

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 5. The Disabilities Services Act of 2003 is amended  
5 by adding a heading to Article 1 immediately before Section 1  
6 of the Act, by adding a heading to Article 2 immediately before  
7 Section 5 of the Act, by adding Article 3 and a heading to  
8 Article 99 immediately before Section 90 of the Act as follows:

9 (20 ILCS 2407/Art. 1 heading new)

10 ARTICLE 1. SHORT TITLE

11 (20 ILCS 2407/Art. 2 heading new)

12 ARTICLE 2. DISABILITIES SERVICES ACT of 2003

13 (20 ILCS 2407/Art. 3 heading new)

14 ARTICLE 3. MONEY FOLLOWS THE PERSON IMPLEMENTATION ACT

15 (20 ILCS 2407/51 new)

16 Sec. 51. Legislative intent. It is the intent of the  
17 General Assembly to promote the civil rights of persons with  
18 disabilities by providing community-based service for persons  
19 with disabilities when such services are determined  
20 appropriate and desired, as required by Title II of the

1 Americans with Disabilities Act under the United States Supreme  
2 Court's decision in Olmstead v. L.C., 527 U.S. 581 (1999). In  
3 accordance with Section 6071 of the Deficit Reduction Act of  
4 2005 (P.L. 109-171), the purpose of this Act is (i) to identify  
5 and reduce barriers or mechanisms, whether in State law, the  
6 State Medicaid Plan, the State budget, or otherwise, that  
7 prevent or restrict the flexible use of public funds to enable  
8 individuals with disabilities to receive support for  
9 appropriate and necessary long-term care services in settings  
10 of their choice; (ii) to increase the use of home and  
11 community-based long-term care services, rather than  
12 institutions or long-term care facilities; (iii) to increase  
13 the ability of the State Medicaid program to assure continued  
14 provision of home and community-based long-term care services  
15 to eligible individuals who choose to transition from an  
16 institution or a long-term care facility to a community  
17 setting; and (iv) to ensure that procedures are in place that  
18 are at least comparable to those required under the qualified  
19 home and community-based program to provide quality assurance  
20 for eligible individuals receiving Medicaid home and  
21 community-based long-term care services and to provide for  
22 continuous quality improvement in such services. Utilizing the  
23 framework created by the "Money Follows the Person"  
24 demonstration project, approval received by the State on May  
25 14, 2007, the purpose of this Act is to codify and reinforce  
26 the State's commitment to promote individual choice and control

1 and increase utilization of home and community-based services  
2 through:

3 (a) Increased ability of the State Medicaid program to  
4 ensure continued provision of home and community-based  
5 long-term care services to eligible individuals who choose  
6 to transition from an institution to a community setting.

7 (b) Assessment and removal of barriers to community  
8 reintegration, including development of a comprehensive  
9 housing strategy.

10 (c) Expand availability of consumer self-directed  
11 service options.

12 (d) Increased use of home and community-based  
13 long-term care services, rather than institutions or  
14 long-term care facilities, such that the percentage of the  
15 State long-term care budget expended for community-based  
16 services increases from its current 28.5% to at least 37%  
17 in the next 5 years.

18 (e) Creation and implementation of interagency  
19 agreements or budgetary mechanisms to allow for the  
20 flexible movement of allocated dollars from institutional  
21 budget appropriations to appropriations supporting home  
22 and community-based services or Medicaid State Plan  
23 options.

24 (f) Creation of an equitable, clinically sound and  
25 cost-effective system for identification and review of  
26 community transition candidates across all long-term care

1 systems; including improvement of prescreening, assessment  
2 for rapid reintegration and targeted review of longer stay  
3 residents, training and outreach education for providers  
4 and consumers on community alternatives across all  
5 long-term care systems.

6 (g) Development and implementation of data and  
7 information systems to track individuals across service  
8 systems and funding streams; support responsive  
9 eligibility determination; facilitate placement and care  
10 decisions; identify individuals with potential for  
11 transition; and drive planning for the development of  
12 community-based alternatives.

13 (h) Establishment of procedures that are at least  
14 comparable to those required under the qualified home and  
15 community-based program to provide quality assurance for  
16 eligible individuals receiving Medicaid home and  
17 community-based long-term care services and to provide for  
18 continuous quality improvement in such services.

19 (i) Nothing in this amendatory Act of the 95th General  
20 Assembly shall diminish or restrict the choice of an  
21 individual to reside in an institution or the quality of  
22 care they receive.

23 (20 ILCS 2407/52 new)

24 Sec. 52. Applicability; definitions. In accordance with  
25 Section 6071 of the Deficit Reduction Act of 2005 (P.L.

1 109-171), as used in this Article:

2 "Departments". The term "Departments" means for the  
3 purposes of this Act, the Department of Human Services, the  
4 Department on Aging, Department of Healthcare and Family  
5 Services and Department of Public Health, unless otherwise  
6 noted.

7 "Home and community-based long-term care services". The  
8 term "home and community-based long-term care services" means,  
9 with respect to the State Medicaid program, a service aid, or  
10 benefit, home and community-based services, including but not  
11 limited to home health and personal care services, that are  
12 provided to a person with a disability, and are voluntarily  
13 accepted, as part of his or her long-term care that: (i) is  
14 provided under the State's qualified home and community-based  
15 program or that could be provided under such a program but is  
16 otherwise provided under the Medicaid program; (ii) is  
17 delivered in a qualified residence; and (iii) is necessary for  
18 the person with a disability to live in the community.

19 "Long-term care facility". The term "long-term care  
20 facility", for the purposes of this Article, 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 Home Care Act, an intermediate care facility for the  
24 developmentally disabled (ICF-DDs), and a State-operated  
25 developmental center or mental health center, whether publicly  
26 or privately owned.

1       "Money Follows the Person" Demonstration. Enacted by the  
2 Deficit Reduction Act of 2005, the Money Follows the Person  
3 (MFP) Rebalancing Demonstration is part of a comprehensive,  
4 coordinated strategy to assist states, in collaboration with  
5 stakeholders, to make widespread changes to their long-term  
6 care support systems. This initiative will assist states in  
7 their efforts to reduce their reliance on institutional care  
8 while developing community-based long-term care opportunities,  
9 enabling the elderly and people with disabilities to fully  
10 participate in their communities.

11       "Public funds" mean any funds appropriated by the General  
12 Assembly to the Departments of Human Services, on Aging, of  
13 Healthcare and Family Services and of Public Health for  
14 settings and services as defined in this Article.

15       "Qualified residence". The term "qualified residence"  
16 means, with respect to an eligible individual: (i) a home owned  
17 or leased by the individual or the individual's authorized  
18 representative (as defined by P.L. 109-171); (ii) an apartment  
19 with an individual lease, with lockable access and egress, and  
20 which includes living, sleeping, bathing, and cooking areas  
21 over which the individual or the individual's family has domain  
22 and control; or (iii) a residence, in a community-based  
23 residential setting, in which no more than 4 unrelated  
24 individuals reside. Where qualified residences are not  
25 sufficient to meet the demand of eligible individuals,  
26 time-limited exceptions to this definition may be developed

1 through administrative rule.

2 "Self-directed services". The term "self-directed  
3 services" means, with respect to home and community-based  
4 long-term services for an eligible individual, those services  
5 for the individual that are planned and purchased under the  
6 direction and control of the individual or the individual's  
7 authorized representative, including the amount, duration,  
8 scope, provider, and location of such services, under the State  
9 Medicaid program consistent with the following requirements:

10 (a) Assessment: there is an assessment of the needs,  
11 capabilities, and preference of the individual with  
12 respect to such services.

13 (b) Individual service care or treatment plan: based on  
14 the assessment, there is development jointly with such  
15 individual or individual's authorized representative, a  
16 plan for such services for the individual that (i)  
17 specifies those services, if any, that the individual or  
18 the individual's authorized representative would be  
19 responsible for directing; (ii) identifies the methods by  
20 which the individual or the individual's authorized  
21 representative or an agency designated by an individual or  
22 representative will select, manage, and dismiss providers  
23 of such services.

24 (20 ILCS 2407/53 new)

25 Sec. 53. Rebalancing benchmarks.

1       (a) Illinois' long-term care system is in a state of  
2 transformation, as evidenced by the creation and subsequent  
3 work products of the Disability Services Advisory Committee,  
4 Older Adult Services Advisory Committee, Housing Task Force and  
5 other executive and legislative branch initiatives.

6       (b) Illinois' Money Follows the Person demonstration  
7 approval capitalizes on this progress and commits the State to  
8 transition approximately 3,357 older persons and persons with  
9 developmental, physical or psychiatric disabilities from  
10 institutional to home and community-based settings, resulting  
11 in an increased percentage of long-term care community spending  
12 over the next 5 years.

13       (c) The State will endeavor to increase the percentage of  
14 community-based long-term care spending over the next 5 years  
15 according to the following timeline:

16           Estimated baseline: 28.5%

17           Year 1: 30%

18           Year 2: 31%

19           Year 3: 32%

20           Year 4: 35%

21           Year 5: 37%

22       (d) The Departments will utilize interagency agreements  
23 and will seek legislative authority to implement a Money  
24 Follows the Person budgetary mechanism to allocate or  
25 reallocate funds for the purpose of expanding the availability,  
26 quality or stability of home and community-based long-term care



1 services and supports for persons with disabilities.

2 (e) The allocation of public funds for home and  
3 community-based long-term care services shall not have the  
4 effect of: (i) diminishing or reducing the quality of services  
5 available to residents of long-term care facilities; (ii)  
6 forcing any residents of long-term care facilities to  
7 involuntarily accept home and community-based long-term care  
8 services, or causing any residents of long-term care facilities  
9 to be involuntarily transferred or discharged; (iii) causing  
10 reductions in long-term care facility reimbursement rates in  
11 effect as of July 1, 2008; or (iv) diminishing access to a full  
12 array of long-term care options.

13 (20 ILCS 2407/54 new)

14 Sec. 54. Quality assurance and quality improvement.

15 (a) In accordance with subsection (11) of Section 6071 of  
16 the Deficit Reduction Act of 2005 (P.L. 109-171), the  
17 Departments shall develop a plan for quality assurance and  
18 quality improvement for home and community-based long-term  
19 care services under the State Medicaid program, including a  
20 plan to assure the health and welfare of eligible individuals  
21 under this Act.

22 (b) This plan shall require the Departments to apply for  
23 any available funding to support the intent of this  
24 legislation, and to seek any appropriate federal Medicaid  
25 approval.

1 (20 ILCS 2407/55 new)

2 Sec. 55. Dissemination of reports.

3 (a) On or before April 1 of each year, in conjunction with  
4 their annual report, the Department of Healthcare and Family  
5 Services, in cooperation with the other involved agencies,  
6 shall report to the Governor and the General Assembly on the  
7 implementation of this Act and include, at a minimum, the  
8 following data: (i) a description of any interagency  
9 agreements, fiscal payment mechanisms or methodologies  
10 developed under this Act that effectively support choice; (ii)  
11 information concerning the dollar amounts of State Medicaid  
12 long-term care expenditures and the percentage of such  
13 expenditures that were for institutional long-term care  
14 services or were for home and community-based long-term care  
15 services; and (iii) documentation that the Departments have met  
16 the requirements under Section 54(a) to assure the health and  
17 welfare of eligible individuals receiving home and  
18 community-based long-term care services. This report must be  
19 made available to the general public, including via the  
20 Departmental websites.

21 (20 ILCS 2407/56 new)

22 Sec. 56. Effect on existing rights.

23 (a) This Article does not alter or affect the manner in  
24 which persons with disabilities are determined eligible or

1 appropriate for home and community-based long-term care  
2 services.

3 (b) This Article shall not be read to limit in any way the  
4 rights of persons with disabilities under the U.S.  
5 Constitution, the Americans with Disabilities Act, Section 504  
6 of the Rehabilitation Act, the Social Security Act, or any  
7 other federal or State law.

8 (20 ILCS 2407/57 new)

9 Sec. 57. Rules. The Departments of Human Services, on  
10 Aging, of Healthcare and Family Services and of Public Health  
11 shall adopt any rules necessary for the implementation and  
12 administration of this Act.