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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 576 Session of  
2007

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INTRODUCED BY GREENLEAF, ERICKSON, KITCHEN, RAFFERTY,  
TARTAGLIONE, TOMLINSON, BOSCOLA, McILHINNEY, COSTA, FONTANA,  
BROWNE AND O'PAKE, MARCH 20, 2007

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REFERRED TO PUBLIC HEALTH AND WELFARE, MARCH 20, 2007

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AN ACT

1 Establishing a bill of rights for individuals with mental  
2 retardation; and conferring powers and duties on the  
3 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 Mental Retardation Bill of Rights Act.

9 Section 2. Findings.

10 The General Assembly finds and declares as follows:

11 (1) Disability is a natural part of the human  
12 experience, which does not diminish the right of individuals  
13 with mental retardation to:

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

16 (ii) make choices;

17 (iii) contribute to society; and

18 (iv) experience full integration and inclusion in

1 the economic, political, social, cultural and educational  
2 mainstream of society in this Commonwealth.

3 (2) Individuals with mental retardation continually  
4 encounter various forms of discrimination in critical areas.

5 (3) There is a lack of public awareness of the  
6 capabilities and competencies of individuals with mental  
7 retardation.

8 (4) A substantial number of individuals with mental  
9 retardation and their families or legal guardians does not  
10 have access to appropriate support and services from generic  
11 and specialized service systems and remains unserved or  
12 underserved.

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

21 (6) The long-time commitment of the General Assembly to  
22 secure for individuals with mental retardation in partnership  
23 with their families or legal guardians the opportunity to  
24 choose where they live is affirmed. The choice of service  
25 options must be supported by State policy. The choice of  
26 service options is to be ensured to individuals with mental  
27 retardation, allowing to the maximum extent possible that  
28 they not have to leave their homes or community.

29 (7) Services must ensure accountability, credibility,  
30 responsiveness and quality assurance, whether the funding is

1 Federal, State, local or community.

2 (8) There are approximately 21,056 individuals in this  
3 Commonwealth with mental retardation who are waiting for  
4 services and programs. There are more than 10,465 people with  
5 emergency and critical needs. The waiting list for these  
6 persons is expected to grow substantially into the  
7 foreseeable future.

8 (9) The Department of Public Welfare needs to develop an  
9 adequate plan to address the needs and services for the  
10 individuals on the waiting list.

11 (10) For true choice to exist, individuals with mental  
12 retardation and their families or legal guardians must be  
13 provided with information about their options for services.

14 (11) The goals of the Commonwealth properly include the  
15 goal of providing individuals with mental retardation and  
16 their families or legal guardians with the opportunities and  
17 support to:

18 (i) Make informed choices and decisions.

19 (ii) Pursue meaningful and productive lives.

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

21 (iv) Achieve full integration and inclusion in  
22 society, in an individualized manner, consistent with the  
23 unique strengths, resources, priorities, concerns,  
24 abilities and capabilities of the individual.

25 (12) The purpose of this act is to reflect the United  
26 States Supreme Court decision of *Olmstead v. L.C.* (No.98-536  
27 U.S. 1999); and the Commonwealth desires to assure  
28 individuals with mental retardation and their families or  
29 legal guardians participation in the design of and access to  
30 services, supports and other assistance and opportunities

1 which promote independence, productivity and choice of living  
2 arrangement.

3 (13) It is the policy of the Commonwealth that all  
4 programs, projects and activities operating in this  
5 Commonwealth be carried out in a manner consistent with the  
6 following principles:

7 (i) Individuals with developmental disabilities are  
8 capable of pursuing independence, productivity and  
9 integration and inclusion into the community and often  
10 require the provision of services, supports and other  
11 assistance to achieve independence, productivity and  
12 integration and inclusion.

13 (ii) Individuals with mental retardation and their  
14 families or legal guardians have competencies,  
15 capabilities and personal goals which shall be  
16 recognized, supported and encouraged; and any assistance  
17 to such individuals shall be provided in an  
18 individualized manner, consistent with the unique  
19 strengths, resources, priorities, concerns, abilities and  
20 capabilities of the individuals.

21 (iii) Individuals with mental retardation and their  
22 families or legal guardians are the primary decision  
23 makers regarding the services and supports such  
24 individuals and their families receive and play  
25 significant decision-making roles in policies and  
26 programs which affect the lives of such individuals and  
27 their families.

28 (iv) Individuals with mental retardation and their  
29 families or legal guardians have varying goals and needs,  
30 and, therefore, this act does not support one specific

1 service system or setting over another so long as it is  
2 within the parameters of applicable reported judicial  
3 decisions.

4 (v) The Commonwealth shall, within budgetary  
5 accountability, provide services, supports and other  
6 assistance which demonstrate respect for individual  
7 dignity, personal preference and cultural difference.

#### 8 Section 3. Definitions.

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

12 "Department." The Department of Public Welfare of the  
13 Commonwealth.

#### 14 Section 4. Choice.

15 (a) Community-based service.--The Commonwealth is required  
16 to provide individualized community-integrated supports and  
17 services for an individual with mental retardation if all of the  
18 following apply:

19 (1) The individual has mental retardation.

20 (2) The affected individual does not oppose the supports  
21 and services.

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

26 (b) Family.--Unless an individual determines otherwise,  
27 family members and legal guardians shall be involved in meetings  
28 regarding the planning for and arrangement of community-based  
29 services or other allowable services.

30 (c) Contact.--Nothing shall prohibit an individual with

1 mental retardation from maintaining contact with family and  
2 friends at an intermediate care facility, a community living  
3 arrangement or a day program.

4 (d) Complaints.--An individual, a family member or a legal  
5 guardian who believes that the needs as detailed in the  
6 individualized service plan are not being met may provide the  
7 State or county a letter expressing concerns. The State or  
8 county shall, within 30 days, address the concerns and, if  
9 necessary, take corrective action.

10 Section 5. Waiting list program.

11 (a) Waiting list plan.--Within 180 days of the effective  
12 date of this section, the department shall develop and submit to  
13 the Governor, the General Assembly and the county mental  
14 retardation program administrators, a plan to eliminate by the  
15 year 2010 the current and future critical and emergency waiting  
16 list for individuals with mental retardation who are in need of  
17 allowable supports and services.

18 (b) Contents of plan.--The plan required by this subsection  
19 shall include:

20 (1) Statistical information on the current and projected  
21 annual increase in the waiting list on a county basis. The  
22 department shall develop a Statewide standardized form to  
23 collect the information from the counties.

24 (2) Financial information on the amount of additional  
25 Federal, State or other funds in each county which may be  
26 required annually for the operational costs associated with  
27 the elimination of the waiting list in each county by the  
28 year 2010 and the projected annual waiting list in each  
29 annual plan update.

30 (c) Public hearings and comment.--In the development of the

1 plan required by subsection (a), the department shall conduct  
2 public hearings and obtain public comment from individuals with  
3 mental retardation, their families and guardians and providers  
4 of services to the mental retardation community.

5 (d) Annual submission of updated plan.--The department shall  
6 update the statistical and financial data to the plan required  
7 by subsection (a) annually and submit the updated plan to the  
8 Governor, General Assembly and the county mental retardation  
9 program administrators by December 31, beginning December 31,  
10 2010.

11 Section 6. Funding.

12 It is the intent of the General Assembly that services under  
13 this act shall be made available across this Commonwealth,  
14 taking into account the resources available to the Commonwealth  
15 and the needs of others with mental disabilities.

16 Section 7. Effective date.

17 This act shall take effect in 60 days.