical, in-home caregiving can help families avoid or delay more costly institutional care.
- (6) Structured, sponsor-led placement systems can safely facilitate in-home caregiving.
- (7) A market-based caregiving model can expand access while maintaining safeguards.

(b) PURPOSE.—The purposes of this Act are—

- (1) to establish a service and educational based domestic caregiving program, the primary purpose of which is to provide caregiving experience, skill development, and supervised in-home service, and not to create an employment relationship;
- (2) to expand access to affordable, non-medical in-home care;
- (3) to create flexible caregiving opportunities;
- (4) to authorize sponsoring organizations;
- (5) to ensure budget neutrality; and
- (6) to promote dignity and independence.

SEC. 3. DEFINITIONS.

In this Act:

- (1) DEPARTMENT.—The term 'Department' means the State Department of Labor, Department of Health, Department of Human Services, or other agency designated by the Governor.
- (2) PROGRAM.—The term 'Program' means the American Caregiver Program established under the Act.
- (3) CAREGIVER.—The term 'Caregiver' means an individual providing non-medical care under the Program.
- (4) HOST HOUSEHOLD.—The term 'Host Household' means a participating family or individual receiving care under the Program.
- (5) SPONSORING ORGANIZATION.—The term 'Sponsoring Organization' means an entity designated by the Department to administer placements under the Program.
- (6) NON-MEDICAL CARE.—The term 'Non-Medical Care' includes companionship, supervision, meal preparation, and assistance with activities of daily living that do not require professional licensure or medical certification.

SEC. 4. ESTABLISHMENT OF PROGRAM.

- (a) ESTABLISHMENT.—The Department shall establish the American Caregiver Program.
- (b) SCOPE.—Includes child care and elder care for non-medical needs.
- (c) LIMITATION.—No skilled medical care or services requiring professional licensure shall be permitted under the Program.

SEC. 5. SPONSORING ORGANIZATIONS.

- (a) DESIGNATION.—The Department shall designate qualified sponsoring organizations to administer the program.
- (b) DUTIES.—Sponsoring Organizations shall:
 - (1) recruit, vet, place, train, and monitor caregivers;
 - (2) retain primary responsibility for placement oversight and program compliance;
 - (3) oversee the creation and administration of standardized written agreements between caregivers and host households;
 - (4) maintain records related to participation and compliance.
- (c) SAFEGUARDS.—Sponsoring Organizations shall maintain a 24-hour hotline and reporting system.

SEC. 6. PROGRAM PARTICIPATION REQUIREMENT.

- (a) IN GENERAL.—As a condition of participation in the program, each caregiver shall engage in program participation designed to advance competencies in childcare or non-medical senior care.
- (b) SATISFACTION OF REQUIREMENT.— The requirement under subsection (a) shall be satisfied as follows:
 - (1) Post-Secondary Education. Enrollment in an accredited college or university and completion of not fewer than 6 semester credit hours during the period of participation, which includes coursework related to nursing, health, human

services, education, early childhood, social work, gerontology, or other relevant fields.

(c) CONTINUING PARTICIPATION.— Caregivers shall maintain satisfactory progress in post-secondary education as a condition of continued participation.

SEC. 7. HOST HOUSEHOLD REQUIREMENTS.

- (a) Host households must provide a private bedroom; reasonable access to a bathroom, kitchen and common areas; utilities including water, electricity, heating/cooling and internet access; a safe and habitable living environment.
- (b) Parties shall enter into a standardized written agreement, provided and administered by the sponsoring organization, outlining the duties, responsibilities, and expectations of participation in the program.

SEC. 8. TERMS OF PARTICIPATION.

- (a) FLEXIBILITY.—Care arrangements shall allow flexible allocation of duties.
- (b) NO TASK RATIOS.—No fixed percentage limits on caregiving tasks shall apply.
- (c) HOURS.—The Department shall establish a maximum number of service hours per week.
- (d) DURATION.— Participation in the program shall be limited to a period not to exceed 24 months.

SEC. 9. COMPENSATION AND COST STRUCTURE.

- (a) STIPEND.—Caregivers shall receive a fixed stipend, established or approved by the sponsoring organization, which is tied to participation in the program and not hourly wages. Such stipend shall not be negotiated as wages based on hours worked, but shall reflect participation in the caregiving program.
- (b) COSTS.—All program costs, including payments to Sponsoring Organizations, shall be paid by host households.
- (c) NO STATE SUBSIDY.—No State funds shall be required to subsidize the Program unless specifically appropriated by the Legislature.

SEC. 10. LABOR AND EMPLOYMENT STATUS; RULE OF CONSTRUCTION.

- (a) STATUS.—Caregivers are program participants, not employees under state law.
- (b) LABOR LAWS.—Program participants shall be considered participants in a state authorized service and training program. To the extent consistent with the structure and purposes of this Act, caregivers participating in the program shall not be treated as employees of a host household or sponsoring organization under state laws governing wages and hours.
- (c) RULE OF CONSTRUCTION.—The provision of non-medical caregiving services under this Act shall be deemed incidental to participation in a program of service and educational training, and shall not be construed to create an employment relationship.
- (d) COMPANIONSHIP.—Care provided under the Program is classified as non-medical companionship.
- (e) FLEXIBILITY.—No rigid task allocation rules shall apply.
- (f) LIMITATION.—No medical services are authorized under the Program.

SEC. 11. SAFEGUARDS AND ENFORCEMENT.

Sponsoring Organizations shall ensure monitoring, reporting, investigations, and enforcement measures necessary to protect caregivers and host households participating in the Program.

SEC. 12. REGULATORY ALIGNMENT.

The Department shall review and align state regulations to support flexible, non-medical caregiving arrangements authorized under this Act.

SEC. 13. RELATIONSHIP TO STATE AND FEDERAL HEALTH PROGRAMS.

- (a) NO EFFECT.—Nothing in this Act shall alter eligibility for Medicaid or other public assistance programs.
- (b) NON-MEDICAL.—Services provided under the Program shall be considered non-medical and shall not constitute reimbursable medical services.

(c) SUPPLEMENTAL.—The Program shall supplement, and not replace, existing caregiving options.

(d) NO COST SHIFTING.—No additional state costs.

SEC. 14. RULEMAKING.

The Department shall promulgate rules and regulations necessary to implement this Act within 180 days of enactment.