

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 3 or fewer other adults

24 unrelated to the adult with a mental disability who do not

25 provide home-based services to the adult with a mental

26 disability, or a facility licensed by a unit of local

1 government authority with 4 or 5 other adults unrelated to the
2 adult with a mental disability who do not provide home-based
3 services to the adult with a mental disability.

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

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

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

20 (1) Diagnosis consistent with the criteria for
21 autistic disorder in the current edition of the Diagnostic
22 and Statistical Manual of Mental Disorders.

23 (2) Severe disturbances in reciprocal social
24 interactions; verbal and nonverbal communication and
25 imaginative activity; repertoire of activities and
26 interests. A determination of severe autism shall be based

1 upon a comprehensive, documented assessment with an
2 evaluation by a licensed clinical psychologist or
3 psychiatrist. A determination of severe autism shall not be
4 based solely on behaviors relating to environmental,
5 cultural or economic differences.

6 (j) "Severe mental illness" means the manifestation of all
7 of the following characteristics:

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

- 11 (A) Schizophrenia disorder.
- 12 (B) Delusional disorder.
- 13 (C) Schizo-affective disorder.
- 14 (D) Bipolar affective disorder.
- 15 (E) Atypical psychosis.
- 16 (F) Major depression, recurrent.

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

- 20 (A) Self-maintenance.
- 21 (B) Social functioning.
- 22 (C) Activities of community living.
- 23 (D) Work skills.

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

26 A determination of severe mental illness shall be based

1 upon a comprehensive, documented assessment with an evaluation
2 by a licensed clinical psychologist or psychiatrist, and shall
3 not be based solely on behaviors relating to environmental,
4 cultural or economic differences.

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

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

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

18 (3) Disability diagnosed before age of 18.

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

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

1 (1) The evaluation determines the presence of a
2 developmental disability which is expected to continue
3 indefinitely, constitutes a substantial disability and is
4 attributable to any of the following:

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

13 (B) Cerebral palsy.

14 (C) Epilepsy.

15 (D) Autism.

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

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

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

1 (i) Neurological, psychological or physical
2 involvement resulting in a variety of disabling
3 conditions such as hemiplegia, quadriplegia or
4 ataxia,

5 (ii) Severe organ systems involvement such as
6 congenital heart defect,

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

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

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

18 (B) Sensory, which involves severe restriction due
19 to hearing or visual impairment limiting the
20 individual's movement and creating dependence in
21 completing most daily activities. Hearing impairment
22 is defined as a loss of 70 decibels aided or speech
23 discrimination of less than 50% aided. Visual
24 impairment is defined as 20/200 corrected in the better
25 eye or a visual field of 20 degrees or less. Sensory
26 functioning must be based on clinical medical

1 assessment by a physician licensed to practice
2 medicine in all its branches using the appropriate
3 instruments, techniques and standards of measurement
4 required by the professional.

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

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

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

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

26 (B) Affective behavior, which involves over and

1 under responding to stimuli in the environment and may
2 be observed in mood, attention to awareness, or in
3 behaviors such as euphoria, anger or sadness that
4 seriously limit integration into society. Affective
5 behavior must be based on clinical assessment using the
6 appropriate instruments, techniques and standards of
7 measurement required by the professional.

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

13 (4) A determination that the disability originated
14 before the age of 18 years.

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

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

23 Regardless of the discipline of the examiner, ancillary
24 evaluation of visual impairment must be made by an
25 ophthalmologist or a licensed optometrist.

26 Regardless of the discipline of the examiner, ancillary

1 evaluation of hearing impairment must be made by an
2 otolaryngologist or an audiologist with a certificate of
3 clinical competency.

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

10 (m) "Twenty-four-hour-a-day supervision" means
11 24-hour-a-day care by a trained mental health or developmental
12 disability professional on an ongoing basis.

13 (Source: P.A. 98-104, eff. 7-22-13; 99-143, eff. 7-27-15;
14 99-180, eff. 7-29-15; 99-642, eff. 7-28-16.)