



AMERICAN SAMOA GOVERNMENT  
PAGO PAGO, AMERICAN SAMOA 96799  
LEGISLATURE OF AMERICAN SAMOA

In reply refer to:

C E R T I F I C A T I O N

House Chamber  
April 18, 1991

I certify that House Bill No. 22-106 passed third reading on this date in the House of Representatives during its First Special Session of the Twenty-second Legislature of American Samoa.

A handwritten signature in cursive script, appearing to read "Wally F. Utu".

WALLY F. UTU  
Chief Clerk  
House of Representatives

Senate Chamber  
April 24, 1991

I certify that House Bill No. 22-106 passed third reading on this date in the Senate during its First Special Session of the Twenty-second Legislature of American Samoa.

A handwritten signature in cursive script, appearing to read "Leo'o Va'a Ma'o".

LEO'O VA'A MA'O  
Secretary of the Senate

**THE TWENTY-SECOND LEGISLATURE OF AMERICAN SAMOA**

**First Special Session**

**Begun and held at Fagatogo, Tutuila, American Samoa  
on Monday, the fourteenth day of January  
one thousand nine hundred and ninety one**

**AN ACT ESTABLISHING AN OFFICE OF PROTECTION AND ADVOCACY FOR THE  
DISABLED; CREATING A NEW CHAPTER 14 UNDER TITLE 4 OF ASCA.**

**BE IT ENACTED BY THE LEGISLATURE OF AMERICAN SAMOA:**

**Section 1. There is created a new Chapter 14 under Title 4 ASCA which reads:**

**"Chapter 14**

**OFFICE OF PROTECTION AND ADVOCACY FOR THE DISABLED**

**Sections:**

- 4.1401 Finding and purpose.**
- 4.1402 Definitions.**
- 4.1403 Office of protection and advocacy for the disabled.**
- 4.1404 Powers and duties.**
- 4.1405 Advisory council for protection and advocacy.**
- 4.1406 Disabled individual rights.**
- 4.1407 Confidentiality of records.**
- 4.1408 Individualized service plan--Case management.**
- 4.1409 Rules.**

#### 4.1401 Finding and purpose.

The Legislature finds that:

(a) There is a large number of disabled individuals in American Samoa whose numerous and diverse needs and rights must be adequately addressed and protected.

(b) It is the purpose of this act to:

(1) Assure that persons with disabilities receive the care, treatment, and other services necessary to enable them to achieve their maximum potential through increased independence, productivity, and integration into the community.

(2) Establish and operate a system which coordinates, monitors, plans, and evaluates services which ensures the protection of the legal and human rights of persons with disabilities.

#### 4.1402 Definitions.

(a) "Act" means this act plus the federal legislation under which these programs are authorized such as; the 1964 Bill of Rights; Public Law 99-319 Protection and Advocacy for the Mentally Ill Individuals (PAMII); Public Law 95-602 Protection and Advocacy for the Developmentally Disabled (PADD); and Public Law 98-516 (Rehabilitation Act of 1973, Amended 1986, Client Assistance Program (CAP).

(b) "Developmental disability" means a severe, and chronic mental or physical disability that is manifested before age 22, which is likely to continue indefinitely, and will substantially limit three or more of the following areas of major functional activities:

- (1) self-care;
- (2) language;
- (3) learning;
- (4) self-direction;
- (5) mobility;
- (6) capacity for independent living; and
- (7) economic self-sufficiency.

(c) "Mentally ill individual" means a person who has significant mental illness or emotional impairment, as determined by a certified mental health professional.

(d) "Client assistance program" means a program that assists the disabled individuals who are either clients or client applicants of the vocational rehabilitation program.

(e) "Service provider" means any agency which provides care, treatment, employment or other necessary services to the disabled.

(f) "Abuse" means any act or failure to act by an employee of a service provider which causes, or may cause injury to a disabled individual.

(g) "Neglect" means a negligent act or omission by a service provider which causes or may cause injury to a disabled person, or which places a disabled person at risk of injury. It also includes the act or omission such as failure to establish or carry out an appropriate individualized program plan or treatment plan, or adequate care for the disabled.

(i) "Client" means an individual who is receiving services from this program, and who has already been determined to qualify for service from a service provider.

(j) "Client applicant" means an individual who has submitted an application for assistance to a service provider, and is waiting to qualify for such assistance.

#### 4.1403 Office of protection and advocacy for the disabled.

There is created within the Executive branch of the government an office of protection and advocacy for the disabled. The head of that office is a director appointed by the Governor and confirmed by the Legislature. The director shall be an individual qualified by knowledge, skill and ability to administer and direct the provisions of this law, and shall employ a qualified staff to include legal counsel and others as needed. This office shall be independent of all agencies that are considered service providers.

#### 4.1404 Powers and duties.

The office may:

- (1) investigate incidents of abuse and neglect of the disabled, if the incidents are reported or if there is probable cause to believe that the incidents occurred;
- (2) pursue legal, administrative and other appropriate remedies to ensure efficient services and the protection of the disabled's rights;
- (3) have access to service providers' sites and records of the disabled;
- (4) make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act, including but not limited to, contracts with the federal government and other agencies;
- (5) to accept grants from the United States, the local government and agencies and instrumentalities thereof, and any other sources, and to comply with conditions contained therein;

(6) collect, analyze, and disseminate information relating to the advocacy services and the rights of the disabled to the disabled, their families, service providers and the community at large;

(7) keep records necessary to monitor clients' grievances, progress and performance of the service providers pertaining to clients; and

(8) in coordination with local government and service agencies, conduct briefings to improve services to the disabled, and to better protect their rights.

#### 4.1405 Advisory council for protection and advocacy.

There is established a council who advises the program on matters that affect the performance of the program and the services rendered to the disabled. The council consists of 12 members who are appointed by the Governor and confirmed by the Legislature. Three members shall be from the private sector, three shall be government employees, three shall be service providers, and three consumers.

#### 4.1406 Disabled individual rights.

(a) The disabled individual has the following rights:

(1) right to appropriate treatment;

(2) right to an individualized written treatment or service plan;

(3) right to participate in planning his own program;

(4) right to refuse treatment or service plan;

(5) right to refuse to participate in experimentation;

(6) right to freedom from restrain or seclusion (except in case of valid emergency);

(7) right to a safe and sanitary environment;

(8) right to humane treatments;

(9) right to confidentiality;

(10) right to access to personal records;

(11) right to privacy;

(12) right to be properly informed upon admission to any facility or program;

(13) right to assert grievances; and

(14) right to referrals.

(b) Rights listed shall not be construed to replace or limit any other rights, benefits, or privileges, including statutory and regulatory due process rights and protections, to which a disabled person may be entitled.

4.1407 Confidentiality of records.

Records filed with the office and the information contained in them shall be confidential, and shall be released only upon the client's consent, and are for use in matters to resolve the client's grievances.

4.1408 Individualized service plan--Case management.

Each service provider is expected to have an individualized service plan for every disabled person it serves. The plan shall be in writing and shall include, at a minimum, the nature of the needs of the person, treatment, care, goals, and specific services to be offered to the disabled person to attain these goals.

4.1409 Rules.

The program director in consultation with the advisory council and in accordance with all appropriate acts shall adopt rules of eligibility, standard of services, as specified by law and an impartial grievance procedure, so as to render the most timely and the best possible service to the disabled."

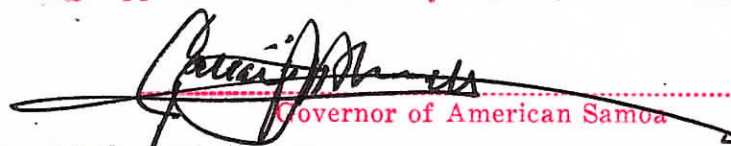


Letuli Toloa  
PRESIDENT OF THE SENATE



Tuana'itau F. Tuia  
SPEAKER OF THE HOUSE

Hereby Approved this <sup>6<sup>TH</sup></sup> day of JUNE, 19 91



Governor of American Samoa

**NOFOAIGA LUASEFULU-LUA FONOFAITULAFONO O AMERIKA SAMOA**

**Fono Fa'apitoa Muamua**

**Nofoia ma usuia i Fagatogo, Tutuila, Amerika Samoa  
Aso Gafua, aso sefulufa o Ianuari  
tasi le afe iva selau iva sefulu-tasi**

**O SE TULAFONO E FA'ATUINA SE OFISA O PUIPUIGA MA PULUVAGA MO TAGATA  
UA AFAINA OLAGA; FA'AVAEINA SE MATAUPU FOU 14 I LALO O LE VAEGA 4 O LE  
TFAS.**

**IA FAATULAFONOINA E LE FONOFAITULAFONO O AMERIKA SAMOA:**

**Maga 1. Ua fa'avaeina se Mataupu fou 14 i lalo o le Vaega 4 TFAS  
e faitauina:**

**"Mataupu 13**

**OFISA O PUIPUIGA MA PULUVAGA MO TAGATA UA AFAINA OLAGA**

**Maga:**

- 4.1401 Sailiga ma mafuaaga.
- 4.1402 Fa'amatalaga.
- 4.1403 Ofisa o puiPUIGA ma puluvaga mo tagata ua afaina olaga.
- 4.1404 Malosi ma tiute.
- 4.1405 Aofia faufautua mo puiPUIGA ma puluvaga.
- 4.1406 Aia o tagata ta'ito'atasi ua afaina olaga.
- 4.0407 Fa'alilo o fa'amaumauga.
- 4.0408 Fuafuaga o tautua mo tagata ta'ito'atasi--Pulega o tagi.
- 4.0409 Tulafono galue.

#### 4.1401 Sailiga ma Mafuaaga.

O le Fonofaitulafono ua maunoinoa:

(a) E tele naua le numera o tagata ua afaina olaga i Amerika Samoa o le tele o latou manaoga ma aia eseese e tatau ona amanaia ma puipuia.

(e) O le mafuaaga o lenei tulafono e:

(1) Fa'amautuina o tagata o iai afaina o olaga ua iai se tausiga, togafitiga, ma isi galuega tatau ina ia mafai e i latou ona o'o atu i se maualuga ua latou gafatia e ala i lo latou galulue mo i latou lava, galue mo se tamaoaiga, ma le aufa'atasi atu i le soifuaga faitele.

(2) Fa'atuina ma fa'agaoioi se vaega e tu'ufa'atasia, va'aia, fuafua, ma iloilo galuega e maunoinoa ai le puipuiga o aia fa'aletulafono ma aia fa'ale-tagata o tagata o iai afaina o olaga.

#### 4.1402 Fa'amatalaga.

(a) "Tulafono" o lona uiga o lenei tulafono fa'aopoopo iai tulafono a le malo tele o lo'o fa'atagaina nei polokalama e pei o: le Pili o Aia o le 1964; Tulafono Lautele 99-319 Puipuiga ma Puluvaaga mo Tagata Mama'i Mafaufau (PAMII); Tulafono Lautele 95-602 Puipuiga ma Puluvaaga mo Tagata Mama'i Tumau (PADD); ma le Tulafono Lautele 98-516 (Tulafono Toefuata'iina o le 1973, Suia i le 1986; Polokalama Fesoasoani Tagata Mana'omia Fesoasoani (CAP).

(e) "Afaina Toeatifina'e" o lona uiga o le afaina tele, ma le afaina fa'aumiumi o le mafaufau po'o le tino ua alia'i mai ae le'i atoa le 22 tausaga, e fa'afoliga mai mata e tumau ai pea e le gata, ma o le a taofia ai le tolu pe tele vaega ua fa'aalia i lalo o galuega tetele e faia:

- (1) tausia e ia lava;
- (2) gagana;
- (3) a'oga;
- (4) fa'asinoga e ia lava;
- (5) fealua'i;
- (6) malosia e ola to'atasi ai;
- (7) ola i lona lava tamaoaiga;

(i) "Tagata e ma'i le mafaufau" o lona uiga o se tagata o iai se afaina tele o le mafaufau po'o ua afaina lagona fa'atagata ua afaina, e pei ona fa'ai'uina e se tagata polofesa o le soifua o le mafaufau.



(o) "Polokalama fesoasoani tagata afaina" o lona uiga o se polokalama e fesoasoani ai i tagata afaina olaga o e o i le polokalama po'o ua talosaga mo polokalama toe fa'aleleia mo galuega.

(u) "Tagata e saunia galuega" o lona uiga so'o se ofisa o lo'o saunia le tausiga, togafitiga, faigaluega, po'o isi galuega tatau mo tagata afaina olaga.

(f) "Fa'aaoga sese" o lona uiga o se galuega ua faia po ua le faia e se tagata faigaluega a le vaega saunia galuega ua mafua ai; pe mafua ai se manu'a i se tagata ua afaina le soifua.

(g) "Tu'ulafoa'i" o lona uiga o se galuega fai tu'ulafoa'i pe ua le faia e se tagata faigaluega e saunia galuega ua mafua ai pe atonu e tupu ai se manu'a o se tagata ua afaina le soifua, pe ua tu'uina ai se tagata afaina le soifua i se tulaga e ono afaina ai i se manu'a. E aofia ai fo'i se la'asaga ua faia po ua le faia e fa'atuina pe fa'ataunu'u se polokalama ua fuafuaina tatau mo se ta'ito'atasi po'o fuafuaga e togafitia ai, po'o se tausiga lelei mo se tagata afaina lona soifua.

(l) "Tagata mana'omia fesoasoani" o lona uiga o se tagata o lo'o taliaina galuega mai lenei polokalama, ma o ia ua uma ona iloilo ina ua agava'a mo galuega mai tagata o faia nei fesoasoani.

(m) "Tagata talosaga mana'omia fesoasoani" o lona uiga o se tagata ua fa'auluina se talosaga mo se fesoasoani i se vaega e saunia galuega, ma o lo'o faatali ina ia agava'a mo lea fesoasoani.

#### 4.1403 Ofisa o puipuiga ma puluvaga mo tagata afaina soifua.

Ua fa'avaeina i totonu o le Lala Fa'amalosi Tulafono o le malo se ofisa o puipuiga ma puluvaga mo tagata ua afaina soifua. O le ulu o lona ofisa o se fa'atonu e tofia e le Kovana ma fa'amaonia e le Fonofaitulafono. O le fa'atonu o se tagata ua agava'a i le poto, atamai ma le agava'a e pulea ma fa'atonu aiaiga o lenei tulafono, ma ia fa'afaigaluega tagata galulue agava'a ina ia aofia ai se fautua fa'ale-tulafono ma isi tagata e pei ona mana'omia. O lenei ofisa ia tuto'atasi mai ofisa uma ua ta'ua o vaega e saunia galuega.

#### 4.1404 Malosi ma tiute.

O le ofisa e mafai:

(1) ona su'esu'e mea tutupu o fa'ataumaoi ma tu'ulafoa'iina o le tagata afaina le soifua, pe afai o mea tutupu ua ripotia mai pe iai se masalosalo tatau e talitonu ai mo lona mea ua tupu;

(2) ona faia su'esu'ega tau le tulafono, pulega o galuega ma isi sailiga tatau e fa'ataunu'u ai galuega lelei ma le puipuiga o aia o tagata ua afaina le soifua;

(3) ona fa'aavanoa tatau iai nofoaga o le ofisa saunia galuega ma fa'amaumauga o le tagata afaina le soifua;

(4) ona faia ma sainia konekalate uma ma feagaiga e mana'omia e talafeagai i le fa'ataunu'uina o ona tiute ma le tauaveina o ona malosi i lalo o lenei tulafono, e aofai ai ae le fa'agataina i, konekalate ma le malo tele ma isi ofisa;

(5) ona talia tupe foa'i mai le Iunaite Setete, malo lotoifale, ma isi ofisa ma o latou ofisa sui, ma so'o se isi lava alagatupe, ma ia usita'i i manaoga o tusia ai;

(6) ona aoina, tu'ueseese, ma tufatufa fa'amatalaga e uiga i galuega a le ofisa ma aia o tagata afaina soifua i tagata afaina soifua, o latou aiga, ofisa saunia galuega ma le atunu'u atoa;

(7) ona teuina fa'amaumauga mana'omia e va'aia ai tagi a tagata afaina soifua, tulaga alu i luma ma le faia o galuega mo tagata afaina soifua; ma

(8) i le galulue fa'atasi ma malo lotoifale ma ofisa e saunia galuega, faia fa'amalamalama e fa'aleleia ai galuega mo tagata ua afaina soifua, ma puipuia atili o latou aia.

#### 4.1405 Fono faufautua mo puipuiga ma puluvaga.

Ua fa'atuina se fono e fautuaina le polokalama i mataupu e a'afia ai le fa'ataunu'uina o le polokalama ma galuega mo tagata afaina olaga. O le fono e iai totino e 12 e tofia e le Kovana ma fa'amaonia e le Fonofaitulafono. E tolu totino mai tagata lautele, tolu mai tagata faigaluega o le malo, tolu mai le vaega saunia galuega, ma le tolu o e fa'aaogaina lenei polokalama.

#### 4.1406 Aia tagata afaina soifua.

(a) O le tagata ua afaina le soifua ua ia te ia aia ua fa'aalia i lalo:

- (1) aia i togafitiga tatau;
- (2) aia i se togafitiga tusitusia po'o se fuafuaga o galuega;
- (3) aia e auai i le fuafuaga o lana lava polokalama;
- (4) aia e teena ai togafitiga po'o fuafuaga o galuega;
- (5) aia e teena ona auai i polokalama fa'ata'ita'i;

(6) aia e sa'oloto ai mai le taofiga po'o le fa'anofa to'atasi (vagana tulaga tatau fa'afuase'i);

(7) aia i se si'omia saogalemu ma le mama;

(8) aia i faiga e tatau mo tagata soifua;

(9) aia i le fa'alilo o fa'amatalaga;

(10) aia e va'ai ai i fa'amaumauga e fa'asino ia te ia;

(11) aia e le fa'alavelavea ai e nisi;

(12) aia i se fa'amalamalamaga tatau pe a ulufale i so'o se nofoaga po'o se polokalama;

(13) aia e faia ai se tagi le malie;

(14) aia e auina ai i nisi.

(e) O aia ua lisiina e le fa'auigaina e sui pe fa'amuta ai so'o se isi lava aia, manuia, po'o aia fa'apitoa, e aofia ai faiga tatau o le tulafono ma poloaiga o aia ma puipuiga, e agava'a i ai se tagata ua afaina soifua.

#### 4.1407 Fa'alilo o fa'amaumauga.

O fa'amaumauga ua failaina i le ofisa ma tala o iai ia tausia fa'alilo, ma e fa'atoa mafai ona fa'aali pe a malie iai le tagata ua fa'asino i ai, ma e fa'aaoga i mataupu e fa'ato'afilemu ai se le malie o le tagata afaina.

#### 4.1408 Fuafuaga o galuega tagata e tasi--Pulega o tagi.

E tatau i ofisa ta'itasi e pulea galuega mo tagata afaina ona faia fuafuaga fa'apitoa mo tagata ta'ito'atasi ua afaina soifua o lo'o latou tausia. O le fuafuaga ia tusitua ma ia aofia ai, pe afai ua itiiti, le uiga o le manaoga o le tagata, togafitiga, tausiga, sini, ma galuega fa'apitoa e tatau ona faia mo le tagata ua afaina e fa'ataunu'u ai ia sini.

#### 4.1409 Poloaiga galue.

O le fa'atonu o le polokalama i se feutagaiga ma le fono faufautua ma ina ia tusa ai ma tulafono tatau uma o le a taualoa ni aiaiga o tulaga e agava'a ai, tulaga tatau o galuega faia, e pei ona fa'amanino i le tulafono ma se tulaga le fa'apitoa e fa'amalie ai tagi, ina ia lelei ona tautuaina tagata ua afaina soifua i se taimi vase.

  
Letuli Toloa

PERESETENE, MAOTA MAUALUGA

  
Tuana'itau F. Tuia

FOFOGA FETALAI, MAOTA O SUI

Hereby Approved this 6<sup>th</sup> day of JUNE, 1991

  
Governor of American Samoa