

HB4836



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB4836

by Rep. Jeanne M Ives

SYNOPSIS AS INTRODUCED:

405 ILCS 80/2-3

from Ch. 91 1/2, par. 1802-3

Amends the Developmental Disability and Mental Disability Services Act. Provides that in one's "own home" means that an adult with a mental disability lives alone; or that an adult with a mental disability is in full-time residence with his or her parents, legal guardian, or other relatives; or that an adult with a mental disability is in full-time residence in a setting not subject to licensure under the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act of 2013, the ID/DD Community Care Act, the MC/DD Act, or the Child Care Act of 1969 with 5 (rather than 3) or fewer other adults unrelated to the adult with a mental disability who do not provide home-based services to the adult with a mental disability.

LRB100 16056 RLC 31175 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning health.

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

4 Section 5. The Developmental Disability and Mental
5 Disability Services Act is amended by changing Section 2-3 as
6 follows:

7 (405 ILCS 80/2-3) (from Ch. 91 1/2, par. 1802-3)

8 Sec. 2-3. As used in this Article, unless the context
9 requires otherwise:

10 (a) "Agency" means an agency or entity licensed by the
11 Department pursuant to this Article or pursuant to the
12 Community Residential Alternatives Licensing Act.

13 (b) "Department" means the Department of Human Services, as
14 successor to the Department of Mental Health and Developmental
15 Disabilities.

16 (c) "Home-based services" means services provided to an
17 adult with a mental disability who lives in his or her own
18 home. These services include but are not limited to:

- 19 (1) home health services;
20 (2) case management;
21 (3) crisis management;
22 (4) training and assistance in self-care;
23 (5) personal care services;

- 1 (6) habilitation and rehabilitation services;
2 (7) employment-related services;
3 (8) respite care; and
4 (9) other skill training that enables a person to
5 become self-supporting.

6 (d) "Legal guardian" means a person appointed by a court of
7 competent jurisdiction to exercise certain powers on behalf of
8 an adult with a mental disability.

9 (e) "Adult with a mental disability" means a person over
10 the age of 18 years who lives in his or her own home; who needs
11 home-based services, but does not require 24-hour-a-day
12 supervision; and who has one of the following conditions:
13 severe autism, severe mental illness, a severe or profound
14 intellectual disability, or severe and multiple impairments.

15 (f) In one's "own home" means that an adult with a mental
16 disability lives alone; or that an adult with a mental
17 disability is in full-time residence with his or her parents,
18 legal guardian, or other relatives; or that an adult with a
19 mental disability is in full-time residence in a setting not
20 subject to licensure under the Nursing Home Care Act, the
21 Specialized Mental Health Rehabilitation Act of 2013, the ID/DD
22 Community Care Act, the MC/DD Act, or the Child Care Act of
23 1969, as now or hereafter amended, with 5 ~~3~~ or fewer other
24 adults unrelated to the adult with a mental disability who do
25 not provide home-based services to the adult with a mental
26 disability.

1 (g) "Parent" means the biological or adoptive parent of an
2 adult with a mental disability, or a person licensed as a
3 foster parent under the laws of this State who acts as a foster
4 parent to an adult with a mental disability.

5 (h) "Relative" means any of the following relationships by
6 blood, marriage or adoption: parent, son, daughter, brother,
7 sister, grandparent, uncle, aunt, nephew, niece, great
8 grandparent, great uncle, great aunt, stepbrother, stepsister,
9 stepson, stepdaughter, stepparent or first cousin.

10 (i) "Severe autism" means a lifelong developmental
11 disability which is typically manifested before 30 months of
12 age and is characterized by severe disturbances in reciprocal
13 social interactions; verbal and nonverbal communication and
14 imaginative activity; and repertoire of activities and
15 interests. A person shall be determined severely autistic, for
16 purposes of this Article, if both of the following are present:

17 (1) Diagnosis consistent with the criteria for
18 autistic disorder in the current edition of the Diagnostic
19 and Statistical Manual of Mental Disorders.

20 (2) Severe disturbances in reciprocal social
21 interactions; verbal and nonverbal communication and
22 imaginative activity; repertoire of activities and
23 interests. A determination of severe autism shall be based
24 upon a comprehensive, documented assessment with an
25 evaluation by a licensed clinical psychologist or
26 psychiatrist. A determination of severe autism shall not be

1 based solely on behaviors relating to environmental,
2 cultural or economic differences.

3 (j) "Severe mental illness" means the manifestation of all
4 of the following characteristics:

5 (1) A primary diagnosis of one of the major mental
6 disorders in the current edition of the Diagnostic and
7 Statistical Manual of Mental Disorders listed below:

8 (A) Schizophrenia disorder.

9 (B) Delusional disorder.

10 (C) Schizo-affective disorder.

11 (D) Bipolar affective disorder.

12 (E) Atypical psychosis.

13 (F) Major depression, recurrent.

14 (2) The individual's mental illness must substantially
15 impair his or her functioning in at least 2 of the
16 following areas:

17 (A) Self-maintenance.

18 (B) Social functioning.

19 (C) Activities of community living.

20 (D) Work skills.

21 (3) Disability must be present or expected to be
22 present for at least one year.

23 A determination of severe mental illness shall be based
24 upon a comprehensive, documented assessment with an evaluation
25 by a licensed clinical psychologist or psychiatrist, and shall
26 not be based solely on behaviors relating to environmental,

1 cultural or economic differences.

2 (k) "Severe or profound intellectual disability" means a
3 manifestation of all of the following characteristics:

4 (1) A diagnosis which meets Classification in Mental
5 Retardation or criteria in the current edition of the
6 Diagnostic and Statistical Manual of Mental Disorders for
7 severe or profound mental retardation (an IQ of 40 or
8 below). This must be measured by a standardized instrument
9 for general intellectual functioning.

10 (2) A severe or profound level of disturbed adaptive
11 behavior. This must be measured by a standardized adaptive
12 behavior scale or informal appraisal by the professional in
13 keeping with illustrations in Classification in Mental
14 Retardation, 1983.

15 (3) Disability diagnosed before age of 18.

16 A determination of a severe or profound intellectual
17 disability shall be based upon a comprehensive, documented
18 assessment with an evaluation by a licensed clinical
19 psychologist or certified school psychologist or a
20 psychiatrist, and shall not be based solely on behaviors
21 relating to environmental, cultural or economic differences.

22 (l) "Severe and multiple impairments" means the
23 manifestation of all of the following characteristics:

24 (1) The evaluation determines the presence of a
25 developmental disability which is expected to continue
26 indefinitely, constitutes a substantial disability and is

1 attributable to any of the following:

2 (A) Intellectual disability, which is defined as
3 general intellectual functioning that is 2 or more
4 standard deviations below the mean concurrent with
5 impairment of adaptive behavior which is 2 or more
6 standard deviations below the mean. Assessment of the
7 individual's intellectual functioning must be measured
8 by a standardized instrument for general intellectual
9 functioning.

10 (B) Cerebral palsy.

11 (C) Epilepsy.

12 (D) Autism.

13 (E) Any other condition which results in
14 impairment similar to that caused by an intellectual
15 disability and which requires services similar to
16 those required by persons with intellectual
17 disabilities.

18 (2) The evaluation determines multiple disabilities in
19 physical, sensory, behavioral or cognitive functioning
20 which constitute a severe or profound impairment
21 attributable to one or more of the following:

22 (A) Physical functioning, which severely impairs
23 the individual's motor performance that may be due to:

24 (i) Neurological, psychological or physical
25 involvement resulting in a variety of disabling
26 conditions such as hemiplegia, quadriplegia or

1 ataxia,

2 (ii) Severe organ systems involvement such as
3 congenital heart defect,

4 (iii) Physical abnormalities resulting in the
5 individual being non-mobile and non-ambulatory or
6 confined to bed and receiving assistance in
7 transferring, or

8 (iv) The need for regular medical or nursing
9 supervision such as gastrostomy care and feeding.

10 Assessment of physical functioning must be based
11 on clinical medical assessment by a physician licensed
12 to practice medicine in all its branches, using the
13 appropriate instruments, techniques and standards of
14 measurement required by the professional.

15 (B) Sensory, which involves severe restriction due
16 to hearing or visual impairment limiting the
17 individual's movement and creating dependence in
18 completing most daily activities. Hearing impairment
19 is defined as a loss of 70 decibels aided or speech
20 discrimination of less than 50% aided. Visual
21 impairment is defined as 20/200 corrected in the better
22 eye or a visual field of 20 degrees or less. Sensory
23 functioning must be based on clinical medical
24 assessment by a physician licensed to practice
25 medicine in all its branches using the appropriate
26 instruments, techniques and standards of measurement

1 required by the professional.

2 (C) Behavioral, which involves behavior that is
3 maladaptive and presents a danger to self or others, is
4 destructive to property by deliberately breaking,
5 destroying or defacing objects, is disruptive by
6 fighting, or has other socially offensive behaviors in
7 sufficient frequency or severity to seriously limit
8 social integration. Assessment of behavioral
9 functioning may be measured by a standardized scale or
10 informal appraisal by a clinical psychologist or
11 psychiatrist.

12 (D) Cognitive, which involves intellectual
13 functioning at a measured IQ of 70 or below. Assessment
14 of cognitive functioning must be measured by a
15 standardized instrument for general intelligence.

16 (3) The evaluation determines that development is
17 substantially less than expected for the age in cognitive,
18 affective or psychomotor behavior as follows:

19 (A) Cognitive, which involves intellectual
20 functioning at a measured IQ of 70 or below. Assessment
21 of cognitive functioning must be measured by a
22 standardized instrument for general intelligence.

23 (B) Affective behavior, which involves over and
24 under responding to stimuli in the environment and may
25 be observed in mood, attention to awareness, or in
26 behaviors such as euphoria, anger or sadness that

1 seriously limit integration into society. Affective
2 behavior must be based on clinical assessment using the
3 appropriate instruments, techniques and standards of
4 measurement required by the professional.

5 (C) Psychomotor, which includes a severe
6 developmental delay in fine or gross motor skills so
7 that development in self-care, social interaction,
8 communication or physical activity will be greatly
9 delayed or restricted.

10 (4) A determination that the disability originated
11 before the age of 18 years.

12 A determination of severe and multiple impairments shall be
13 based upon a comprehensive, documented assessment with an
14 evaluation by a licensed clinical psychologist or
15 psychiatrist.

16 If the examiner is a licensed clinical psychologist,
17 ancillary evaluation of physical impairment, cerebral palsy or
18 epilepsy must be made by a physician licensed to practice
19 medicine in all its branches.

20 Regardless of the discipline of the examiner, ancillary
21 evaluation of visual impairment must be made by an
22 ophthalmologist or a licensed optometrist.

23 Regardless of the discipline of the examiner, ancillary
24 evaluation of hearing impairment must be made by an
25 otolaryngologist or an audiologist with a certificate of
26 clinical competency.

1 The only exception to the above is in the case of a person
2 with cerebral palsy or epilepsy who, according to the
3 eligibility criteria listed below, has multiple impairments
4 which are only physical and sensory. In such a case, a
5 physician licensed to practice medicine in all its branches may
6 serve as the examiner.

7 (m) "Twenty-four-hour-a-day supervision" means
8 24-hour-a-day care by a trained mental health or developmental
9 disability professional on an ongoing basis.

10 (Source: P.A. 98-104, eff. 7-22-13; 99-143, eff. 7-27-15;
11 99-180, eff. 7-29-15; 99-642, eff. 7-28-16.)