



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB2086

Introduced 2/15/2019, by Sen. Laura Fine

SYNOPSIS AS INTRODUCED:

20 ILCS 1705/4.5 new
405 ILCS 30/4.4

Amends the Mental Health and Developmental Disabilities Administrative Act. Provides that no later than October 1, 2022, the Department of Human Services shall transfer each individual with an intellectual disability or a developmental disability residing in a non-Medicaid certified facility or residence funded by the Department to the State's Home and Community-Based Services Waiver Program for Persons with Developmental Disabilities or to a Medicaid-certified residence or facility. Prior to the transfer of any individual under this provision, the individual shall be evaluated by an independent community-based multidisciplinary clinical team that will work with the individual and an independent service coordination agency to develop a person-centered plan for the individual up to the amount of funding currently being allocated for the needs of the individual in the non-Medicaid certified facility or residence. Provides that the net savings realized from the implementation of this provision shall be reinvested in community-based residential and support services to individuals with intellectual disabilities and developmental disabilities. Amends the Community Services Act to make conforming changes.

LRB101 07605 RLC 52652 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 Mental Health and Developmental
5 Disabilities Administrative Act is amended by adding Section
6 4.5 as follows:

7 (20 ILCS 1705/4.5 new)

8 Sec. 4.5. Non-Medicaid certified facilities and residences
9 for individuals with intellectual disabilities or
10 developmental disabilities.

11 (a) No later than October 1, 2022, the Department shall
12 transfer each individual with an intellectual disability or a
13 developmental disability residing in a non-Medicaid certified
14 facility or residence funded by the Department to the State's
15 Home and Community-Based Services Waiver Program for Persons
16 with Developmental Disabilities or to a Medicaid-certified
17 residence or facility. Prior to the transfer of any individual
18 under this Section, the individual shall be evaluated by an
19 independent community-based multidisciplinary clinical team
20 that will work with the individual and an independent service
21 coordination agency to develop a person-centered plan for the
22 individual up to the amount of funding currently being
23 allocated for the needs of the individual in the non-Medicaid

1 certified facility or residence. As used in this Section,
2 "non-Medicaid certified facility or residence" means a
3 facility or residence for individuals with intellectual
4 disabilities or developmental disabilities that is not
5 eligible for Medicaid reimbursement and is not under the
6 licensure and oversight of the Department of Public Health.

7 (b) The Department shall report to the General Assembly and
8 the Governor on or before March 1 of each year until there are
9 no individuals residing in non-Medicaid certified facilities
10 and residences, with the first report due on March 1, 2020. The
11 reports shall include, but not necessarily be limited to, the
12 number of individuals transferred, the number of transferred
13 individuals receiving services under the State's Home and
14 Community-Based Services Waiver Program for Persons with
15 Developmental Disabilities, the types of facilities and
16 residential settings to which individuals were transferred,
17 the number of individuals remaining in non-Medicaid certified
18 facilities and residences, and the net savings realized
19 including the amount of Medicaid matching funds received.

20 (c) While individuals continue to reside in non-Medicaid
21 certified facilities and residences funded by the Department,
22 the Department shall conduct regular compliance visits and
23 issue reports on the condition of such facilities and
24 residences and their compliance with the licensing standards of
25 the Department.

26 (d) The net savings realized from the implementation of

1 this Section shall be reinvested in community-based
2 residential and support services for individuals with
3 intellectual disabilities and developmental disabilities under
4 Section 4.4 of the Community Services Act.

5 (e) This Section does not apply to an individual who is
6 ordered into the custody of the Department by a court and for
7 whom a non-Medicaid certified facility or residence has been
8 determined by the Department to be an appropriate setting for
9 forensic treatment.

10 Section 10. The Community Services Act is amended by
11 changing Section 4.4 as follows:

12 (405 ILCS 30/4.4)

13 Sec. 4.4. Funding reinvestment.

14 (a) The purposes of this Section are as follows:

15 (1) The General Assembly recognizes that the United
16 States Supreme Court in *Olmstead v. L.C. ex Rel. Zimring*,
17 119 S. Ct. 2176 (1999), affirmed that the unjustifiable
18 institutionalization of a person with a disability who
19 could live in the community with proper support, and wishes
20 to do so, is unlawful discrimination in violation of the
21 Americans with Disabilities Act (ADA). The State of
22 Illinois, along with all other states, is required to
23 provide appropriate residential and community-based
24 support services to persons with disabilities who wish to

1 live in a less restrictive setting.

2 (2) It is the purpose of this Section to help fulfill
3 the State's obligations under the Olmstead decision by
4 maximizing the level of funds for both developmental
5 disability and mental health services and supports in order
6 to maintain and create an array of residential and
7 supportive services for people with mental health needs and
8 developmental disabilities whenever they are transferred
9 into another facility or a community-based setting.

10 (b) In this Section:

11 "Office of Developmental Disabilities" means the Office of
12 Developmental Disabilities within the Department of Human
13 Services.

14 "Office of Mental Health" means the Office of Mental Health
15 within the Department of Human Services.

16 (c) On and after the effective date of this amendatory Act
17 of the 94th General Assembly, every appropriation of State
18 moneys relating to funding for the Office of Developmental
19 Disabilities or the Office of Mental Health must comply with
20 this Section.

21 (d) Whenever any appropriation, or any portion of an
22 appropriation, for any fiscal year relating to the funding of
23 any State-operated facility operated by the Office of
24 Developmental Disabilities or any mental health facility
25 operated by the Office of Mental Health is reduced because of
26 any of the reasons set forth in the following items (1) through

1 (3), to the extent that savings are realized from these items,
2 those moneys must be directed toward providing other services
3 and supports for persons with developmental disabilities or
4 mental health needs:

5 (1) The closing of any such State-operated facility for
6 persons with developmental disabilities or mental health
7 facility.

8 (2) Reduction in the number of units or available beds
9 in any such State-operated facility for persons with
10 developmental disabilities or mental health facility.

11 (3) Reduction in the number of staff employed in any
12 such State-operated facility for persons with
13 developmental disabilities or mental health facility.

14 (4) Transfer of individuals with intellectual
15 disabilities and developmental disabilities from
16 non-Medicaid certified facilities and residences to the
17 State's Home and Community-Based Services Waiver Program
18 for Persons with Developmental Disabilities or to
19 Medicaid-certified facilities and residences.

20 In determining whether any savings are realized from items
21 (1) through (3), sufficient moneys shall be made available to
22 ensure that there is an appropriate level of staffing and that
23 life, safety, and care concerns are addressed so as to provide
24 for the remaining persons with developmental disabilities or
25 mental illness at any facility in the case of item (2) or (3)
26 or, in the case of item (1), such remaining persons at the

1 remaining State-operated facilities that will be expected to
2 handle the individuals previously served at the closed
3 facility.

4 (e) The purposes of redirecting this funding shall include,
5 but not be limited to, providing the following services and
6 supports for individuals with developmental disabilities and
7 mental health needs:

8 (1) Residence in the most integrated setting possible,
9 whether independent living in a private residence, a
10 Community Integrated Living Arrangement (CILA), a
11 supported residential program, an Intermediate Care
12 Facility for persons with Developmental Disabilities
13 (ICFDD), a supervised residential program, or supportive
14 housing, as appropriate.

15 (2) Residence in another State-operated facility.

16 (3) Rehabilitation and support services, including
17 assertive community treatment, case management, supportive
18 and supervised day treatment, and psychosocial
19 rehabilitation.

20 (4) Vocational or developmental training, as
21 appropriate, that contributes to the person's independence
22 and employment potential.

23 (5) Employment or supported employment, as
24 appropriate, free from discrimination pursuant to the
25 Constitution and laws of this State.

26 (6) In-home family supports, such as respite services

1 and client and family supports.

2 (7) Periodic reevaluation, as needed.

3 (f) An appropriation may not circumvent the purposes of
4 this Section by transferring moneys within the funding system
5 for services and supports for persons with developmental
6 disabilities and the mentally ill and then compensating for
7 this transfer by redirecting other moneys away from these
8 services to provide funding for some other governmental purpose
9 or to relieve other State funding expenditures.

10 (Source: P.A. 99-143, eff. 7-27-15.)