

1 AN ACT in relation to mental health.

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 MI
5 Olmstead Initiative of 2004.

6 Section 5. Purposes.

7 (a) The General Assembly recognizes that the United
8 States Supreme Court in *Olmstead v. L.C. ex Rel. Zimring*, 119
9 S. Ct. 2176 (1999), affirmed that the unjustifiable
10 institutionalization of a person with a disability who could
11 live in the community with proper support, and wishes to do
12 so, is unlawful discrimination in violation of the Americans
13 with Disabilities Act (ADA). The State of Illinois, along
14 with all other states, is required to provide appropriate
15 residential and community-based support services to persons
16 with disabilities who wish to live in less restrictive
17 settings and are able to do so.

18 (b) It is the purpose of this Act to implement the MI
19 Olmstead Initiative in response to the U.S. Supreme Court's
20 decision in *Olmstead v. L.C.* in order (1) to enable 1,000
21 persons with mental illness or a co-occurring disorder of
22 mental illness and substance abuse, who currently reside in
23 nursing facilities, who choose to move, and who are able to
24 do so, to move within the next 5 years to the most integrated
25 residential settings in the community as possible and (2) to
26 provide cost effective community residential environments and
27 supports to enable these persons to live successfully in the
28 community.

29 (c) It is the further purpose of this Act to create a
30 continuum of residential and supportive services in community
31 settings for persons with mental illness or a co-occurring

1 disorder of mental illness and substance abuse, while
2 increasing federal and client financial participation through
3 the Medicaid and Social Security programs, wherever possible.

4 (d) The MI Olmstead Initiative is not intended to
5 substitute for or replace the obligation of the State of
6 Illinois to develop and implement a comprehensive,
7 effectively working plan for placing persons with
8 disabilities in less restrictive settings, under the Supreme
9 Court decision in Olmstead v. L.C.

10 Section 10. Definitions. For purposes of this Act:

11 "Department" means the Department of Human Services.

12 "Institution for mental diseases" (IMD) means a nursing
13 facility licensed by the Illinois Department of Public Health
14 under the Nursing Home Care Act as defined, consistent with
15 federal regulations, by the Illinois Department of Public Aid
16 where services to residents are ineligible for federal
17 financial participation under the Medicaid program because
18 mental illness is the specific reason for being in the
19 facility for more than 50% of the residents over 21 and under
20 65 years of age.

21 "Qualified individual" means an adult who is 19 years of
22 age or older and under 65 years of age who agrees to
23 participate in the MI Olmstead Initiative, is assessed by an
24 appropriate professional and found to be able to move to a
25 less restrictive setting, and meets one of the following
26 criteria:

27 (1) the person is substantially impaired in 2 or
28 more major life activities as a consequence of a mental
29 illness or a co-occurring mental illness and substance
30 abuse disorder; or

31 (2) the person has a record of having been
32 substantially impaired in 2 or more major life activities
33 as a consequence of a mental illness or a co-occurring

1 mental illness and substance abuse disorder.

2 Section 15. Programs and services of the MI Olmstead
3 Initiative.

4 (a) The Department shall identify 200 qualified
5 individuals during each of the 5 years following the
6 implementation date of this Act or 1,000 persons in total,
7 who agree to and are able to be transitioned to alternative
8 residential settings within the community. In order to
9 appropriately select persons for the MI Olmstead Initiative,
10 the Department, by working in conjunction with an owner or
11 operator of a nursing facility or an IMD, and with the
12 guardian of the qualified individual, if any, shall assure
13 that:

14 (1) a comprehensive evaluation and diagnosis of the
15 qualified individual has been administered by a qualified
16 examiner, including an assessment of skills, abilities,
17 and potential for residential and work placement, adapted
18 to the person's primary language, cultural background,
19 and ethnic origin;

20 (2) an individual program plan or individual
21 treatment plan, or both, has been completed for the
22 qualified individual, outlining a range of services to be
23 provided as outlined in subsection (b) of this Section;

24 (3) the qualified individual is advised of
25 available and appropriate community-based alternatives
26 for his or her care before a decision on placement is
27 made; and

28 (4) a planning specialist or case manager assists
29 the individual in making the move from an institution to
30 a community setting.

31 (b) The MI Olmstead Initiative shall be designed with a
32 capacity for 1,000 qualified individuals over 5 years and
33 shall offer, or create as necessary, services and supports

1 for these individuals to live in the most integrated
2 community-based setting possible. The services and supports
3 in community-based settings shall include, but not be limited
4 to:

5 (1) residence in the most integrated setting
6 possible, whether independent living in a private
7 residence, a supported residential program, a supervised
8 residential program, or supportive housing, as
9 appropriate;

10 (2) rehabilitation and support services, including
11 assertive community treatment, case management,
12 supportive and supervised day treatment, and psychosocial
13 rehabilitation;

14 (3) vocational training, as appropriate, that
15 contributes to the person's independence and employment
16 potential;

17 (4) employment, as appropriate, free from
18 discrimination pursuant to the Constitution and laws of
19 this State;

20 (5) periodic reevaluation and review of the
21 individual program plan or the individual treatment plan,
22 or both, at least twice each year, in order to measure
23 progress, to modify or change objectives if necessary,
24 and to provide guidance and remediation techniques. The
25 qualified individual and his or her guardian, if any,
26 shall have the right (i) to participate in the planning
27 and decision-making process regarding the plan and (ii)
28 to be informed in writing, or in that individual's mode
29 of communication, of progress at reasonable time
30 intervals;

31 (6) due process so that any individual aggrieved by
32 a decision of the Department regarding services provided
33 under this Act is given an opportunity to present
34 complaints at a due process hearing before a hearing

1 officer designated by the Director of the Department, in
2 addition to any other rights under federal, State, or
3 local laws.

4 (c) The Department shall implement, coordinate, monitor,
5 and evaluate the MI Olmstead Initiative in cooperation with
6 the Department of Public Aid, the Department of Public
7 Health, the Governor's Office of Management and Budget, and
8 other State agencies as appropriate, as well as organizations
9 or service providers whose mission includes advocacy for or
10 the provision of quality services to persons with mental
11 illness or a co-occurring disorder of mental illness and
12 substance abuse.

13 Section 20. Report to the General Assembly. The
14 Department, in cooperation with the Department of Public Aid
15 and the Department of Public Health, shall report to the
16 General Assembly on the status of the MI Olmstead Initiative
17 by October 1 each year of the 5-year initiative, and shall
18 include in the report an analysis of the costs and benefits
19 of the Initiative, a review of the State's use of nursing
20 facilities, including IMD's, for the care of persons with
21 severe mental illness, and a plan for adjusting State policy,
22 including the further consolidation or conversion of IMD
23 facilities to non-IMD nursing facilities for the purpose of
24 maximizing federal financial participation under the Medicaid
25 program.

26 Section 25. Implementation dates. The Department shall
27 adopt rules to govern all aspects of this Act by April 1,
28 2005. Subject to available appropriations, the Department
29 shall begin implementation of the MI Olmstead Initiative by
30 July 1, 2005.

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

1 becoming law.