



Sen. M. Maggie Crotty

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1 AMENDMENT TO SENATE BILL 1324

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1324 by replacing  
3 everything after the enacting clause with the following:

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 enabling those who want and who are determined  
9 appropriate for community services, as determined by the State,  
10 to receive them under the United States Supreme Court's  
11 decision in Olmstead v. L.C. 527 U.S. 581 (1999).

12 Therefore, the General Assembly's intent is to eliminate  
13 barriers that prevent or restrict the use of funds to allow the  
14 individual to remain in the community.

15 The General Assembly finds that increases in State  
16 long-term care expenditures for community services for people  
17 transitioning from institutions to the community under this Act  
18 must be offset by decreases in State long-term care  
19 expenditures for institutional care.

20 Section 10. Definitions. As used in this Act:

21 "Community service" means a service, aid, or benefit that  
22 is provided to a person with a disability as part of his or her  
23 long-term care that: (i) is available to a person living in

1 their own home, family home, a facility with no more than 8  
2 people, or assisted living as provided through the Supportive  
3 Living Facilities, as defined in Section 5-5.01a of the  
4 Illinois Public Aid Code, or Comprehensive Care in Residential  
5 Settings Demonstration Projects, as defined in Section 4.02c of  
6 the Illinois Act on the Aging, or other like settings; (ii) the  
7 State generally provides to people with disabilities; and (iii)  
8 is necessary for the person with a disability to live in the  
9 community, as determined by the State.

10 "Community service provider" means any person authorized  
11 by the State to provide community services and may include  
12 families, agencies, and other new providers who help to create  
13 a wider array of services.

14 "Departments" means the Department of Human Services, the  
15 Department on Aging, the Department of Public Health, and the  
16 Department of Public Aid.

17 "Home and Community Based Services waiver" or "HCBS waiver"  
18 means a Medicaid waiver granted under Section 1915c of Title  
19 XIX of the Social Security Act.

20 "Institution" or "institutional facility" means a skilled  
21 nursing or intermediate long-term care facility subject to  
22 licensure by the Department of Public Health under the Nursing  
23 Care Act, including any intermediate care facility for the  
24 mentally retarded, any institution for mental diseases, or any  
25 State-operated developmental center.

26 "Public funds" means any funds appropriated by the General  
27 Assembly to the Departments.

28 "Waiver" means a Home and Community Based Services waiver  
29 as defined above or a research and demonstration waiver granted  
30 under Section 1115 of the Social Security Act.

31 Section 15. Availability of public funds for community  
32 services.

33 (a) A person with a disability may have public funds that

1 would otherwise have been expended for his or her services  
2 provided in an institution expended instead for any community  
3 service or support that the State generally offers to people  
4 with disabilities, provided the State determines that the  
5 service is necessary for the person to live in the community  
6 and further provided that the necessary services are available  
7 under Section 20, instituting the practice of "money follows  
8 the person" among other mechanisms to promote reintegration.

9 (b) The cost of community services provided under this Act  
10 may not exceed the cost of care in the institutional facility  
11 in the geographic area in which the person resides in the  
12 community. In the case of persons moving from an institutional  
13 facility to the community, transition costs and the cost of the  
14 first month of care are limited to the actual, individual cost  
15 of initially establishing the person in the community. Monthly  
16 expenditure for persons deflected from entering an institution  
17 and persons transferring out of institutions after the first  
18 month are limited to minimum cost of care determined necessary  
19 by the State to meet the person's long-term care service needs  
20 in the community under an existing waiver.

21 (c) Funding for persons under this Act shall remain  
22 available to the person as long as he or she remains eligible  
23 for services in an institution and wants community services and  
24 to the extent that such funding is available under Section 20.

25 Section 20. Implementation.

26 (a) In fiscal year 2006, the State shall provide additional  
27 funding to current reintegration programs administered by the  
28 Department of Human Services.

29 (b) As people with disabilities relocate from  
30 institutional facilities to the community, the Departments  
31 shall develop a model by which State funding appropriated to  
32 cover the costs of long-term care in institutions may be used  
33 to cover the cost of long-term care in the community. In

1 conjunction with these efforts, the Departments shall  
2 strengthen efforts to divert people from going into  
3 institutions by addressing issues relating to: (i) home and  
4 community eligibility; (ii) preadmission screening and  
5 capacity in the institutional care system; and (iii) any other  
6 relevant issue to develop "money follows the person" or other  
7 mechanisms necessary to assure that, as expenditures for  
8 community services under this Act increase, there is a  
9 concomitant reduction in nursing facility costs.

10 (1) The Departments must collaborate on a survey of  
11 individuals who reside in institutions and are supported by  
12 public funds and as well as persons seeking long-term care  
13 to develop a survey tool to assess what these individuals  
14 and their family members perceive are the barriers for  
15 their remaining in a community-based setting. This survey  
16 must analyze the barriers for those over 65 years old and  
17 those who are persons with disability under the age of 65.  
18 The surveys must be completed by December 31, 2006.

19 (2) With the information gathered under item (1), the  
20 Departments must develop either modifications to current  
21 Home and Community Based Services (HCBS) waivers, so as to  
22 promote transition from a nursing home or other institution  
23 to a Home or Community Based Services (HCBS) setting, or  
24 develop new waivers that promote a return to home for  
25 seniors or younger persons with disabilities residing in  
26 institutions. Input from individuals with disabilities,  
27 families, providers, and other interested parties shall be  
28 included in the design, development, and evaluation of  
29 those modifications or new waivers. Requests for waiver  
30 modifications or new waivers must be submitted to the  
31 federal government no later than June 30, 2007.

32 (3) Services provided under item (2) are subject to  
33 federal approval of modification of an existing HCBS  
34 waivers or approval of new waivers.

1 (c) Programs under the waivers or HCBS waiver modifications  
2 developed under items (2) and (3) of subsection (b) must be  
3 piloted in such a manner that funding for the new services  
4 under these waivers does not exceed \$2 million per year. The  
5 pilot programs shall commence no later than January 1, 2008.

6 (d) After 2 years of operation of such waivers, a report  
7 must be delivered to the General Assembly on the evaluation of  
8 the effectiveness of those waivers in promoting community  
9 reintegration.

10 The waivers or waiver modifications must be developed to  
11 address barriers experienced by all 4 categories of disability:  
12 (i) developmental; (ii) psychiatric; (iii) physical; and (iv)  
13 disabilities due to aging. Waiver or waiver modification  
14 programs found to be effective shall be continued subject to  
15 federal approval of those waivers.

16 Section 25. Information and dissemination.

17 (a) The State shall ensure that persons covered under this  
18 Act are informed of their opportunity to receive community  
19 services under this Act.

20 (1) The Departments shall work together to ensure that  
21 persons with disabilities and their families, guardians,  
22 and advocates are informed of their opportunities for  
23 services under this Act in a manner that is easily  
24 understandable and accessible to people with disabilities.  
25 The Departments shall ensure that appropriate methods of  
26 dissemination are employed and shall make all feasible  
27 efforts to inform people currently institutionalized,  
28 including at their individual team or program meetings.

29 (2) The Departments shall use organizations comprised  
30 of or representing people with disabilities to ensure that  
31 people with disabilities, particularly prospective  
32 residents of institutions covered under this Act, and their  
33 families, guardians, and advocates are informed of their

1 opportunities for services under this Act.

2 (3) The Department of Public Health must ensure that,  
3 as a condition of licensing and certification, all  
4 institutions covered under this Act inform all residents  
5 prior to admission and annually thereafter of their  
6 opportunities to choose home and community alternatives  
7 under this Act. Additionally, the Department shall require  
8 each facility to post in a prominent location on each  
9 residential ward a notice containing information on  
10 services available under this Act.

11 Section 30. Effect of the Act on existing rights. This Act  
12 shall not alter or affect the manner in which persons with  
13 disabilities are determined eligible or appropriate for  
14 community services, except to the extent the determinations are  
15 based on the availability of community services. This Act shall  
16 not limit in any way the rights of people with disabilities  
17 under the U.S. Constitution, the American with Disabilities Act  
18 of 1990, Section 504 of the Rehabilitation Act, the Social  
19 Security Act, or any other federal or State law.

20 Section 40. Rules. The Department shall adopt any rules  
21 necessary for the implementation and administration of this  
22 Act.

23 Section 99. Effective date. This Act takes effect upon  
24 becoming law."