

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1564 Session of
2011

INTRODUCED BY MURT, BOYD, V. BROWN, J. EVANS, GOODMAN, HARHART,
HARPER, HORNAMAN, MANN, ROEBUCK, STURLA, SWANGER, VULAKOVICH
AND WAGNER, MAY 23, 2011

REFERRED TO COMMITTEE ON HUMAN SERVICES, MAY 23, 2011

AN ACT

1 Establishing a bill of rights for individuals with intellectual
2 and developmental disabilities; and conferring powers and
3 duties on the Department of Public Welfare.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Individuals
8 with Intellectual and Developmental Disabilities Bill of Rights
9 Act.

10 Section 2. Findings.

11 The General Assembly finds and declares as follows:

12 (1) Disability is a natural part of the human
13 experience, which does not diminish the right of individuals
14 with intellectual and developmental disabilities to:

15 (i) enjoy the opportunity to live, to the extent
16 possible, independently;

17 (ii) make choices;

18 (iii) contribute to society; and

1 (iv) experience full integration and inclusion in
2 the economic, political, social, cultural and educational
3 mainstream of society in this Commonwealth.

4 (2) Individuals with intellectual and developmental
5 disabilities continually encounter various forms of
6 discrimination in critical areas.

7 (3) There is a lack of public awareness of the
8 capabilities and competencies of individuals with
9 intellectual and developmental disabilities.

10 (4) A substantial number of individuals with
11 intellectual and developmental disabilities and their
12 families or legal guardians do not have access to appropriate
13 support and services from generic and specialized service
14 systems and remain unserved or underserved.

15 (5) Communities can be enriched by the full and active
16 participation and the contributions by individuals with
17 intellectual and developmental disabilities and their
18 families; and there is a need to ensure that, within this
19 Commonwealth, there is the availability and equitable
20 provision of necessary services for individuals with
21 intellectual and developmental disabilities, regardless of
22 religion, race, color, national origin, economic, social
23 status and degree or type of disability.

24 (6) The long-time commitment of the General Assembly to
25 secure for individuals with intellectual and developmental
26 disabilities in partnership with their families or legal
27 guardians the opportunity to choose where they live is
28 affirmed. The choice of service options must be supported by
29 State policy. The choice of service options is to be ensured
30 to individuals with intellectual and developmental

1 disabilities, encouraging that they not leave their homes or
2 community to the maximum extent possible.

3 (7) Services must ensure accountability, credibility,
4 responsiveness and quality assurance, whether the funding is
5 Federal, State, local or community.

6 (8) There are approximately 21,158 individuals in this
7 Commonwealth with mental retardation who are waiting for
8 services and programs. There are more than 14,227 people with
9 emergency and critical needs. The waiting list for these
10 persons is expected to grow substantially into the
11 foreseeable future.

12 (9) The Department of Public Welfare needs to develop an
13 adequate plan to address the needs and services for the
14 individuals on the waiting list for mental retardation
15 services.

16 (10) For true choice to exist, individuals with
17 intellectual and developmental disabilities and their
18 families or legal guardians must be provided with information
19 about their options for services.

20 (11) The goals of the Commonwealth properly include the
21 goal of providing individuals with intellectual and
22 developmental disabilities and their families or legal
23 guardians with the opportunities and support to:

24 (i) Make informed choices and decisions.

25 (ii) Pursue meaningful and productive lives.

26 (iii) Live in a home and community of their choice.

27 (iv) Achieve full integration and inclusion in
28 society, in an individualized manner, consistent with the
29 unique strengths, resources, priorities, concerns,
30 abilities and capabilities of the individual.

1 (12) The purpose of this act is to reflect the United
2 States Supreme Court decision of Olmstead v. L.C. (No.98-536
3 U.S. 1999); and the Commonwealth desires to assure
4 individuals with intellectual and developmental disabilities
5 and their families or legal guardians full and complete
6 participation in the design of and access to services,
7 supports and other assistance and opportunities which promote
8 independence, productivity and choice of living arrangement.

9 (13) It is the policy of the Commonwealth that all
10 programs, projects and activities operating in this
11 Commonwealth be carried out in a manner consistent with the
12 following principles:

13 (i) Individuals with intellectual and developmental
14 disabilities are capable of pursuing independence,
15 productivity and integration and inclusion into the
16 community and often require the provision of services,
17 supports and other assistance to achieve independence,
18 productivity and integration and inclusion.

19 (ii) Individuals with intellectual and developmental
20 disabilities and their families or legal guardians have
21 competencies, capabilities and personal goals which shall
22 be recognized, supported and encouraged; and any
23 assistance to such individuals shall be provided in an
24 individualized manner, consistent with the unique
25 strengths, resources, priorities, concerns, abilities and
26 capabilities of the individuals.

27 (iii) Individuals with intellectual and
28 developmental disabilities and their families or legal
29 guardians are the primary decision makers regarding the
30 services and supports such individuals and their families

1 receive and play significant decision-making roles in
2 policies and programs which affect the lives of such
3 individuals and their families.

4 (iv) Individuals with intellectual and developmental
5 disabilities and their families or legal guardians have
6 varying goals and needs, and, therefore, this act does
7 not support one specific service system or setting over
8 another so long as it is within the parameters of
9 applicable reported judicial decisions.

10 (v) The Commonwealth shall, within budgetary
11 accountability, provide services, supports and other
12 assistance which reflect the principles of everyday life
13 that have been the cornerstone of the Commonwealth's
14 human services for people with intellectual and
15 developmental disabilities.

16 Section 3. Definitions.

17 The following words and phrases when used in this act shall
18 have the meanings given to them in this section unless the
19 context clearly indicates otherwise:

20 "Department." The Department of Public Welfare of the
21 Commonwealth.

22 Section 4. Choice.

23 (a) Community-based service.--The Commonwealth shall provide
24 individualized community-integrated supports and services for an
25 individual with intellectual and developmental disabilities if
26 all of the following apply:

27 (1) The individual has an intellectual or developmental
28 disability.

29 (2) The individual chooses certain supports and services
30 or does not oppose the supports and services.

1 (3) The supports and services are included in an
2 individualized services plan developed by an authorized State
3 or county supports coordinator with the input of the
4 individual and the individual's guardian and advocate.

5 (b) Family.--Unless the individual determines otherwise,
6 family members and legal guardians of an individual with
7 intellectual and developmental disabilities shall be involved in
8 meetings regarding the planning for and arrangement of
9 community-based services or other allowable services.

10 (c) Contact.--Nothing in this act shall be construed to
11 prohibit an individual with intellectual and developmental
12 disabilities from maintaining contact with family and friends at
13 an intermediate care facility, a community living arrangement or
14 a day program.

15 (d) Complaints.--An individual with intellectual and
16 developmental disabilities, a family member or a legal guardian
17 of such individual who believes that the needs as detailed in
18 the individualized service plan are not being met may provide
19 the State or county a letter expressing concerns. The State or
20 county shall, within 30 days, address the concerns and, if
21 necessary, take corrective action.

22 Section 5. Waiting list for mental retardation services.

23 (a) Waiting list plan.--Within one year of the effective
24 date of this section, the department shall develop a five-year
25 plan to eliminate the current as well as any future additions to
26 the critical and emergency waiting list for individuals with
27 mental retardation who are in need of allowable supports and
28 services and shall submit the plan to the Governor, the General
29 Assembly and the county mental retardation program
30 administrators.

1 (b) Contents of plan.--The plan required by subsection (a)
2 shall include:

3 (1) Statistical information on the current and projected
4 annual increase in the waiting list on a county basis. The
5 department shall develop a Statewide standardized form to
6 collect the information from the counties.

7 (2) Budget projections taking into consideration the
8 department's current budget year, projected annual costs
9 associated with the elimination of the waiting list,
10 financial information on the amount of additional Federal,
11 State or other funds in each county which may be required
12 annually for the operational costs associated with the
13 elimination of the waiting list in each county and the
14 projected annual waiting list in each annual plan update.

15 (c) Public hearings and comment.--In the development of the
16 plan required by subsection (a), the department shall conduct
17 public hearings and obtain public comment from individuals with
18 mental retardation, their families and guardians and providers
19 of services to the mental retardation community.

20 (d) Annual submission of updated plan.--The department shall
21 update the budget, statistical and financial data to the plan
22 required by subsection (a) annually and submit an updated plan
23 to the Governor, General Assembly and the county mental
24 retardation program administrators on the anniversary date of
25 the department's original submission of the plan.

26 Section 6. Funding.

27 Services under this act shall be made available across this
28 Commonwealth, taking into account the budget constraints and
29 financial resources available to the Commonwealth and the needs
30 of individuals with intellectual and developmental disabilities.

1 Section 7. Effective date.

2 This act shall take effect in 60 days.