



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB0558

Introduced 2/5/2007, by Rep. Robert Rita

#### SYNOPSIS AS INTRODUCED:

New Act

Creates the Community First Act. Provides that all persons who reside in, or are eligible to reside in, institutional care facilities have the right to have the amount of public funds that are or would have been expended on him or her for services provided by an institutional facility transferred to pay for community services. Requires the Department of Human Services, Department of Public Health, Department on Aging, and institutional facilities to inform eligible persons of their right to funding for community services under this Act. Requires the Department of Public Aid and the Department of Public Health to publish, annually, a report describing the implementation of the Act. Provides that the Act shall not alter or affect the manner in which persons with disabilities are determined eligible or appropriate for community services, except to the extent the determinations are based on the availability of community services, and shall not be read to limit in any way the rights of people with disabilities under federal or State law. Requires the Department of Public Aid, in consultation with the Department of Human Services, the Department of Public Health, and the Department on Aging, to adopt any rules necessary for the implementation and administration of this Act.

LRB095 06871 BDD 26990 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning State government.

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 Community First Act.

6 Section 5. Purpose. It is the intent of the General  
7 Assembly to promote the civil rights of persons with  
8 disabilities by allowing those who want and are eligible for  
9 community services to receive them under the United States  
10 Supreme Court's decision in *Olmstead v. L.C.*, 527 U.S. 581  
11 (1999).

12 The General Assembly finds that disability services  
13 funding in Illinois has been weighed in favor of institutions  
14 and has, thus, caused or contributed to the unnecessary  
15 institutionalization of thousands of people with disabilities,  
16 including senior citizens, in Illinois.

17 Accordingly, as people with disabilities relocate from  
18 institutional facilities to the community, funds shall be  
19 transferred from these facilities to in-home and community  
20 services to cover the cost of the shift in services. For  
21 persons who are not currently institutionalized but would  
22 otherwise be placed in an institution, funds shall be made  
23 available for community services to the extent they would be

1 available for institutional care.

2 Section 10. Applicability; definitions.

3 (a) This Act applies to all persons who reside in, or are  
4 eligible to reside in, any institutional facility.

5 (b) As used in this Act:

6 "Community service" means any service, aid, or benefit that  
7 is provided to a person with a disability as part of his or her  
8 long-term care that: (i) is delivered in the person's own home,  
9 family home, or a facility with no more than 8 people; (ii) the  
10 State generally provides to people with disabilities; and (iii)  
11 is necessary for the disabled person to live in the community.

12 "Community service provider" means any person authorized  
13 by the State to provide community services.

14 "Institution" or "institutional facility" means a skilled  
15 nursing facility, an intermediate care facility for the  
16 mentally retarded, an institution for mental diseases, a  
17 State-operated developmental center, a State-operated mental  
18 health center, or any other long-term care facility in excess  
19 of 8 beds, whether publicly or privately owned.

20 "Institution for mental diseases" has the meaning set forth  
21 in Title XIX of the Social Security Act, 42 U.S.C. § 1396d.

22 "Intermediate care facility for the mentally retarded" has  
23 the meaning set forth in Title XIX of the Social Security Act,  
24 42 U.S.C. § 1396d.

25 "Public funds" means any funds provided by the State of

1 Illinois or any of its agencies, including funds paid for out  
2 of federally funded Medicaid programs as well as funds  
3 generated from State revenue sources only. The term "public  
4 funds" does not include Medicare funds.

5 "Skilled nursing facility" has the meaning set forth in  
6 Title XVIII of the Social Security Act, 42 U.S.C. § 1395i-3(a).

7 Section 15. Availability of public funds for community  
8 services.

9 (a) Any person covered under subsection (a) of Section 10  
10 has the right to have the amount of public funds that are or  
11 would have been expended on him or her for services provided by  
12 an institutional facility transferred to pay for community  
13 services.

14 (b) A person may use any public funds that would otherwise  
15 have been expended on him or her for services provided an  
16 institution for any community service or support that the State  
17 generally offers to people with disabilities, provided the  
18 service is necessary for the person to live in the community.  
19 Public funds shall be available for transfer regardless of the  
20 person's age. A person need not be institutionalized to be  
21 eligible for public funds under this Act, provided that they  
22 are otherwise eligible for institutional services.

23 (c) The cost of community services provided under this Act  
24 is limited to the actual, individual cost of the person's  
25 institutionalization and shall not be controlled by the Service

1 Cost Maximum established by the Illinois Department of Public  
2 Aid or any other cost limitation established by State  
3 regulation, rule, policy, or procedure.

4 (d) Funds transferred under this Act shall be paid by the  
5 State to the community service provider in the same manner as  
6 the State would otherwise use to reimburse community service  
7 providers for services rendered to persons with disabilities.

8 (e) When the transfer of funds from institutional to  
9 community services results in aggregate cost savings, those  
10 savings may be used only for the following purposes:

11 (i) to expand the availability, quality, or stability  
12 of community services for people with disabilities; and

13 (ii) to provide other services necessary to transfer  
14 people with disabilities into the community, including  
15 housing and home modifications.

16 (f) Funding for clients under this Act must remain  
17 available to the person as long as he or she remains eligible  
18 for services in an institution and wants community services.  
19 Funding shall not depend upon the availability of slots under  
20 the Medicaid Home and Community Based Services waivers;  
21 however, nothing in this Act prohibits the State from seeking  
22 waiver funds to pay for community services for persons  
23 transferred under this Act.

24 Section 20. Information and dissemination.

25 (a) The State shall ensure that persons covered under this

1 Act are informed of their right to funding for community  
2 services under this Act.

3 (b) The Department of Human Services and the Department on  
4 Aging must ensure persons with disabilities and their families,  
5 guardians, and advocates are informed of their rights under  
6 this Act in a manner that is easily understandable and  
7 accessible to people with disabilities. The Department must  
8 ensure that multiple methods of dissemination are employed and  
9 must make all feasible efforts to inform people currently  
10 institutionalized, including at their individual team or  
11 program meetings.

12 (c) The Department of Human Services and the Department on  
13 Aging shall ensure that all nursing home residents listed under  
14 the Minimum Data Set (MDS) of the Centers for Medicare and  
15 Medicaid Services as preferring to live in the community are  
16 informed of and given the opportunity to exercise their rights  
17 under this Act.

18 (d) The Department of Human Services and the Department on  
19 Aging shall use organizations comprised of or representing  
20 people with disabilities to ensure that people with  
21 disabilities and their families, guardians, and advocates are  
22 informed of their rights under this Act.

23 (e) The Department of Public Health shall ensure that, as a  
24 condition of licensing and certification, all facilities  
25 covered under this Act inform all residents prior to admission  
26 and annually thereafter of their rights under this Act.

1 Additionally, the Department shall require each facility to  
2 post in a prominent location on each residential ward a notice  
3 containing information on services available under this Act.

4 (f) The Department of Public Health shall further ensure  
5 that prospective residents of facilities covered under this Act  
6 are notified of their rights under this Act through the  
7 pre-admission screening and annual resident review process.

8 Section 25. Public reporting. The Department of Public Aid  
9 and the Department of Public Health shall publish annually a  
10 report describing the implementation of the Act and containing,  
11 at a minimum, the following data:

12 (i) the number of people who received community  
13 services under the Act;

14 (ii) the number of people per facility who applied to  
15 transfer to the community;

16 (iii) the number of people per facility who in fact  
17 transferred; and

18 (iv) the number of persons who avoided institutional  
19 placement as a result of this Act.

20 This report must be made available to the general public,  
21 including via the Departments' websites.

22 Section 30. Effect of the Act on existing rights. This Act  
23 shall not alter or affect the manner in which persons with  
24 disabilities are determined eligible or appropriate for

1 community services, except to the extent the determinations are  
2 based on the availability of community services. This Act shall  
3 not be read to limit in any way the rights of people with  
4 disabilities under the U.S. Constitution, the Americans with  
5 Disabilities Act, Section 504 of the Rehabilitation Act, the  
6 Social Security Act, or any other federal or State law.

7 Section 35. Rules. The Department of Public Aid, in  
8 consultation with the Department of Human Services, the  
9 Department of Public Health, and the Department on Aging, must  
10 adopt any rules necessary for the implementation and  
11 administration of this Act.