

# Community Living Landscape in Virginia

The Virginia Board for People with Disabilities serves as Virginia's Developmental Disabilities Council. In this capacity, the Board advises the Governor, the Secretary of Health and Human Resources, federal and state legislators, and other constituent groups on issues important to people with disabilities in the Commonwealth. The following assessment of Community Living services and outcomes is intended to serve as a guide for policymakers who are interested in improving Community Living options for people with disabilities in the Commonwealth of Virginia. To see the Board's full 2019 Community Living assessment, please visit <https://vaboard.org/assessment.htm>

## Leading by Values

The Board's work in this area is driven by its vision, values, and the following core beliefs and principles:



### *Inherent Dignity*

All people possess inherent dignity, regardless of gender, race, religion, national origin, or disability status.



### *Presumed Capacity*

All people should be presumed capable of obtaining a level of independence and making informed decisions about their lives.



### *Self-Determination*

People with disabilities and their families are experts in their own needs and desires and they must be included in the decision-making processes that affect their lives.



### *Integration*

People with disabilities have a civil right to receive services and supports in the most integrated setting appropriate to their needs and desires, consistent with the Supreme Court's Olmstead decision.



### *Diversity*

Diversity is a core value. All people, including people with disabilities, should be valued for contributing to the diversity of the Commonwealth.



### *Freedom from Abuse & Neglect*

People with disabilities must be protected from abuse and neglect in all settings where services and supports are provided.



### *Fiscal Responsibility*

Fiscally responsible policies are beneficial for the Commonwealth, and they are beneficial for people with disabilities.

The right of people with developmental and other disabilities to live and participate in the community is well established in the United States. When the Americans with Disabilities Act (ADA) was passed in 1990, Congress described the isolation and segregation of individuals with disabilities as a serious and pervasive form of discrimination (42 U.S. Code § 12101(a)(2)), and it enacted the ADA to combat this type of discrimination. Twenty-nine years after Congress made these statements, people with disabilities continue to face barriers to community living and these rights have yet to be fully realized.

## Key Community Living Recommendations



The Board offers 16 recommendations to improve the Community Living options for people with disabilities through promoting access and independence.

The Board's 16 recommendations are grouped into three main categories:

**1** Recommendations related to community access as a civil right:



Increase the ADA and Virginians with Disabilities Act, and promote their enforcement through state incentives and individual protections.

**2** Recommendations related to maximizing independence and self-determination:



Increase data collection and education on guardianship, protect the voting rights of people under guardianship, and increase awareness of supported decision-making as an alternative option through state legislation and stakeholder training.

**3** Recommendations related to access to critical services and supports:



Expand access to needed services and supports by increasing Medicaid service eligibility, waiver slots, reimbursement rates, and data collection.

# Community Living Landscape in Virginia

## Community Access as a Civil Right

The ADA required public entities to administer services, programs, and activities in the most integrated setting appropriate to an individual's needs and desires. States have been transforming their systems of care in order to comply with this requirement.



Together, these laws create a powerful impetus for people with disabilities to enjoy equal access to the benefits and resources of community living. However, many still face barriers and efforts to limit their ability to enforce their right to community access.

Virginia ranked in the country on serving people with DD overall and 38th on promoting independence among people with DD, according to United Cerebral Palsy's 2019 *Case for Inclusion*.

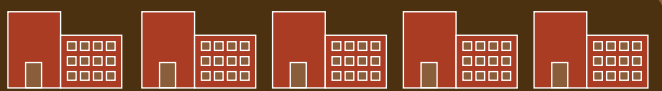
## Enforcing Rights of People with Disabilities

There are two ways to enforce the ADA. First, the U.S. Department of Justice (DOJ) can use settlement agreements and legal actions to enforce it. Second, people with disabilities can enforce their rights in court.



The DOJ entered into a Settlement Agreement with Virginia in 2012. As a result, Virginia has transitioned most people with disabilities who were living in state institutions, called Training Centers, to the community.

Since entering the Settlement Agreement, Virginia has closed all five of its Training Centers for people with developmental disabilities.



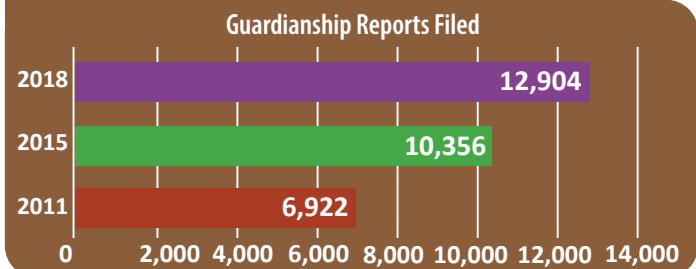
Additionally some states have attempted to curb a rising number of lawsuits by limiting people's ability to enforce their ADA rights in court. For example, notice and cure laws require people to first provide a notice of the violation and time to correct the violation. Better alternatives to notice and cure laws exist, including programs that would incentivize businesses to proactively comply with the ADA.

## Guardianship and Personal Decision-Making



While guardianship can be an important tool for protecting health and safety, it can also limit their self-determination and, in turn, limit their employment and other outcomes. For example, Virginians under guardianship typically lose the right to vote. There are a number of efforts at the state and national levels to limit the loss of rights when guardianship is necessary.

The use of guardianship in Virginia is increasing. There are a number of efforts at the state and national level to limit the use of guardianship when it is not necessary. States have tried to formalize an alternative to guardianship called supported decision-making, in which an individual designates a "supporter" to assist with decision-making, without giving up their own authority.

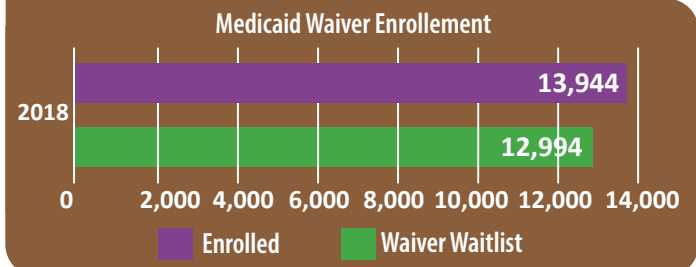


## Accessing Critical Services and Supports



Virginia limits access to key long-term services and supports, such as personal care services, which can help maintain an individual's level of functioning. Virginia narrowly defines who is eligible for these services and caps the number of people who can receive them. The waiting list in 2018 was nearly 13,000.

Workforce challenges also limit access to key long-term services and supports. Low reimbursement rates have contributed to provider shortages and high turnover.



Virginia Board for  
People with Disabilities

(804) 786-0016

WWW.VABOARD.ORG

1100 BANK STREET  
7TH FLOOR  
RICHMOND, VA 23219