

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1247 Session of
2009

INTRODUCED BY HARPER, ADOLPH, BARRAR, BEAR, BOBACK, BOYD,
BRENNAN, BRIGGS, BROWN, CLYMER, CREIGHTON, FLECK, GEIST,
GINGRICH, GOODMAN, GRUCELA, HARKINS, HENNESSEY, HESS,
HORNAMAN, HUTCHINSON, JOHNSON, KAUFFMAN, MAJOR, MCGEEHAN,
MENSCH, MOUL, MURT, O'NEILL, PALLONE, PYLE, QUINN, RAPP,
READSHAW, REICHLEY, ROAE, ROCK, SIPTROTH, K. SMITH, SWANGER,
VULAKOVICH, WATSON, WHEATLEY AND YOUNGBLOOD, APRIL 13, 2009

AS REPORTED FROM COMMITTEE ON HEALTH AND HUMAN SERVICES, HOUSE
OF REPRESENTATIVES, AS AMENDED, JANUARY 5, 2010

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

1 possible, independently;

2 (ii) make choices;

3 (iii) contribute to society; and

4 (iv) experience full integration and inclusion in
5 the economic, political, social, cultural and educational
6 mainstream of society in this Commonwealth.

7 (2) Individuals with intellectual and developmental
8 disabilities continually encounter various forms of
9 discrimination in critical areas.

10 (3) There is a lack of public awareness of the
11 capabilities and competencies of individuals with
12 intellectual and developmental disabilities.

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

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

27 (6) The long-time commitment of the General Assembly to
28 secure for individuals with intellectual and developmental
29 disabilities in partnership with their families or legal
30 guardians the opportunity to choose where they live is

1 affirmed. The choice of service options must be supported by
2 State policy. The choice of service options is to be ensured
3 to individuals with intellectual and developmental
4 disabilities, encouraging that they not leave their homes or
5 community to the maximum extent possible.

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

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

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

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

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

- 27 (i) Make informed choices and decisions.
- 28 (ii) Pursue meaningful and productive lives.
- 29 (iii) Live in a home and community of their choice.
- 30 (iv) Achieve full integration and inclusion in

1 society, in an individualized manner, consistent with the
2 unique strengths, resources, priorities, concerns,
3 abilities and capabilities of the individual.

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

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

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

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

30 (iii) Individuals with intellectual and

1 developmental disabilities and their families or legal
2 guardians are the primary decision makers regarding the
3 services and supports such individuals and their families
4 receive and play significant decision-making roles in
5 policies and programs which affect the lives of such
6 individuals and their families.

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

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

19 Section 3. Definitions.

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

23 "Department." The Department of Public Welfare of the
24 Commonwealth.

25 Section 4. Choice.

26 (a) Community-based service.--The Commonwealth is required
27 to provide individualized community-integrated supports and
28 services for an individual with intellectual and developmental
29 disabilities if all of the following apply:

30 (1) The individual has an intellectual or developmental

1 disability.

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

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

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

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

16 (d) Complaints.--An individual, a family member or a legal
17 guardian who believes that the needs as detailed in the
18 individualized service plan are not being met may provide the
19 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 ~~180 days~~ ONE YEAR of the ←
24 effective date of this section, the department shall develop ~~and~~ ←
25 ~~submit~~ A FIVE-YEAR PLAN TO ELIMINATE THE CURRENT AS WELL AS ANY ←
26 FUTURE ADDITIONS TO THE CRITICAL AND EMERGENCY WAITING LIST FOR
27 INDIVIDUALS WITH MENTAL RETARDATION WHO ARE IN NEED OF ALLOWABLE
28 SUPPORTS AND SERVICES AND SHALL SUBMIT THE PLAN to the Governor,
29 the General Assembly and the county mental retardation program
30 administrators, ~~a plan to eliminate by the year 2012 the current~~ ←

1 ~~and future critical and emergency waiting list for individuals~~
2 ~~with mental retardation who are in need of allowable supports~~
3 ~~and services.~~

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

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

10 (2) ~~Financial~~ BUDGET PROJECTIONS TAKING INTO ←
11 CONSIDERATION THE DEPARTMENT'S CURRENT BUDGET YEAR, PROJECTED
12 ANNUAL COSTS ASSOCIATED WITH THE ELIMINATION OF THE WAITING
13 LIST, FINANCIAL information on the amount of additional
14 Federal, State or other funds in each county which may be
15 required annually for the operational costs associated with
16 the elimination of the waiting list in each county ~~by the~~ ←
17 ~~year 2012~~ and the projected annual waiting list in each
18 annual plan update.

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

24 (d) Annual submission of updated plan.--The department shall
25 update the BUDGET, statistical and financial data to the plan ←
26 required by subsection (a) annually and submit the updated plan
27 to the Governor, General Assembly and the county mental
28 retardation program administrators ~~by December 31, beginning~~ ←
29 ~~December 31, 2012~~ ON THE ANNIVERSARY DATE OF THE DEPARTMENT'S ←
30 ORIGINAL SUBMISSION OF THE PLAN. ←

1 Section 6. Funding.

2 It is the intent of the General Assembly that services under
3 this act shall be made available across this Commonwealth,
4 taking into account the BUDGET CONSTRAINTS AND FINANCIAL ←
5 resources available to the Commonwealth and the needs of others
6 with intellectual and developmental disabilities.

7 Section 7 20. Effective date. ←

8 This act shall take effect in 60 days.