

AN ACT concerning disabled persons.

Be it enacted by the People of the State of Illinois,
represented in the General Assembly:

Section 1. Short title. This Act may be cited as the
Disabilities Services Act of 2003.

Section 5. Purpose. It is the purpose of this Act to
create an advisory committee to develop and implement a
disabilities services implementation plan as provided in
Section 20 to ensure compliance by the State of Illinois with
the Americans with Disabilities Act and the decision in
Olmstead v. L.C., 119 S.Ct. 2176 (1999).

Section 10. Application of Act; definitions.

(a) This Act applies to persons with disabilities. The
disabilities included are defined for purposes of this Act as
follows:

"Disability" means a disability as defined by the
Americans with Disabilities Act of 1990 that is attributable
to a developmental disability, a mental illness, or a
physical disability, or combination of those.

"Developmental disability" means a disability that is
attributable to mental retardation or a related condition. A
related condition must meet all of the following conditions:

(1) It must be attributable to cerebral palsy,
epilepsy, or any other condition (other than mental
illness) found to be closely related to mental
retardation because that condition results in impairment
of general intellectual functioning or adaptive behavior
similar to that of individuals with mental retardation,
and requires treatment or services similar to those
required for those individuals. For purposes of this

Section, autism is considered a related condition.

(2) It must be manifested before the individual reaches age 22.

(3) It must be likely to continue indefinitely.

(4) It must result in substantial functional limitations in 3 or more of the following areas of major life activity: self-care, language, learning, mobility, self-direction, and capacity for independent living.

"Mental Illness" means a mental or emotional disorder verified by a diagnosis contained in the Diagnostic and Statistical Manual of Mental Disorders-Fourth Edition, published by the American Psychiatric Association (DSM-IV), or its successor, or International Classification of Diseases, 9th Revision, Clinical Modification (ICD-9-CM), or its successor, that substantially impairs a person's cognitive, emotional, or behavioral functioning, or any combination of those, excluding (i) conditions that may be the focus of clinical attention but are not of sufficient duration or severity to be categorized as a mental illness, such as parent-child relational problems, partner-relational problems, sexual abuse of a child, bereavement, academic problems, phase-of-life problems, and occupational problems (collectively, "V codes"), (ii) organic disorders such as substance intoxication dementia, substance withdrawal dementia, Alzheimer's disease, vascular dementia, dementia due to HIV infection, and dementia due to Creutzfeld-Jakob disease and disorders associated with known or unknown physical conditions such as hallucinosis, amnesic disorders and delirium, and psychoactive substance-induced organic disorders, and (iii) mental retardation or psychoactive substance use disorders.

"Mental retardation" means significantly sub-average general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested before the age

of 22 years.

"Physical disability" means a disability as defined by the Americans with Disabilities Act of 1990 that meets the following criteria:

(1) It is attributable to a physical impairment.

(2) It results in a substantial functional limitation in any of the following areas of major life activity: (i) self-care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, and (vii) economic sufficiency.

(3) It reflects the person's need for a combination and sequence of special, interdisciplinary, or general care, treatment, or other services that are of lifelong or of extended duration and must be individually planned and coordinated.

(b) In this Act:

"Chronological age-appropriate services" means services, activities, and strategies for persons with disabilities that are representative of the lifestyle activities of nondisabled peers of similar age in the community.

"Comprehensive evaluation" means procedures used by qualified professionals selectively with an individual to determine whether a person has a disability and the nature and extent of the services that the person with a disability needs.

"Department" means the Department on Aging, the Department of Human Services, the Department of Public Health, the Department of Public Aid, the University of Illinois Division of Specialized Care for Children, the Department of Children and Family Services, and the Illinois State Board of Education, where appropriate, as designated in the implementation plan developed under Section 20.

"Family" means a natural, adoptive, or foster parent or

parents or other person or persons responsible for the care of an individual with a disability in a family setting.

"Family or individual support" means those resources and services that are necessary to maintain an individual with a disability within the family home or his or her own home. These services may include, but are not limited to, cash subsidy, respite care, and counseling services.

"Independent service coordination" means a social service that enables persons with developmental disabilities and their families to locate, use, and coordinate resources and opportunities in their communities on the basis of individual need. Independent service coordination is independent of providers of services and funding sources and is designed to ensure accessibility, continuity of care, and accountability and to maximize the potential of persons with developmental disabilities for independence, productivity, and integration into the community. Independent service coordination includes, at a minimum: (i) outreach to identify eligible individuals; (ii) assessment and periodic reassessment to determine each individual's strengths, functional limitations, and need for specific services; (iii) participation in the development of a comprehensive individual service or treatment plan; (iv) referral to and linkage with needed services and supports; (v) monitoring to ensure the delivery of appropriate services and to determine individual progress in meeting goals and objectives; and (vi) advocacy to assist the person in obtaining all services for which he or she is eligible or entitled.

"Individual service or treatment plan" means a recorded assessment of the needs of a person with a disability, a description of the services recommended, the goals of each type of element of service, an anticipated timetable for the accomplishment of the goals, and a designation of the qualified professionals responsible for the implementation of

the plan.

"Least restrictive environment" means an environment that represents the least departure from the normal patterns of living and that effectively meets the needs of the person receiving the service.

Section 15. Services. Services shall be provided in accordance with the individual service or treatment plan developed for an individual under this Section. The individual shall initially be screened for potential eligibility by the appropriate State agency and, if the individual is deemed probably eligible for a disability service or program, a comprehensive evaluation of the individual shall be conducted to determine the services and programs appropriate for that individual. The array of available services shall be described in the Disabilities Services Implementation Plan required under this Act and may include, but need not be limited to:

(1) Comprehensive evaluation and diagnosis. A person with a suspected disability who is applying for Department-authorized disability services must receive, after an initial screening and a determination of probable eligibility for a disability service or program, a comprehensive diagnosis and evaluation, including an assessment of skills, abilities, and potential for residential and work placement, adapted to his or her primary language, cultural background, and ethnic origin. All components of a comprehensive evaluation must be administered by a qualified examiner.

(2) Individual service or treatment plan. A person with a disability shall receive services in accordance with a current individual service or treatment plan. A person with a disability who is receiving services shall be provided periodic reevaluation and review of the

individual service or treatment plan, at least annually, in order to measure progress, to modify or change objectives if necessary, and to provide guidance and remediation techniques.

A person with a disability and his or her guardian have the right to participate in the planning and decision-making process regarding the person's individual service or treatment plan and to be informed in writing, or in that person's mode of communication, of progress at reasonable time intervals. Each person must be given the opportunity to make decisions and exercise options regarding the plan, consistent with the person's capabilities. Family members and other representatives of the person with a disability must be allowed, encouraged, and supported to participate as well, if the person with a disability consents to that participation.

(3) Nondiscriminatory access to services. A person with a disability may not be denied program services because of sex, ethnic origin, marital status, ability to pay (except where contrary to law), or criminal record. Specific program eligibility requirements with regard to disability, level of need, age, and other matters may be established by the Department by rule. The Department may set priorities for the provision of services and for determining the need and eligibility for services in accordance with available funding.

(4) Family or individual support. A person with a disability must be provided family or individual support services, or both, whenever possible and appropriate, to prevent unnecessary out-of-home placement and to foster independent living skills when authorized for such services.

(5) Residential choices and options. A person with a disability who requires residential placement in a

supervised or supported setting must be provided choices among various residential options when authorized for those services. The placement must be offered in the least restrictive environment appropriate to the individual.

(6) Education. A person with a disability has the right to a free, appropriate public education as provided in both State and federal law. Each local educational agency must prepare persons with disabilities for adult living. In anticipation of adulthood, each person with a disability has the right to a transition plan developed and ready for implementation before the person's exit by no later than the school year in which the person reaches age 14, consistent with the requirements of the federal Individuals with Disabilities Education Act and Article XIV of the School Code.

(7) Vocational training. A person with a disability must be provided vocational training, when appropriate, that contributes to the person's independence and employment potential. This training should include strategies and activities in programs that lead to employment and reemployment in the least restrictive environment appropriate to the individual.

(8) Employment. A person with a disability has the right to be employed free from discrimination, pursuant to the Constitution and laws of this State.

(9) Independent service coordination. A person with a disability who is receiving direct services from the Department must be provided independent service coordination when needed.

(10) Mental health supports. Individuals with a disability must be provided needed mental health supports such as psychological rehabilitation, psychiatric and medication coverage, day treatment, care management, and

crisis services.

(11) Due process. A person with a disability retains the rights of citizenship. Any person aggrieved by a decision of a department regarding services provided under this Act must be given an opportunity to present complaints at a due process hearing before an impartial hearing officer designated by the director of that department. Any person aggrieved by a final administrative decision rendered following the due process hearing may seek judicial review of that decision pursuant to the Administrative Review Law. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure. Attorney's fees and costs may be awarded to a prevailing complainant in any due process hearing or action for judicial review under this Act.

The right to a hearing under this item (11) is in addition to any other rights under federal, State, or local laws, however nothing in this Section shall be construed as requiring the establishment of a new due process hearing procedure if one already exists for a particular service or program.

Section 20. Implementation.

(a) The Governor shall appoint an advisory committee to assist in the development and implementation of a Disabilities Services Implementation Plan that will ensure compliance by the State of Illinois with the Americans with Disabilities Act and the decision in *Olmstead v. L.C.*, 119 S.Ct. 2176 (1999). The advisory committee shall be known as the Illinois Disabilities Services Advisory Committee and shall be composed of no more than 33 members, including: persons who have a physical disability, a developmental disability, or a mental illness; senior citizens; advocates

for persons with physical disabilities; advocates for persons with developmental disabilities; advocates for persons with mental illness; advocates for senior citizens; representatives of providers of services to persons with physical disabilities, developmental disabilities, and mental illness; representatives of providers of services to senior citizens; and representatives of organized labor.

In addition, the following State officials shall serve on the committee as ex-officio non-voting members: the Secretary of Human Services or his or her designee; the State Superintendent of Education or his or her designee; the Director of Aging or his or her designee; the Executive Director of the Illinois Housing Development Authority or his or her designee; the Director of Public Aid or his or her designee; and the Director of Employment Security or his or her designee.

The advisory committee shall select officers, including a chair and a vice-chair.

The advisory committee shall meet at least quarterly and shall keep official meeting minutes. Committee members shall not be compensated but shall be paid for their expenses related to attendance at meetings.

(b) The implementation plan must include, but need not be limited to, the following:

(1) Establishing procedures for completing comprehensive evaluations, including provisions for Department review and approval of need determinations. The Department may utilize independent evaluators and targeted or sample reviews during this review and approval process, as it deems appropriate.

(2) Establishing procedures for the development of an individual service or treatment plan for each person with a disability, including provisions for Department review and authorization.

(3) Identifying core services to be provided by agencies of the State of Illinois or other agencies.

(4) Establishing minimum standards for individualized services.

(5) Establishing minimum standards for residential services in the least restrictive environment.

(6) Establishing minimum standards for vocational services.

(7) Establishing due process hearing procedures.

(8) Establishing minimum standards for family support services.

(9) Securing financial resources necessary to fulfill the purposes and requirements of this Act, including but not limited to obtaining approval and implementing waivers or demonstrations authorized under federal law.

(c) The Governor, with the assistance of the Illinois Disabilities Services Advisory Committee and the Secretary of Human Services, is responsible for the completion of the implementation plan. The Governor must submit a report to the General Assembly by November 1, 2004, which must include the following:

(1) The implementation plan.

(2) A description of current and planned programs and services necessary to meet the requirements of the individual service or treatment plans required by this Act, together with the actions to be taken by the State of Illinois to ensure that those plans will be implemented. This description shall include a report of related program and service improvements or expansions implemented by the Department since the effective date of this Act.

(3) The estimated costs of current and planned programs and services to be provided under the

implementation plan.

(4) A report on the number of persons with disabilities who may be eligible to receive services under this Act, together with a report on the number of persons who are currently receiving those services.

(5) Any proposed changes in State policies, laws, or regulations necessary to fulfill the purposes and requirements of this Act.

(d) The Governor, with the assistance of the Secretary of Human Services, shall annually update the implementation plan and report changes to the General Assembly by July 1 of each year. Initial implementation of the plan is required by July 1, 2005. The requirement of annual updates and reports expires in 2008, unless otherwise extended by the General Assembly.

Section 25. Appropriations. Services shall be provided under this Act to the extent that appropriations are made available by the General Assembly for the programs and services indicated in the implementation plan.

Section 30. Entitlements. This Act does not create any new entitlement to a service, program, or benefit, but shall not be construed to affect any entitlement to a service, program, or benefit created by any other law.

(405 ILCS 80/1-1 rep.)

(405 ILCS 80/1-2 rep.)

(405 ILCS 80/1-3 rep.)

(405 ILCS 80/1-4 rep.)

(405 ILCS 80/1-5 rep.)

Section 90. The Developmental Disability and Mental Disability Services Act is amended by repealing Sections 1-1, 1-2, 1-3, 1-4, and 1-5 (the Developmental Disabilities

Public Act 093-0638
HB0684 Re-Enrolled

LRB093 05504 MKM 05595 b

Services Law).

Section 99. Effective date. This Act takes effect upon becoming law.