

1 AN ACT in relation to 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
5 Developmental Disabilities Services Act of 2001.

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

12 Section 10. Definitions. In this Act:

13 "Developmental disability" means a severe chronic
14 disability of a person that meets the following criteria:

15 (1) It is attributable to a mental or physical
16 impairment or combination of mental and physical
17 impairments.

18 (2) It is likely to continue indefinitely.

19 (3) It results in a substantial functional
20 limitation in 3 or more of the following areas of major
21 life activity: (i) self-care, (ii) receptive and
22 expressive language, (iii) learning, (iv) mobility, (v)
23 self-direction, (vi) capacity for independent living, and
24 (vii) economic sufficiency.

25 (4) It reflects the person's need for a combination
26 and sequence of special, interdisciplinary, or general
27 care, treatment, or other services that are of lifelong
28 or extended duration and are individually planned and
29 coordinated.

30 "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 "Case coordination services" means a lifelong
8 goal-oriented process for the coordination of the range of
9 services needed by persons with developmental disabilities
10 and their families. Case coordination services are designed
11 to ensure accessibility, continuity of care, and
12 accountability and to maximize the potential of persons with
13 developmental disabilities for independence, productivity,
14 and integration into the community. Case coordination
15 services include, at a minimum: (i) outreach to identify
16 eligible individuals; (ii) assessment and periodic
17 reassessment to determine each individual's strengths,
18 functional limitations, and need for specific services; (iii)
19 development of a comprehensive individual program plan; (iv)
20 referral to and coordination of needed social, medical,
21 educational support, and other services; (v) monitoring to
22 ensure the delivery of appropriate services and to determine
23 individual progress in meeting goals and objectives; and (vi)
24 advocacy to assist the person in obtaining all services to
25 which he or she is entitled.

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

31 "Comprehensive evaluation" means procedures and
32 assessments used to determine whether a person has a
33 developmental disability and the nature and extent of the
34 services that the person with a developmental disability

1 needs. The term means procedures used selectively with an
2 individual.

3 "Family" means a natural, adoptive, or foster parent or
4 parents or other person or persons responsible for the care
5 of an individual with a developmental disability in a family
6 setting.

7 "Family or individual support" means those resources and
8 services that are necessary to maintain a family member with
9 a developmental disability within the family home. These
10 services may include, but are not limited to, cash subsidy,
11 respite care, and counseling services.

12 "Individual program plan" means a recorded assessment of
13 the needs of a person with a developmental disability, a
14 description of the services recommended, the goals of each
15 type of element of service, an anticipated timetable for the
16 accomplishment of the goals, and a designation of the
17 qualified professional responsible for the implementation of
18 the plan.

19 "Least restrictive environment" means an environment that
20 represents the least departure from the normal patterns of
21 living and that effectively meets the needs of the person
22 receiving the service.

23 Section 15. Services. In accordance with an individual
24 program plan based on a comprehensive evaluation, persons
25 with developmental disabilities may be provided the following
26 services under the Developmental Disabilities Services
27 Implementation Plan developed under Section 20:

28 (1) Comprehensive evaluation and diagnosis. A
29 person with a suspected developmental disability who is
30 applying for disability services is entitled to receive a
31 comprehensive diagnosis and evaluation, including an
32 assessment of skills, abilities, and potential for
33 residential and work placement, adapted to his or her

1 primary language, cultural background, and ethnic origin.
2 All components of a comprehensive evaluation must be
3 administered by a qualified examiner.

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

13 A person with a developmental disability and his or
14 her representatives have the right to participate in the
15 planning and decision-making process regarding the
16 person's individual program plan and to be informed in
17 writing, or in that person's mode of communication, of
18 progress at reasonable time intervals. Each person must
19 be given the opportunity to make decisions and exercise
20 options regarding the plan, consistent with the person's
21 capabilities.

22 (3) Nondiscriminatory access to services. A person
23 with a developmental disability may not be denied program
24 services because of age, sex, ethnic origin, marital
25 status, ability to pay (except where contrary to law),
26 criminal record, degree of disability, or illness.

27 (4) Family or individual support. A person with a
28 developmental disability must be provided family or
29 individual support services, or both, under the
30 Home-Based Support Services Law for Mentally Disabled
31 Adults (contained in the Developmental Disability and
32 Mental Disability Services Act) to prevent unnecessary
33 out-of-home placement and to foster independent living
34 skills.

1 (5) Residential choices and options. A person with
2 a developmental disability who requires residential
3 placement in a supervised or supported setting must be
4 provided choices among various residential options. The
5 placement must be offered in the least restrictive
6 setting possible.

7 (6) Education. A person with a developmental
8 disability has the right to a free, appropriate public
9 education as provided in both State and federal law.
10 Each local educational agency must prepare persons with
11 developmental disabilities for adult living. In
12 anticipation of adulthood, each person with a
13 developmental disability has the right to a transition
14 plan developed and ready for implementation before the
15 person's exit from school.

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

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

26 (9) Case coordination services. A person with a
27 developmental disability must be provided case
28 coordination services.

29 (10) Due process. A person with a developmental
30 disability retains the rights of citizenship. Any person
31 aggrieved by a decision of a department regarding
32 services provided under this Act must be given an
33 opportunity to present complaints at a due process
34 hearing before a hearing officer designated by the

1 director of that department. Any person aggrieved by a
2 final administrative decision rendered following the due
3 process hearing may seek judicial review of that decision
4 pursuant to the Administrative Review Law. The term
5 "administrative decision" is defined as in Section 3-101
6 of the Code of Civil Procedure. Reasonable attorney's
7 fees and costs may be awarded to the successful plaintiff
8 in any formal administrative or judicial action under
9 this Act.

10 The right to a hearing under this item (10) is in
11 addition to any other rights under federal, State, or
12 local laws.

13 Section 20. Implementation.

14 (a) The Governor, with the assistance of the Secretary
15 of Human Services, shall appoint an advisory committee to
16 develop a Developmental Disabilities Services Implementation
17 Plan that will ensure compliance by the State of Illinois
18 with the Americans with Disabilities Act and the decision in
19 *Olmstead v. L.C.*, 119 S.Ct. 2176 (1999). The advisory
20 committee shall be composed of individuals who represent each
21 principal State agency, local government agencies, and
22 nongovernmental organizations concerned with services for
23 persons with developmental disabilities.

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

26 (1) Establishing procedures for completing
27 comprehensive evaluations.

28 (2) Establishing procedures for the development of
29 an individual program plan for each person with a
30 developmental disability.

31 (3) Identifying core services to be provided by
32 agencies of the State of Illinois or other governmental
33 agencies.

1 (4) Establishing minimum standards for
2 individualized program services.

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

5 (6) Establishing minimum standards for vocational
6 services.

7 (7) Establishing due process hearing procedures.

8 (8) Establishing minimum standards for family
9 support services.

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

15 (c) The Governor, with the assistance of the Secretary
16 of Human Services, is responsible for the completion of the
17 implementation plan. The Governor must submit a report to the
18 General Assembly by October 1, 2001, which must include the
19 following:

20 (1) The implementation plan.

21 (2) A description of current and planned programs
22 and services necessary to meet the requirements of the
23 individual program plans required by this Act, together
24 with the actions to be taken by the State of Illinois to
25 ensure that those plans will be implemented.

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

29 (4) A report on the number of persons with
30 developmental disabilities who may be eligible to receive
31 services under this Act, together with a report on the
32 number of persons who are currently receiving those
33 services.

34 (5) Any proposed changes in State policies laws, or

1 regulations necessary to fulfill the purposes and
2 requirements of this Act.

3 (d) The Governor, with the assistance of the Secretary
4 of Human Services, shall annually update the implementation
5 plan and report changes to the General Assembly by March 1 of
6 each year.

7 (405 ILCS 80/1-1 rep.)

8 (405 ILCS 80/1-2 rep.)

9 (405 ILCS 80/1-3 rep.)

10 (405 ILCS 80/1-4 rep.)

11 (405 ILCS 80/1-5 rep.)

12 Section 90. The Developmental Disability and Mental
13 Disability Services Act is amended by repealing Sections 1-1,
14 1-2, 1-3, 1-4, and 1-5 (the Developmental Disabilities
15 Services Law).

16 Section 99. Effective date. This Act takes effect upon
17 becoming law.