

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 2003.

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.

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

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

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

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

1           (2) It must be manifested before the individual  
2 reaches age 22.

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

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

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

30           "Mental retardation" means significantly sub-average  
31 general intellectual functioning existing concurrently with  
32 deficits in adaptive behavior and manifested before the age  
33 of 22 years.

34           "Physical disability" means a disability as defined by

1 the Americans with Disabilities Act of 1990 that meets the  
2 following criteria:

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

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

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

15 (b) In this Act:

16 "Chronological age-appropriate services" means services,  
17 activities, and strategies for persons with disabilities that  
18 are representative of the lifestyle activities of nondisabled  
19 peers of similar age in the community.

20 "Comprehensive evaluation" means procedures used by  
21 qualified professionals selectively with an individual to  
22 determine whether a person has a disability and the nature  
23 and extent of the services that the person with a disability  
24 needs.

25 "Department" means the Department on Aging, the  
26 Department of Human Services, the Department of Public  
27 Health, the Department of Public Aid, the University of  
28 Illinois Division of Specialized Care for Children, the  
29 Department of Children and Family Services, and the Illinois  
30 State Board of Education, where appropriate, as designated in  
31 the implementation plan developed under Section 20.

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

1 "Family or individual support" means those resources and  
2 services that are necessary to maintain an individual with a  
3 disability within the family home or his or her own home.  
4 These services may include, but are not limited to, cash  
5 subsidy, respite care, and counseling services.

6 "Independent service coordination" means a social service  
7 that enables persons with disabilities and their families to  
8 locate, use, and coordinate resources and opportunities in  
9 their communities on the basis of individual need.  
10 Independent service coordination is independent of providers  
11 of services and funding sources and is designed to ensure  
12 accessibility, continuity of care, and accountability and to  
13 maximize the potential of persons with disabilities for  
14 independence, productivity, and integration into the  
15 community. Independent service coordination includes, at a  
16 minimum: (i) outreach to identify eligible individuals; (ii)  
17 assessment and periodic reassessment to determine each  
18 individual's strengths, functional limitations, and need for  
19 specific services; (iii) participation in the development of  
20 a comprehensive individual service or treatment plan; (iv)  
21 referral to and linkage with needed services and supports;  
22 (v) monitoring to ensure the delivery of appropriate services  
23 and to determine individual progress in meeting goals and  
24 objectives; and (vi) advocacy to assist the person in  
25 obtaining all services for which he or she is eligible or  
26 entitled.

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

34 "Least restrictive environment" means an environment that

1 represents the least departure from the normal patterns of  
2 living and that effectively meets the needs of the person  
3 receiving the service.

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

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

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

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

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

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

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

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

28 (6) Education. A person with a disability has the  
29 right to a free, appropriate public education as provided  
30 in both State and federal law. Each local educational  
31 agency must prepare persons with disabilities for adult  
32 living. In anticipation of adulthood, each person with a  
33 disability has the right to a transition plan developed  
34 and ready for implementation before the person's exit by

1 no later than the school year in which the person reaches  
2 age 14, consistent with the requirements of the federal  
3 Individuals with Disabilities Education Act and Article  
4 XIV of the School Code.

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

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

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

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

34 The right to a hearing under this item (10) is in

1 addition to any other rights under federal, State, or  
2 local laws.

3 Section 20. Implementation.

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

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

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

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

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

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

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

33 (6) Establishing minimum standards for vocational



1 services.

2 (7) Establishing due process hearing procedures.

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

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

10 (c) The Governor, with the assistance of the Secretary  
11 of Human Services, is responsible for the completion of the  
12 implementation plan. The Governor must submit a report to the  
13 General Assembly by November 1, 2003, which must include the  
14 following:

15 (1) The implementation plan.

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

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

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

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

1 (d) The Governor, with the assistance of the Secretary  
2 of Human Services, shall annually update the implementation  
3 plan and report changes to the General Assembly by July 1 of  
4 each year. Initial implementation of the plan is required by  
5 July 1, 2004. The requirement of annual updates and reports  
6 expires in 2008, unless otherwise extended by the General  
7 Assembly.

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

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

13 (405 ILCS 80/1-2 rep.)

14 (405 ILCS 80/1-3 rep.)

15 (405 ILCS 80/1-4 rep.)

16 (405 ILCS 80/1-5 rep.)

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

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