

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2440

By: Liotta

COMMITTEE SUBSTITUTE

(Disabilities - Individuals with Disabilities
Residential Choice Rules Development Act -
codification -

emergency)

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3050.1 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. This act shall be known and may be cited as the "Individuals with Disabilities Residential Choice Rules Development Act".

B. It is the intent of the Legislature to:

1. Recognize and support individuals with disabilities by treating them with dignity, respect and consideration as productive members of our society in Oklahoma;

2. Acknowledge their contributions as productive citizens in the state and the useful work they perform in their local communities;

3. Support the service delivery system for individuals with disabilities, ensuring that programs and services be retained that are designed to encourage their development of self-esteem and self-worth, regardless of the severity of disability; and

4. Support and respect decisions made by individuals with disabilities, their parents and guardians as to the type of care and treatment that is needed and desired.

C. 1. The Legislature recognizes that self-choice of an individual with disabilities should be the paramount consideration when determining the placement of such an individual in a full-time residential care facility, community-based programs or any other appropriate placement or service that benefits the needs and well-being of the person.

2. As such, the Legislature also recognizes that individuals with disabilities have the right to have a working plan that designates the specific types of resources, services and support systems available to them in conjunction with their placement and consistent with their needs, choices and informed decisions.

D. For purposes of the Individuals with Disabilities Residential Choice Rules Development Act:

1. "Committee" means the Individuals with Disabilities Residential Choice Rules Development Committee; and

2. "Individual with disabilities" means:

- a. a physical or mental impairment that substantially limits one or more of the major life activities of such individual,
- b. a record of such an impairment, and
- c. being regarded as having such an impairment, or
- d. a person with developmental disabilities within the scope of the Group Homes for Persons with Developmental or Physical Disabilities Act.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3050.2 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. By July 1, 2000, each of the following agencies and associations shall appoint one of its employees to serve as a member

to the Individuals with Disabilities Residential Choice Rules
Development Committee:

1. The Department of Human Services;
2. The Oklahoma Health Care Authority;
3. The State Department of Health;
4. The Department of Mental Health and Substance Abuse

Services;

5. The Department of Rehabilitative Services;
6. The Office of Handicapped Concerns;
7. The Statewide Independent Living Council;
8. The Oklahoma Disability Law Center;
9. The Developmental Disabilities Council;
10. The Nursing Home Association of Oklahoma;

11. The Superintendent of Northern Oklahoma Resource Center of
Enid;

12. The Superintendent of Southern Oklahoma Resource Center of
Pauls Valley; and

13. The University Affiliated Program of Oklahoma.

B. The Director of the Department of Human Services shall call
the first meeting of the Committee on or before August 1, 2000.

C. 1. The Committee shall elect a chair and a vice-chair from
among its members. The Committee shall meet as often as necessary
to implement the provisions of the Individuals with Disabilities
Residential Choice Rules Development Act.

2. The Committee is authorized to utilize the conference rooms
of the Department of Human Services and obtain administrative
assistance from the Department as needed.

3. The members of the Committee shall be reimbursed reasonable
and necessary expenses incurred in the performance of their duties
as provided in the State Travel Reimbursement Act. For members who
are not state employees, the Department of Human Services shall be
responsible for the processing and payment of any authorized expense

incurred in the performance of such members' duties, as provided in the State Travel Reimbursement Act.

D. The Committee shall establish guidelines to be used by the agencies specified in Section 3 of this act to promulgate uniform administrative rules which will ensure that all individuals with disabilities in Oklahoma will reside or are residing in the least restrictive environment as determined by the individual with disabilities or the guardian of such individual, if such individual is incapable of making such choice. In addition to the individual's choice of placement, a designated health professional must determine that the desired placement of the individual is appropriate and that the placement can reasonably be accommodated taking into account the resources available to the state and the needs of others with disabilities.

E. Before developing such guidelines, the Committee shall give public notice, offer opportunity for public comment, and conduct statewide public meetings. The Committee shall hold the statewide public meetings to obtain public input and information needed to develop the statewide, comprehensive working plan.

F. The guidelines will be developed within the framework of a statewide comprehensive working plan. The comprehensive working plan shall:

1. Provide opportunities for individuals with disabilities with a more accessible service and support delivery system which encompasses the least restrictive available environment for the individual;

2. Ensure that individuals with disabilities, their families or guardians, as appropriate, are provided information to make informed decisions and choices to determine the most integrated setting appropriate to the needs of individuals with disabilities;

3. Ensure that individuals with disabilities, their families or guardians, as appropriate, are aware of resources and services available at the community level;

4. Provide mechanisms by which individuals with disabilities, their families or guardians, as appropriate, have the opportunity to visit various living situations, settings, and support systems that are available within the community and within the state;

5. Indicate specific types of services, resources, and support systems and their costs based on the requirements necessary to serve individuals with disabilities in the community;

6. Determine which category of health professionals are appropriate to make decisions regarding placement decisions for individuals with disabilities and the category of professionals who will provide services;

7. Contain uniform administrative guidelines for rules by agencies specified in Section 3 of this act which encompass and enumerate the objectives of the Individuals with Disabilities Residential Choice Rules Development Act;

8. Develop a scheduled time frame for phasing in and implementing a statewide, comprehensive working plan for different categories of individuals with disabilities who are being provided programs and services in state-administered resource centers, group homes, residential care facilities, private intermediate care facilities for the mentally retarded, nursing homes, and any other such facilities deemed appropriate by the Committee;

9. Evaluate and consider any other data and information necessary to perform the duties and responsibilities of the Committee to develop a comprehensive working plan for individuals with disabilities pursuant to the provisions of the Individuals with Disabilities Residential Choice Rules Development Act; and

10. Review and evaluate state and federal law, regulations and case law applicable to the placement of individuals with disabilities in the least restrictive settings.

G. 1. On or before February 1, 2001, the Committee shall have established guidelines for the development of uniform administrative rules by the agencies specified in Section 3 of this act.

2. On or before May 1, 2001, the agencies listed in Section 3 of this act shall submit copies of proposed rules to the Committee for review.

3. On or before July 1, 2001, the Committee shall review the proposed rules prepared by the agencies for uniformity and compliance with the guidelines established by the Committee. The Committee shall make recommendations to the agencies for modifications to the proposed rules, as necessary to ensure uniformity and compliance with the established guidelines.

4. Beginning January 1, 2002, each agency listed in Section 3 of this act shall forward to the Department of Human Services for review by the Committee copies of any proposed amendments to the rules promulgated pursuant to the Individuals with Disabilities Residential Choice Rules Development Act.

5. Beginning after January 1, 2002, the Committee shall meet not less than annually and more often as necessary, as determined by the chair of the Committee for the purpose of reviewing proposed or necessary amendments to the rules promulgated pursuant to the Individuals with Disabilities Residential Choice Rules Development Act, in order to ensure the continuing consistency and uniformity of the rules.

H. Each agency listed in Section 3 of this act shall provide information and staff assistance as necessary to prepare the rules, procedures, plans, data and other materials deemed necessary by the Committee to complete the statewide comprehensive plan required by

the Individuals with Disabilities Residential Choice Rules Development Act.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3050.3 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. By November 1, 2001, each of the state agencies specified in subsection C of this section shall have promulgated uniform emergency rules and shall have submitted permanent uniform rules to the Governor and the Legislature pursuant to the Administrative Procedures Act for implementing provisions of the Individuals with Disabilities Residential Choice Rules Development Act.

B. The failure of any such agency to promulgate rules consistent with the provisions of the Individuals with Disabilities Residential Choice Rules Development Act shall be reported by the Committee in writing to the Speaker of the House of Representatives and the President Pro Tempore of the Senate.

C. Each of the following agencies shall promulgate uniform rules and procedures concerning individuals with disabilities:

1. The Department of Human Services;
2. The Oklahoma Health Care Authority;
3. The State Department of Health;
4. The Department of Mental Health and Substance Abuse Services;
5. The Department of Rehabilitative Services; and
6. The Office of Handicapped Concerns.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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