

**REPORT OF THE
DEPARTMENT OF VISUALLY HANDICAPPED**

**EXAMINATION OF REFERENCES
USED IN THE CODE OF VIRGINIA
WHEN REFERRING TO
INDIVIDUALS WITH VISUAL
IMPAIRMENTS**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



HOUSE DOCUMENT NO. 16

**COMMONWEALTH OF VIRGINIA
RICHMOND
2000**

PREFACE

Pursuant to HJR 571, the Department for the Visually Handicapped (DVH) was instructed by the 1999 General Assembly to examine all statutory references currently in use which refer to individuals with some level of visual impairment. The goal of this study is to provide the General Assembly session 2000 with results of our examination of these statutory references along with recommendations of terminology that can be applied consistently and accurately throughout the Code of Virginia. It is also the intent of the DVH to provide recommendations that are appropriate and acceptable within the visually impaired community.

Concern within the disability community as well as the legislature prompted this study. Our research on this issue included a review of the Code of Virginia for all references to persons with visual impairment, consideration of the "People First" movement and its philosophy, information gathering from other states, and a public hearing to gather information from citizens of the Commonwealth.

Study group consisted of the following employees of the Department for the Visually Handicapped:

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EXECUTIVE SUMMARY

The findings of this study conclude that there is a need to alter the language in the Code of Virginia to accommodate the proper defining terminology of individuals who are visually handicapped. The origin of the term "handicapped" is archaic and has a negative connotation to today's society. It refers to an individual with a disability on the streets, begging, with a "cap in hand". While the use of the word "handicapped" may have been acceptable by some previously, the use of such language is archaic and offensive to many today. As we enter the new millennium, it is important that we use positive and acceptable language when referring to persons who are blind and visually impaired. Using positive and acceptable language is only the beginning to removing the attitudinal barrier individuals with disabilities encounter daily. It is the Department of the Visually Handicapped's intent to convey the appropriate message about the constituents whom it serves.

The findings of this study also conclude that there is no one term that fits the differing levels of sight. To provide standard terminology to capture the collective body of people with various levels of sight, the Department for the Visually Handicapped recommends using the term "blind and visually impaired".

Where the intent of the statutory reference is to refer to people who are "legally blind" as defined in § 63.1-142, then it is recommended the term "blind" or "legally blind" be used. Adding "visually impaired" to these references would be confusing and incorrect. Individuals may be "visually impaired" but not considered "legally blind" or "blind". If the intent of the statutory reference is to identify people with some level of visual impairment short of the "legal blindness" threshold specified in § 63.1-142, then the standard terminology recommended is "visually impaired". If the intent of the statutory reference is to identify all persons with any level of visual impairment, which includes individuals blind and those who are visually impaired, then the reference should be "blind and visually impaired." Individuals may be "blind" or "legally blind" and also considered "visually impaired".

In conclusion, the findings of this study show that there is no one terminology that fits the differing levels of sight. To provide standard terminology to capture the collective body of people with various levels of sight, the Department for the Visually Handicapped recommends using the standard terminology, "blind and visually impaired".

CHAPTERS

- **People First:**

The People First movement encourages the focus of language to be placed on the person rather than his or her disability. The movement recognizes that the person is first and the disability is secondary. "People First" language describes what a person **HAS**, not what a person **IS**" (from People First Language Commentary by Kathie Snow). An example is using language such as "she has a physical disability" rather than saying "she's crippled," or using, he has a "learning disability" as opposed to he's "learning disabled". A disability is a medical condition and does not describe the "whole" person. The basic idea of "People First" language is to escape terms such as "handicapped, disabled, or defect" all of which convey negative meanings.

People First emphasizes the importance of understanding the meaning of the words we use. "When we understand the meaning of words and how they're misused, we realize they are the tip of the iceberg of inappropriate and unacceptable language" (i.e. Snow commentary). Our choice of inappropriate and unacceptable language is often the window of our perspective and understanding of "disability". Altering terminology is a step toward equality and understanding for all individuals.

- **Terminology Used by Other States:**

As part of the study, other states were contacted to inquire how they define the terms "blind," "visually impaired," etc. Thirteen states responded to the study inquiry. We found that "blindness" or "blind" is consistently used in those other states as a condition in which a person has visual acuity less than 20/200. These thirteen states also consistently define an individual with a visual impairment or impediment as one who has corrected visual acuity not exceeding 20/70, but not less than 20/200. In addition to the technical definition, the states researched also noted that individuals must also meet other requirements such as, their disability must limit their opportunity for suitable employment, causes loss of employment, or threatens current employment. The states responding to our request for information were: Texas, New Jersey, Nebraska, Maine, Washington, Michigan, Missouri, Iowa, Arkansas, Connecticut, Florida, Delaware, and Minnesota. None of the states researched use the term "handicapped". The terms "impaired" and "impediment" result from the Rehabilitation Act Amendments of 1992.

- **Definitions:**

§ 63.1-142 of the Code of Virginia defines "blind person". It states, "**Blind person** means a person having not better than 20/200 central visual acuity in the better

eye measured at twenty feet with correcting lenses or having visual acuity greater than 20/200 but with the widest diameter of the visual field in the better eye subtending an angle no greater than twenty degrees, measured at a distance of thirty-three centimeters using a three-millimeter white test object, or a Goldman III-4e target, or other equivalent equipment. Such blindness shall be certified by a duly licensed physician or optometrist." This definition is used to determine if someone is "legally blind". People who satisfy this definition are included on the Virginia Register of the Blind, which DVH maintains. The following is a list of terminology and their references used in the Code of Virginia when referring to individuals with some level of visual impairment:

BLIND

The search found **228** references in **99** documents

- 10.1-1000 ..Definitions.. (1)
- 10.1-1159 ..Upon proclamation of Governor certain acts made un.. (1)
- 18.2-212.1 ..Unlawful for person not blind or incapacitated to.. (2)
- 18.2-340.33 ..Prohibited practices.. (4)
- 2.1-1.5 ..(For effective date /- See note) Entities not subj.. (2)
- 2.1-1.6 ..State boards.. (1)
- 2.1-1.7 ..State councils.. (1)
- 2.1-1.9 ..Commissions.. (1)
- 2.1-116 ..Certain officers and employees exempt from chapter.. (1)
- 2.1-807 ..Findings; policy.. (3)
- 2.1-808 ..Definitions.. (1)
- 2.1-809 ..Assurance of nonvisual access.. (2)
- 2.1-810 ..Procurement requirements.. (2)
- 2.1-811 ..Implementation.. (1)
- 20-61 ..Desertion or nonsupport of wife, husband or childr.. (1)
- 20-88.02 ..Transfer of assets to qualify for assistance; liab.. (1)
- 22.1-16.1 ..Board to establish regulations regarding human res.. (1)
- 22.1-217 ..Visually impaired children.. (1)
- 22.1-217.01 ..Information on educational and other services for.. (1)
- 22.1-253.13:5 ..Standard 5. Training and professional development.. (1)
- 22.1-281 ..Triennial census of school population.. (1)
- 22.1-298 ..Regulations governing licensure.. (1)
- 22.1-346 ..Transfer of property; rights and duties of the Boa.. (9)
- 22.1-346.1 ..Advisory Commission on the Virginia Schools for th.. (3)
- 22.1-347 ..Superintendent of Public Instruction to prescribe.. (1)
- 22.1-348 ..Persons eligible; fees; educational programs to be.. (9)
- 22.1-349 ..Terms of employment of teachers.. (2)
- 23-14 ..Certain educational institutions declared governme.. (1)
- 24.2-649 ..Assistance for certain voters.. (2)
- 25-46.6 ..Lands of certain state institutions; cemeteries; l.. (1)
- 29.1-301 ..Exemptions from license requirements.. (1)

- 29.1-314 ..Special fishing permits for certain handicapped pe.. (1)
- 29.1-342 ..Floating blinds.. (2)
- 29.1-343 ..Fees for waterfowl blind licenses.. (4)
- 29.1-344 ..Stationary blinds on shore and in the public water.. (5)
- 29.1-344.1 ..Stationary duck blind license; riparian landowners.. (4)
- 29.1-345 ..Stationary blinds in the public waters for nonripa.. (7)
- 29.1-346 ..When license for floating blinds issued; distance.. (2)
- 29.1-347 ..Renewing licenses.. (2)
- 29.1-348 ..Obtaining licenses.. (4)
- 29.1-349 ..Hunting, erecting blind within 500 yards of licens.. (13)
- 29.1-350 ..Exemption from application of article.. (1)
- 29.1-521 ..Unlawful to hunt, trap, possess, sell or transport.. (1)
- 3.1-796.128:1 ..Intentional interference with a guide or leader do.. (1)
- 3.1-796.87 ..Amount of license tax.. (1)
- 30-34.5 ..Printing and distribution of Acts of Assembly.. (1)
- 37.1-202.1 ..Liability for expenses of services.. (1)
- 38.2-1318 ..Examinations; how conducted.. (1)
- 46.2-100 ..Definitions.. (2)
- 46.2-1028 ..Auxiliary lights on fire-fighting, Virginia Depart.. (1)
- 46.2-1029 ..Auxiliary lights on law-enforcement vehicles.. (1)
- 46.2-221 ..Certain state agencies to report to Department con.. (6)
- 46.2-933 ..When vehicles to stop for pedestrian guided by dog.. (1)
- 46.2-934 ..Failure to use cane or guide dog not contributory.. (2)
- 51.5-44 ..Rights of persons with disabilities in public plac.. (1)
- 54.1-3408 ..Professional use by practitioners.. (1)
- 58.1-322 ..Virginia taxable income of residents.. (4)
- 58.1-3506 ..Other classifications of tangible personal propert.. (2)
- 58.1-3703 ..Counties, cities and towns may impose local licens.. (1)
- 58.1-3840 ..(Effective until July 1, 2000) Certain excise taxe.. (2)
- 58.1-609.8 ..Nonprofit civic and community service exemptions.. (3)
- 59.1-257 ..Definitions.. (1)
- 59.1-258 .."Blind bidding" prohibited.. (3)
- 63.1-107 ..Application for assistance.. (1)
- 63.1-122 ..State Board may compel action by local authorities.. (2)
- 63.1-142 ..Definitions.. (3)
- 63.1-143 ..Operation by Department.. (3)
- 63.1-144 ..Operation by blind persons.. (4)
- 63.1-145 ..Contract with nominee to provide equipment and mer.. (1)
- 63.1-148 ..Surveys of business enterprise opportunities.. (1)
- 63.1-149 ..Licensure of blind adult residents as operators.. (2)
- 63.1-152 ..Preference in licensing operators; operators to be.. (1)
- 63.1-155 ..Placement of blind persons in vacancies by Departm.. (3)
- 63.1-156 ..Providing blind persons with equipment and merchan.. (2)
- 63.1-164 ..Exemption from taxation; collection and remittance.. (4)
- 63.1-166 ..Definitions.. (4)

- 63.1-167 ..Registration of manufacturers and distributors of.. (9)
- 63.1-168 ..Goods not to be represented as made by blind perso.. (3)
- 63.1-169 ..How goods made by blind persons to be stamped or l.. (5)
- 63.1-171 ..Certain acts declared misdemeanors.. (1)
- 63.1-171.3 ..Duty of driver approaching blind pedestrian; effec.. (6)
- 63.1-68 ..Appointment, terms and qualifications of members o.. (3)
- 63.1-70 ..Department to act as bureau of information and ind.. (1)
- 63.1-70.1 ..Statewide Rehabilitation Advisory Council for the.. (2)
- 63.1-71 ..Register of the blind; reports required of physici.. (3)
- 63.1-73 ..Establishment of schools and workshops; expenditur.. (4)
- 63.1-73.1 ..Rehabilitation Center for the Blind and Visually I.. (3)
- 63.1-74.1 ..Operation of library service for the handicapped;.. (1)
- 63.1-75 ..Use of earnings of schools and workshops; record o.. (1)
- 63.1-75.1 ..Operation of vending machines at rest areas on int.. (1)
- 63.1-77 ..Supervision of administration.. (1)
- 63.1-79 ..Establishment of standards of personnel and servic.. (1)
- 63.1-80 ..Cooperation with local boards.. (1)
- 63.1-81 ..Cooperation with federal agencies.. (1)
- 63.1-83 ..Authority to receive grants-in-aid and gifts.. (2)
- 63.1-85 ..Functions, duties and powers of Commissioner.. (1)
- 63.1-87 ..Definitions.. (2)
- 9-6.23 ..Prohibition against service by legislators on boar.. (1)
- 9-6.25:1 ..Advisory boards, commissions and councils.. (2)

LEGALLY BLIND

The search found 1 reference in 1 document.

- 29.1-301 ..Exemptions from license requirements.. (1)

PARTIALLY BLIND

The search found 8 references in 5 documents.

- 18.2-212.1 ..Unlawful for person not blind or incapacitated to.. (1)
- 46.2-933 ..When vehicles to stop for pedestrian guided by dog.. (1)
- 46.2-934 ..Failure to use cane or guide dog not contributory.. (2)
- 51.5-44 ..Rights of persons with disabilities in public plac.. (1)
- 63.1-171.3 ..Duty of driver approaching blind pedestrian; effec.. (3)

VISUALLY IMPAIRED

The search found 25 references in 13 documents.

- 2.1-807 ..Findings; policy.. (3)
- 2.1-808 ..Definitions.. (1)
- 2.1-809 ..Assurance of nonvisual access.. (2)

- 2.1-810 ..Procurement requirements.. (2)
- 2.1-811 ..Implementation.. (1)
- 22.1-213 ..Definitions.. (1)
- 22.1-217 ..Visually impaired children.. (6)
- 22.1-217.01 ..Information on educational and other services for.. (3)
- 22.1-253.13:5 ..Standard 5. Training and professional development.. (1)
- 22.1-298 ..Regulations governing licensure.. (1)
- 54.1-3408 ..Professional use by practitioners.. (1)
- 58.1-609.8 ..Nonprofit civic and community service exemptions.. (1)
- 63.1-73.1 ..Rehabilitation Center for the Blind and Visually I.. (2)

VISUALLY HANDICAPPED

The search found **81** references in **55** documents.

- 11-45 ..(For expiration date /- See note) Exceptions to re.. (2)
- 15.2-1805 ..Permitting visually handicapped persons to operate.. (3)
- 2.1-1.1 ..Departments generally.. (1)
- 2.1-1.3 ..Entities subject to standard nomenclature.. (1)
- 2.1-1.6 ..State boards.. (1)
- 2.1-20.4 ..Bodies receiving compensation.. (1)
- 2.1-450 ..Purchases from Department for Visually Handicapped.. (2)
- 2.1-450.1 ..Purchases from nonprofit sheltered workshops of Vi.. (1)
- 2.1-51.15 ..Agencies for which responsible.. (1)
- 2.1-703.1 ..Interagency Coordinating Council on Housing for th.. (1)
- 2.1-760 ..Definitions.. (1)
- 2.1-762 ..Early intervention agencies committee.. (1)
- 22.1-214 ..Board to prepare special education program for chi.. (1)
- 22.1-217 ..Visually impaired children.. (5)
- 22.1-217.01 ..Information on educational and other services for.. (1)
- 22.1-253.13:5 ..Standard 5. Training and professional development.. (1)
- 22.1-347 ..Superintendent of Public Instruction to prescribe.. (1)
- 46.2-221 ..Certain state agencies to report to Department con.. (5)
- 51.1-124.3 ..Definitions.. (1)
- 51.5-1 ..Declaration of policy.. (1)
- 51.5-2 ..Plan of cooperation.. (1)
- 51.5-31 ..Board created.. (1)
- 51.5-47 ..Local boards; appointment; membership and staff.. (1)
- 51.5-49 ..Disability Services Council; membership and respon.. (1)
- 51.5-52 ..Local interagency services teams.. (1)
- 51.5-9 ..Department designated as state agency for purpose.. (1)
- 58.1-3703 ..Counties, cities and towns may impose local licens.. (1)
- 58.1-3840 ..(Effective until July 1, 2000) Certain excise tax.. (2)
- 58.1-439.11 ..Employees with disabilities tax credit.. (3)
- 58.1-609.1 ..Governmental and commodities exemptions.. (1)
- 63.1-107 ..Application for assistance.. (1)

- 63.1-142 ..Definitions.. (2)
- 63.1-155 ..Placement of blind persons in vacancies by Departm.. (1)
- 63.1-167 ..Registration of manufacturers and distributors of.. (1)
- 63.1-171 ..Certain acts declared misdemeanors.. (1)
- 63.1-314.8 ..Technical Assistance Committee created; duties; me.. (1)
- 63.1-52 ..Furnishing reports.. (2)
- 63.1-53 ..Allowing access to records; penalty.. (2)
- 63.1-68 ..Appointment, terms and qualifications of members o.. (4)
- 63.1-69.1 ..Definitions.. (3)
- 63.1-70.1 ..Statewide Rehabilitation Advisory Council for the.. (1)
- 63.1-71.1 ..Information contained in register to be confidenti.. (1)
- 63.1-73.1 ..Rehabilitation Center for the Blind and Visually I.. (1)
- 63.1-74 ..Acceptance and management of gifts, grants, etc.. (2)
- 63.1-74.1 ..Operation of library service for the handicapped;.. (1)
- 63.1-77 ..Supervision of administration.. (1)
- 63.1-79 ..Establishment of standards of personnel and servic.. (1)
- 63.1-80 ..Cooperation with local boards.. (1)
- 63.1-81 ..Cooperation with federal agencies.. (1)
- 63.1-83 ..Authority to receive grants-in-aid and gifts.. (2)
- 63.1-85 ..Functions, duties and powers of Commissioner.. (1)
- 63.1-95 ..Expenses of Auditor of Public Accounts, Comptrolle.. (2)
- 63.1-97.1 ..Provisions for determination of eligibility for me.. (1)
- 9-323 ..Specialized Transportation Technical Advisory Comm.. (1)
- 9-6.25:1 ..Advisory boards, commissions and councils.. (1)

The terminology in the Code of Virginia § 46.2-311 used by the Department of Motor Vehicles refers to persons having "defective vision". As provided in the Code of Virginia § 46.2.311, the Department of Motor Vehicles defines the current minimum vision standards of sight to operate motor vehicles in Virginia. The Department of Motor Vehicles uses technical requirements to determine persons to be licensed to operate motor vehicles in Virginia. The requirements address the differing levels of sight. The following is § 46.2-311 of the Code of Virginia:

46.2-311 ..Persons having defective vision; minimum standards. (1)

• **Constituent Feedback:**

Opportunities were given to state agencies and professionals to comment as well as constituents and advocacy groups. It should be noted that most agreed the Code of Virginia is primarily read by attorneys, judges, and legislators and there has been no major confusion over terminology voiced by those individuals.

There is consensus among those who responded by written comments to our invitation to comment on this issue during the study. Those who responded with written

comments agree that the terminology used should be changed. Most of these respondents were not blind. Suggestions are as follows:

- ✦ Replace the term “Visually Handicapped” or “blind”
 - ✦ “sight impaired”
 - ✦ “low vision”
 - ✦ “persons with visual impairments”
 - ✦ “persons who are blind”

There was a differing consensus from those who responded at the study's town hall meeting. Those who testified at the public hearing did not express a need for change in terminology, however, they did not oppose change but agreed that no one term fits all people who are blind or visually impaired. Most of these individuals were blind and visually impaired constituents and their recommendations are as follows:

- ✦ Replace the title Department for the Visually Handicapped
 - ✦ Department for Persons with Visual Impairments
 - ✦ Virginia Department for the Blind and Vision Impaired

Participation during the town hall meeting was minimal, however, one individual who is blind representing the National Federation of the Blind of Virginia read an article entitled, *The Pitfalls of Political Correctness: Euphemisms Excoriated*. He also read the National Federation of the Blind's Resolution 93-01, on political correctness, released at their national convention in 1993.

The two documents criticized contemporary society's overemphasizing political correctness and supported the term “blind”. Their resolution ended by stating: “*We believe that it is respectable to be blind, and although we have no particular pride in the fact of our blindness, neither do we have any shame in it. To the extent that euphemisms are used to convey any other concept or image, we deplore such use. We can make our own way in the world on equal terms with others, and we intend to do it.*” This statement commands legitimacy considering its source, a national organization composed of and run by individuals who are blind. This does not in anyway invalidate the view of the other responders.

• **Estimated Cost of Change:**

After consulting with staff of the Division of Legislative Services and the Division of Automated Systems, it was determined that it was not possible to provide a cost standardizing the terminology contained in the Code of Virginia. The only way an actual cost could be provided is after the bill is passed by the General Assembly and put in print. Both agencies did point out that making these changes would be a massive undertaking due to the many references to *blind, visually impaired, and visually handicapped* contained in the code.

APPENDIX[summary](#) | [pdf](#)**HOUSE JOINT RESOLUTION NO. 571**

Requesting the Department for the Visually Handicapped to examine all statutory language currently in use which refers to those persons with some level of visual impairment and make recommendations for a standard terminology.

Agreed to by the House of Delegates, February 5, 1999
Agreed to by the Senate, February 18, 1999

WHEREAS, the Department for the Visually Handicapped oversees all functions of state authority with regard to those persons with some level of visual impairment; and

WHEREAS, there is a variety of programs available to persons with differing levels of sight to assist them in remaining independent and able to experience life to its fullest; and

WHEREAS, over the years the terminology referring to those with visual impairment has changed for a number of reasons, including the "People First" movement which recognizes that the person is the primary focus of attention and the handicap is secondary; and

WHEREAS, references in the Code of Virginia are inconsistent and confusing; and

WHEREAS, there needs to be some standardization throughout state law with regard to references to those persons with a visual impairment, but a close evaluation of each reference must be done to determine the appropriateness of such a change; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Department for the Visually Handicapped be requested to examine all statutory references to persons with visual impairment which appear in the Code and determine how we can best standardize these references so that they are accurate.

All agencies of the Commonwealth shall provide assistance to the Department for this study, upon request.

The Department shall complete its work in time to submit its findings and recommendations to the Governor and the 2000 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.



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