

1 AN ACT concerning disabled persons.

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 Disabilities Services Act of 2003.

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

12 Section 10. Application of Act; definitions.

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

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

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

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

1 Section, autism is considered a related condition.

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

4 (3) It must be likely to continue indefinitely.

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

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

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

1 of 22 years.

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

5 (1) It is attributable to a physical impairment.

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

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

17 (b) In this Act:

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

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

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

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

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

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

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

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

1 the plan.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 crisis services.

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

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

23 Section 20. Implementation.

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

1 for persons with physical disabilities; advocates for
2 persons with developmental disabilities; advocates for
3 persons with mental illness; advocates for senior citizens;
4 representatives of providers of services to persons with
5 physical disabilities, developmental disabilities, and mental
6 illness; representatives of providers of services to senior
7 citizens; and representatives of organized labor.

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

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

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

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

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

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

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

3 (4) Establishing minimum standards for
4 individualized services.

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

7 (6) Establishing minimum standards for vocational
8 services.

9 (7) Establishing due process hearing procedures.

10 (8) Establishing minimum standards for family
11 support services.

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

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

23 (1) The implementation plan.

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

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

1 implementation plan.

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

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

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

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

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

24 (405 ILCS 80/1-1 rep.)

25 (405 ILCS 80/1-2 rep.)

26 (405 ILCS 80/1-3 rep.)

27 (405 ILCS 80/1-4 rep.)

28 (405 ILCS 80/1-5 rep.)

29 Section 90. The Developmental Disability and Mental
30 Disability Services Act is amended by repealing Sections 1-1,
31 1-2, 1-3, 1-4, and 1-5 (the Developmental Disabilities

1 Services Law).

2 Section 99. Effective date. This Act takes effect upon

3 becoming law.