

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

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

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

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

30 (2) It must be manifested before the individual

1 reaches age 22.

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

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

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

29 "Mental retardation" means significantly sub-average  
30 general intellectual functioning existing concurrently with  
31 deficits in adaptive behavior and manifested before the age  
32 of 22 years. "Significantly sub-average" means an  
33 intelligence quotient (IQ) of 70 or below on standardized  
34 measures of intelligence. This upper limit could be extended

1 upward depending on the reliability of the intelligence test  
2 used.

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

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

7 (2) It results in a substantial functional  
8 limitation in 3 or more of the following areas of major  
9 life activity: (i) self-care, (ii) receptive and  
10 expressive language, (iii) learning, (iv) mobility, (v)  
11 self-direction, (vi) capacity for independent living, and  
12 (vii) economic sufficiency.

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

18 "Department" means the Department on Aging, the  
19 Department of Human Services, the Department of Public  
20 Health, the Department of Public Aid, the University of  
21 Illinois Division of Specialized Care for Children, the  
22 Department of Children and Family Services, and the Illinois  
23 State Board of Education, where appropriate, as designated in  
24 the implementation plan developed under Section 20.

25 "Service coordination" means a goal-oriented process for  
26 the coordination of the range of services needed by persons  
27 with disabilities and their families. Service coordination  
28 is designed to ensure accessibility, continuity of care, and  
29 accountability and to maximize the potential of persons with  
30 disabilities for independence, productivity, and integration  
31 into the community. Service coordination includes, at a  
32 minimum: (i) outreach to identify eligible individuals; (ii)  
33 assessment and periodic reassessment to determine each  
34 individual's strengths, functional limitations, and need for

1 specific services; (iii) participation in the development of  
2 a comprehensive individual service or treatment plan; (iv)  
3 referral to and linkage with needed services and supports;  
4 (v) monitoring to ensure the delivery of appropriate services  
5 and to determine individual progress in meeting goals and  
6 objectives; and (vi) advocacy to assist the person in  
7 obtaining all services for which he or she is eligible or  
8 entitled.

9 "Chronological age-appropriate services" means services,  
10 activities, and strategies for persons with disabilities that  
11 are representative of the lifestyle activities of nondisabled  
12 peers of similar age in the community.

13 "Comprehensive evaluation" means procedures used by  
14 qualified professionals selectively with an individual to  
15 determine whether a person has a disability and the nature  
16 and extent of the services that the person with a disability  
17 needs.

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

21 "Family or individual support" means those resources and  
22 services that are necessary to maintain an individual with a  
23 disability within the family home or his or her own home.  
24 These services may include, but are not limited to, cash  
25 subsidy, respite care, and counseling services.

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

33 "Least restrictive environment" means an environment that  
34 represents the least departure from the normal patterns of

1 living and that effectively meets the needs of the person  
2 receiving the service.

3 Section 15. Services. In accordance with this Section  
4 and the individual service or treatment plan based on a  
5 comprehensive evaluation, persons with disabilities shall be  
6 provided the following services under the Disabilities  
7 Services Implementation Plan developed under Section 20:

8 (1) Comprehensive evaluation and diagnosis. A  
9 person with a suspected disability who is applying for  
10 Department-authorized disability services must receive a  
11 comprehensive diagnosis and evaluation, including an  
12 assessment of skills, abilities, and potential for  
13 residential and work placement, adapted to his or her  
14 primary language, cultural background, and ethnic origin.  
15 All components of a comprehensive evaluation must be  
16 administered by a qualified examiner.

17 (2) Individual service or treatment plan. A person  
18 with a disability shall receive services in accordance  
19 with a current individual service or treatment plan. A  
20 person with a disability who is receiving services shall  
21 be provided periodic reevaluation and review of the  
22 individual service or treatment plan, at least annually,  
23 in order to measure progress, to modify or change  
24 objectives if necessary, and to provide guidance and  
25 remediation techniques.

26 A person with a disability and his or her guardian  
27 have the right to participate in the planning and  
28 decision-making process regarding the person's individual  
29 service or treatment plan and to be informed in writing,  
30 or in that person's mode of communication, of progress at  
31 reasonable time intervals. Each person must be given the  
32 opportunity to make decisions and exercise options  
33 regarding the plan, consistent with the person's

1 capabilities. Family members and other representatives of  
2 the person with a disability must be allowed, encouraged,  
3 and supported to participate as well, if the person with  
4 a disability consents to that participation.

5 (3) Nondiscriminatory access to services. A person  
6 with a disability may not be denied program services  
7 because of sex, ethnic origin, marital status, ability to  
8 pay (except where contrary to law), or criminal record.  
9 Specific program eligibility requirements with regard to  
10 disability, level of need, age, and other matters may be  
11 established by the Department by rule. The Department  
12 may set priorities for the provision of services and for  
13 determining the need and eligibility for services in  
14 accordance with available funding.

15 (4) Family or individual support. A person with a  
16 disability must be provided family or individual support  
17 services, or both, whenever possible and appropriate, to  
18 prevent unnecessary out-of-home placement and to foster  
19 independent living skills when authorized for such  
20 services.

21 (5) Residential choices and options. A person with  
22 a disability who requires residential placement in a  
23 supervised or supported setting must be provided choices  
24 among various residential options when authorized for  
25 those services. The placement must be offered in the  
26 most integrated setting appropriate.

27 (6) Education. A person with a disability has the  
28 right to a free, appropriate public education as provided  
29 in both State and federal law. Each local educational  
30 agency must prepare persons with disabilities for adult  
31 living. In anticipation of adulthood, each person with a  
32 disability has the right to a transition plan developed  
33 and ready for implementation before the person's exit by  
34 no later than the school year in which the person reaches

1 age 14, consistent with the requirements of the federal  
2 Individuals with Disabilities Education Act and Article  
3 XIV of the School Code.

4 (7) Vocational training. A person with a  
5 disability must be provided vocational training, when  
6 appropriate, that contributes to the person's  
7 independence and employment potential. This training  
8 should include strategies and activities in programs that  
9 lead to employment and reemployment in the most  
10 integrated setting appropriate to the individual.

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

14 (9) Service coordination. A person with a  
15 disability who is receiving direct services from the  
16 Department must be provided service coordination when  
17 needed.

18 (10) Due process. A person with a disability  
19 retains the rights of citizenship. Any person aggrieved  
20 by a decision of a department regarding services  
21 provided under this Act must be given an opportunity to  
22 present complaints at a due process hearing before an  
23 impartial hearing officer designated by the director of  
24 that department. Any person aggrieved by a final  
25 administrative decision rendered following the due  
26 process hearing may seek judicial review of that decision  
27 pursuant to the Administrative Review Law. The term  
28 "administrative decision" is defined as in Section 3-101  
29 of the Code of Civil Procedure. Prevailing attorney's  
30 fees and costs may be awarded to the successful plaintiff  
31 in any formal administrative or judicial action under  
32 this Act.

33 The right to a hearing under this item (10) is in  
34 addition to any other rights under federal, State, or

1 local laws.

2 Section 20. Implementation.

3 (a) The Governor, with the assistance of the Secretary  
 4 of Human Services, shall appoint an advisory committee to  
 5 develop a Disabilities Services Implementation Plan that will  
 6 ensure compliance by the State of Illinois with the Americans  
 7 with Disabilities Act and the decision in *Olmstead v. L.C.*,  
 8 119 S.Ct. 2176 (1999). The advisory committee shall be  
 9 composed of persons with disabilities, family  
 10 representatives, and individuals who represent each principal  
 11 State agency, local government agencies, and nongovernmental  
 12 organizations concerned with services for persons with  
 13 disabilities.

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

16 (1) Establishing procedures for completing  
 17 comprehensive evaluations, including provisions for  
 18 Department review and approval of need determinations.  
 19 The Department may utilize independent evaluators and  
 20 targeted or sample reviews during this review and  
 21 approval process, as it deems appropriate.

22 (2) Establishing procedures for the development of  
 23 an individual service or treatment plan for each person  
 24 with a disability, including provisions for Department  
 25 review and authorization.

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

28 (4) Establishing minimum standards for  
 29 individualized services.

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

32 (6) Establishing minimum standards for vocational  
 33 services.



1 (7) Establishing due process hearing procedures.

2 (8) Establishing minimum standards for family  
3 support services.

4 (9) Securing financial resources necessary to  
5 fulfill the purposes and requirements of this Act,  
6 including but not limited to obtaining approval and  
7 implementing waivers or demonstrations authorized under  
8 federal law.

9 (c) The Governor, with the assistance of the Secretary  
10 of Human Services, is responsible for the completion of the  
11 implementation plan. The Governor must submit a report to the  
12 General Assembly by July 1, 2002, which must include the  
13 following:

14 (1) The implementation plan.

15 (2) A description of current and planned programs  
16 and services necessary to meet the requirements of the  
17 individual service or treatment plans required by this  
18 Act, together with the actions to be taken by the State  
19 of Illinois to ensure that those plans will be  
20 implemented. This description shall include a report of  
21 related program and service improvements or expansions  
22 implemented by the Department since the effective date of  
23 this Act.

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

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

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

34 (d) The Governor, with the assistance of the Secretary

1 of Human Services, shall annually update the implementation  
 2 plan and report changes to the General Assembly by July 1 of  
 3 each year. Initial implementation of the plan is required by  
 4 July 1, 2003. The requirement of annual updates and reports  
 5 expires in 2007, unless otherwise extended by the General  
 6 Assembly.

7 Section 25. Appropriations. Services shall be provided  
 8 under this Act to the extent that appropriations are made  
 9 available by the General Assembly for the programs and  
 10 services indicated in the implementation plan.

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

12 (405 ILCS 80/1-2 rep.)

13 (405 ILCS 80/1-3 rep.)

14 (405 ILCS 80/1-4 rep.)

15 (405 ILCS 80/1-5 rep.)

16 Section 90. The Developmental Disability and Mental  
 17 Disability Services Act is amended by repealing Sections 1-1,  
 18 1-2, 1-3, 1-4, and 1-5 (the Developmental Disabilities  
 19 Services Law).

20 Section 99. Effective date. This Act takes effect upon  
 21 becoming law.