

1 AMENDMENT TO HOUSE BILL 684

2 AMENDMENT NO. _____. Amend House Bill 684 by replacing
3 everything after the enacting clause with the following:

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

1 related condition must meet all of the following conditions:

2 (1) It must be attributable to cerebral palsy,
3 epilepsy, or autism, or any other condition (other than
4 mental illness) found to be closely related to mental
5 retardation because that condition results in impairment
6 of general intellectual functioning or adaptive behavior
7 similar to that of individuals with mental retardation,
8 and requires treatment or services similar to those
9 required for those individuals.

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

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

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

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

1 physical conditions such as hallucinosis, amnesic disorders
2 and delirium, and psychoactive substance-induced organic
3 disorders, and (iii) mental retardation or psychoactive
4 substance use disorders.

5 "Mental retardation" means significantly sub-average
6 general intellectual functioning existing concurrently with
7 deficits in adaptive behavior and manifested before the age
8 of 22 years.

9 "Physical disability" means a disability as defined by
10 the Americans with Disabilities Act of 1990 that meets the
11 following criteria:

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

13 (2) It results in a substantial functional
14 limitation in 3 or more of the following areas of major
15 life activity: (i) self-care, (ii) receptive and
16 expressive language, (iii) learning, (iv) mobility, (v)
17 self-direction, (vi) capacity for independent living, and
18 (vii) economic sufficiency.

19 (3) It reflects the person's need for a combination
20 and sequence of special, interdisciplinary, or general
21 care, treatment, or other services that are of lifelong
22 or of extended duration and must be individually planned
23 and coordinated.

24 (b) In this Act:

25 "Chronological age-appropriate services" means services,
26 activities, and strategies for persons with disabilities that
27 are representative of the lifestyle activities of nondisabled
28 peers of similar age in the community.

29 "Comprehensive evaluation" means procedures used by
30 qualified professionals selectively with an individual to
31 determine whether a person has a disability and the nature
32 and extent of the services that the person with a disability
33 needs.

34 "Department" means the Department on Aging, the

1 Department of Human Services, the Department of Public
2 Health, the Department of Public Aid, the University of
3 Illinois Division of Specialized Care for Children, the
4 Department of Children and Family Services, and the Illinois
5 State Board of Education, where appropriate, as designated in
6 the implementation plan developed under Section 20.

7 "Family" means a natural, adoptive, or foster parent or
8 parents or other person or persons responsible for the care
9 of an individual with a disability in a family setting.

10 "Family or individual support" means those resources and
11 services that are necessary to maintain an individual with a
12 disability within the family home or his or her own home.
13 These services may include, but are not limited to, cash
14 subsidy, respite care, and counseling services.

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

1 entitled.

2 "Individual service or treatment plan" means a recorded
3 assessment of the needs of a person with a disability, a
4 description of the services recommended, the goals of each
5 type of element of service, an anticipated timetable for the
6 accomplishment of the goals, and a designation of the
7 qualified professionals responsible for the implementation of
8 the plan.

9 "Least restrictive environment" means an environment that
10 represents the least departure from the normal patterns of
11 living and that effectively meets the needs of the person
12 receiving the service.

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

25 (1) Comprehensive evaluation and diagnosis. A
26 person with a suspected disability who is applying for
27 Department-authorized disability services must receive,
28 after an initial screening and a determination of
29 probable eligibility for a disability service or program,
30 a comprehensive diagnosis and evaluation, including an
31 assessment of skills, abilities, and potential for
32 residential and work placement, adapted to his or her
33 primary language, cultural background, and ethnic origin.

1 All components of a comprehensive evaluation must be
2 administered by a qualified examiner.

3 (2) Individual service or treatment plan. A person
4 with a disability shall receive services in accordance
5 with a current individual service or treatment plan. A
6 person with a disability who is receiving services shall
7 be provided periodic reevaluation and review of the
8 individual service or treatment plan, at least annually,
9 in order to measure progress, to modify or change
10 objectives if necessary, and to provide guidance and
11 remediation techniques.

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

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

34 (4) Family or individual support. A person with a

1 disability must be provided family or individual support
2 services, or both, whenever possible and appropriate, to
3 prevent unnecessary out-of-home placement and to foster
4 independent living skills when authorized for such
5 services.

6 (5) Residential choices and options. A person with
7 a disability who requires residential placement in a
8 supervised or supported setting must be provided choices
9 among various residential options when authorized for
10 those services. The placement must be offered in the
11 least restrictive environment appropriate to the
12 individual.

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

24 (7) Vocational training. A person with a
25 disability must be provided vocational training, when
26 appropriate, that contributes to the person's
27 independence and employment potential. This training
28 should include strategies and activities in programs that
29 lead to employment and reemployment in the least
30 restrictive environment appropriate to the individual.

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

34 (9) Independent service coordination. A person with

1 a disability who is receiving direct services from the
2 Department must be provided independent service
3 coordination when needed.

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

19 The right to a hearing under this item (10) is in
20 addition to any other rights under federal, State, or
21 local laws, however nothing in this Section shall be
22 construed as requiring the establishment of a new due
23 process hearing procedure if one already exists for a
24 particular service or program.

25 Section 20. Implementation.

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

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

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

19 The advisory committee shall select officers, including a
20 chair and a vice-chair.

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

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

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

33 (2) Establishing procedures for the development of
34 an individual service or treatment plan for each person

1 with a disability, including provisions for Department
2 review and authorization.

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

5 (4) Establishing minimum standards for
6 individualized services.

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

9 (6) Establishing minimum standards for vocational
10 services.

11 (7) Establishing due process hearing procedures.

12 (8) Establishing minimum standards for family
13 support services.

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

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

25 (1) The implementation plan.

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

1 (3) The estimated costs of current and planned
2 programs and services to be provided under the
3 implementation plan.

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

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

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

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

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

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

27 (405 ILCS 80/1-2 rep.)

28 (405 ILCS 80/1-3 rep.)

29 (405 ILCS 80/1-4 rep.)

30 (405 ILCS 80/1-5 rep.)

31 Section 90. The Developmental Disability and Mental

1 Disability Services Act is amended by repealing Sections 1-1,
2 1-2, 1-3, 1-4, and 1-5 (the Developmental Disabilities
3 Services Law).

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.".