



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB2600

by Rep. Bob Morgan

SYNOPSIS AS INTRODUCED:

New Act

Creates the Illinois Disability Integration Act. Provides that no public entity or long-term service or support (LTSS) insurance provider shall deny an individual with an LTSS disability who is eligible for institutional placement community-based long-term services and supports that enable the individual to live in the community and lead an independent life. Sets forth specific acts of discrimination by a public entity or LTSS insurance provider that are prohibited under the Act, including: (i) imposition or application of eligibility criteria or another policy that prevents or tends to prevent an individual with an LTSS disability from receiving a community-based long-term service or support; (ii) failure to establish an adequate rate or other payment structure that is necessary to ensure the availability of a workforce sufficient to support an individual with an LTSS disability in living in the community and leading an independent life; and (iii) failure to ensure that each institutionalized individual with an LTSS disability is regularly notified of the alternative of community-based long-term services and supports and that those community-based long-term services and supports are provided if the individual with an LTSS disability selects such services and supports. Provides that the Act shall not be construed to: (1) prevent a public entity or LTSS insurance provider from providing community-based long-term services and supports at a level that is greater than the level that is required under the Act; or (2) prohibit a public entity or LTSS insurance provider from using managed care techniques, as long as the use of such techniques does not have the effect of discriminating against an individual as prohibited under the Act. Defines terms.

LRB101 09991 KTG 55093 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning persons with disabilities.

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

4 Section 1. Short title. This Act may be cited as the
5 Illinois Disability Integration Act.

6 Section 5. Findings. The General Assembly finds that:

7 (1) The Americans with Disabilities Act of 1990 and the
8 holdings of the Supreme Court in *Olmstead v. L.C.*, 527 U.S. 581
9 (1999), have clearly articulated that individuals with
10 disabilities have a civil right to participate in society as
11 equal citizens. The right to live and work in the community is
12 necessary for the exercise of the civil rights that have
13 already been secured for all individuals with disabilities.
14 However, the State of Illinois still does not provide
15 sufficient community-based services and supports to
16 individuals with disabilities in order to end segregation in
17 institutions.

18 (2) Illinois continues to approach decisions regarding
19 long-term services and supports from social welfare and
20 budgetary perspectives, but has not considered these decisions
21 from a civil rights perspective.

22 (3) The State of Illinois has not consistently planned to
23 ensure sufficient supports and services for individuals with

1 disabilities, including those with the most significant
2 disabilities, to enable individuals with disabilities to live
3 in the most integrated setting. As a result, many individuals
4 with disabilities who reside in institutions are prevented from
5 living in the community. Additionally, individuals with
6 disabilities who are not in institutions find themselves at
7 risk of institutional placement.

8 (4) Illinois institutionalizes more people with
9 disabilities than any other state in the union, with the
10 exception of one other state: Texas.

11 (5) Fully 32 states meet the 80/80 Home and Community
12 Standard, which requires that 80% of all individuals with
13 disabilities are served in the community and 80% of all
14 resources spent are for home and community support. Illinois
15 does not meet this basic standard.

16 (6) The continuing existence of unfair and unnecessary
17 institutionalization denies individuals with disabilities the
18 opportunity to live and participate on an equal basis in the
19 community.

20 (7) Every individual who is eligible for long-term services
21 and supports has a federally protected right to be meaningfully
22 integrated into their community and to receive community-based
23 long-term services and supports.

24 (8) It is the intent of this Act to (i) provide long-term
25 services and supports to individuals with disabilities in a
26 manner that allows such individuals to live in the most

1 integrated setting (including the individual's own home) and
2 have maximum control over their services and supports, and (ii)
3 ensure that long-term services and supports are provided in a
4 manner which allows individuals with disabilities to lead an
5 independent life.

6 Section 10. Definitions. As used in this Act:

7 "Assistance" as used with respect to instrumental
8 activities of daily living, includes support provided to an
9 individual by another person due to confusion, dementia,
10 behavioral symptoms, or cognitive, intellectual, mental, or
11 emotional disabilities, including support to: (i) help the
12 individual identify and set goals, overcome fears, and manage
13 transitions; (ii) help the individual with executive
14 functioning, decision-making, supported decision-making, and
15 problem solving; (iii) provide reassurance to the individual;
16 and (iv) help the individual with orientation, memory, and
17 other activities related to independent living.

18 "Community-based", when used in reference to services or
19 supports, means services or supports that are provided to an
20 individual with an LTSS disability to enable that individual to
21 live in the community and lead an independent life, and that
22 are delivered in settings that have the following qualities:

23 (1) are integrated into the greater community and
24 supports in terms of infrastructure, environment,
25 amenities, location, services, and features;

1 (2) provide full access to the greater community
2 (including access to opportunities to seek employment and
3 work in competitive integrated settings, engage in
4 community life, control personal resources, and receive
5 services in the community);

6 (3) give access to the greater community to the same
7 extent as access to the community is enjoyed by an
8 individual who is not receiving long-term services or
9 supports;

10 (4) represent a meaningful choice from among
11 nonresidential setting options, including
12 nondisability-specific settings;

13 (5) ensure the individual has rights to privacy,
14 dignity, and respect, and freedom from coercion and
15 restraint;

16 (6) optimize, but do not regiment, individual
17 initiative, autonomy, and independence in making life
18 choices, including choices about daily activities,
19 physical environment, and persons with whom the individual
20 interacts;

21 (7) facilitate individual choice regarding the
22 provision of services and supports, and who provides those
23 services and supports;

24 (8) allow ownership by an individual with an LTSS
25 disability or the individual's family member;

26 (9) permit an individual with an LTSS disability to

1 possess an individual lease of a dwelling that has lockable
2 access and egress and that includes living, sleeping,
3 bathing, and cooking areas over which the individual with
4 an LTSS disability or the individual's family member has
5 domain and control;

6 (10) permit no more than 4 unrelated individuals with
7 an LTSS disability to reside together in a dwelling that is
8 a group or shared residence;

9 (11) give privacy in the individual's sleeping unit,
10 including a lockable entrance door controlled by the
11 individual;

12 (12) cause an individual to share a sleeping unit only
13 if such an arrangement is consensual and if having a choice
14 of roommates within the residence is possible;

15 (13) provide the individual with the freedom to furnish
16 and decorate the individual's sleeping or living unit as
17 permitted under the lease or other agreement;

18 (14) guarantee the individual the freedom and support
19 to control his or her own schedules and activities;

20 (15) give the individual the right to have visitors of
21 the individual's choosing at any time; and

22 (16) are physically accessible to the individual with
23 an LTSS disability living at the residence.

24 "Dwelling" has the meaning ascribed to that term in Section
25 802 of the Fair Housing Act (42 U.S.C. 3602).

26 "Health-related tasks" means specific nonacute tasks,

1 typically regulated by states as medical or nursing tasks that
2 an individual with a disability may require to live in the
3 community, including administration of medication; assistance
4 with use, operation, and maintenance of a ventilator; and
5 maintenance and use of a gastrostomy tube, a catheter, or a
6 stable ostomy.

7 "Individual with a disability" means an individual who is a
8 person with a disability, as defined in Section 3 of the
9 Americans with Disabilities Act of 1990 (42 U.S.C. 12102).

10 "Individual with an LTSS disability" means an individual
11 with a disability who, in order to live in the community and
12 lead an independent life, requires assistance in accomplishing
13 activities of daily living; instrumental activities of daily
14 living; health-related tasks; or other functions, tasks, or
15 activities related to an activity or task previously described;
16 and is currently in an institutional placement or at risk of
17 institutionalization if the individual does not receive
18 community-based long-term services and supports.

19 "Instrumental activities of daily living" means one or more
20 activities related to living independently in the community,
21 including activities related to: (i) nutrition, such as
22 preparing meals or special diets, monitoring to prevent choking
23 or aspiration, or assisting with special utensils; (ii)
24 household chores and environmental maintenance tasks; (iii)
25 communication and interpersonal skills, such as using the
26 telephone or other communications devices, forming and

1 maintaining interpersonal relationships, or securing
2 opportunities to participate in group support or peer-to-peer
3 support arrangements; (iv) travel and community participation,
4 such as shopping, arranging appointments, or moving around the
5 community; (v) care of others, such as raising children, taking
6 care of pets, or selecting caregivers; or (vi) management of
7 personal property and personal safety, such as taking
8 medication, handling or managing money, or responding to
9 emergent situations or unscheduled needs requiring an
10 immediate response.

11 "Long-term service or support" or "LTSS" means the
12 assistance provided to an individual with a disability in
13 accomplishing, acquiring the means or ability to accomplish,
14 maintaining, or enhancing: (i) activities of daily living; (ii)
15 instrumental activities of daily living; (iii) health-related
16 tasks; or (iv) other functions, tasks, or activities related to
17 an activity or task previously described in (i), (ii) or (iii).

18 "LTSS insurance provider" means a public or private entity
19 that (i) provides funds for long-term services and supports and
20 (ii) is engaged in commerce or in an industry or activity
21 affecting commerce.

22 Section 15. Discrimination.

23 (a) In General. No public entity or LTSS insurance provider
24 shall deny an individual with an LTSS disability who is
25 eligible for institutional placement, or otherwise

1 discriminate against that individual in the provision of,
2 community-based long-term services and supports that enable
3 the individual to live in the community and lead an independent
4 life.

5 (b) Specific Prohibitions. For purposes of this Act,
6 discrimination by a public entity or LTSS insurance provider
7 includes:

8 (1) imposition or application of eligibility criteria
9 or another policy that prevents or tends to prevent an
10 individual with an LTSS disability, or any class of
11 individuals with LTSS disabilities, from receiving a
12 community-based long-term service or support;

13 (2) imposition or application of a policy or other
14 mechanism, such as a service or cost cap, that prevent or
15 tends to prevent an individual with an LTSS disability, or
16 any class of individuals with LTSS disabilities, from
17 receiving a community-based long-term service or support;

18 (3) failure to provide a specific community-based
19 long-term service or support or a type of community-based
20 long-term service or support needed for an individual with
21 an LTSS disability, or any class of individuals with LTSS
22 disabilities;

23 (4) imposition or application of a policy, rule,
24 regulation, or restriction that interferes with the
25 opportunity for an individual with an LTSS disability, or
26 any class of individuals with LTSS disabilities, to live in

1 the community and lead an independent life, which may
2 include a requirement that an individual with an LTSS
3 disability receive a service or support (such as day
4 services or employment services) in a congregate or
5 disability-specific setting;

6 (5) imposition or application of a waiting list or
7 other mechanism that delays or restricts access of an
8 individual with an LTSS disability to a community-based
9 long-term service or support;

10 (6) failure to establish an adequate rate or other
11 payment structure that is necessary to ensure the
12 availability of a workforce sufficient to support an
13 individual with an LTSS disability in living in the
14 community and leading an independent life;

15 (7) failure to provide community-based services and
16 supports, on an intermittent, short-term, or emergent
17 basis, that assist an individual with an LTSS disability to
18 live in the community and lead an independent life;

19 (8) imposition or application of a policy, such as a
20 requirement that an individual utilize informal support,
21 that restricts, limits, or delays the ability of an
22 individual with an LTSS disability to secure a
23 community-based long-term service or support to live in the
24 community or lead an independent life;

25 (9) failure to implement a formal procedure and a
26 mechanism to ensure that (i) individuals with LTSS

1 disabilities are offered the alternative of
2 community-based long-term services and supports prior to
3 institutionalization; and (ii) if selected by an
4 individual with an LTSS disability, the community-based
5 long-term services and supports previously described are
6 provided;

7 (10) failure to ensure that each institutionalized
8 individual with an LTSS disability is regularly notified of
9 the alternative of community-based long-term services and
10 supports and that those community-based long-term services
11 and supports are provided if the individual with an LTSS
12 disability selects such services and supports; and

13 (11) failure to make a reasonable modification in a
14 policy, practice, or procedure, when such modification is
15 necessary to allow an individual with an LTSS disability to
16 receive a community-based long-term service or support.

17 (c) Additional Prohibition. For purposes of this Act,
18 discrimination by a public entity also includes a failure to
19 ensure that there is sufficient availability of affordable,
20 accessible, and integrated housing to allow an individual with
21 an LTSS disability to choose to live in the community and lead
22 an independent life, including the availability of an option to
23 live in housing where the receipt of LTSS is not tied to
24 tenancy.

25 (d) Construction. Nothing in this Section shall be
26 construed to prevent a public entity or LTSS insurance provider

1 from providing community-based long-term services and supports
2 at a level that is greater than the level that is required by
3 this Section; or to limit the rights of an individual with a
4 disability under any provision of law other than this Section;
5 or shall be construed to prohibit a public entity or LTSS
6 insurance provider from using managed care techniques, as long
7 as the use of such techniques does not have the effect of
8 discriminating against an individual in the provision of
9 community-based long-term services and supports, as prohibited
10 by this Act.