

ENROLLED SENATE
BILL NO. 2017

By: Johnson (Constance) of the
Senate

and

Balkman of the House

An Act relating to poor persons; amending Section 6, Chapter 434, O.S.L. 2005 (56 O.S. Supp. 2005, Section 198.11b), which relates to the Strategic Planning Committee on the Olmstead Decision; extending the committee; creating the Opportunities for Independent Living Act; providing Legislative findings and intent; requiring the Oklahoma Health Care Authority to establish and maintain a certain pilot program; authorizing certain cooperation; requiring the Authority to enter into certain contracts; directing services of certain program; authorizing the use of certain funds; requiring the Authority to promulgate certain rules; requiring the Authority to make certain evaluation and recommendations; requiring certain language in certain circumstance; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY Section 6, Chapter 434, O.S.L. 2005 (56 O.S. Supp. 2005, Section 198.11b), is amended to read as follows:

Section 198.11b A. It is the public policy of the State of Oklahoma to:

1. Recognize and support individuals with disabilities by treating them with dignity and respect as productive members of our society in Oklahoma;
2. Acknowledge their contributions as productive and independent citizens in the state and the useful work they perform in their local communities;
3. Support a service delivery system for individuals with disabilities ensuring that the individuals, their families, or guardians are well informed as to the types of services and resources available to such individuals in order to encourage their independence, self-esteem, and self-worth, regardless of the severity of the disability; and

4. Recognize that self-choice on the part of individuals with disabilities is critical and that the most appropriate setting for meeting their needs should be a paramount consideration when determining appropriate placement of such individuals in community-based programs, residential care facilities, or any other placement or service that benefits the needs and well-being of individuals with disabilities.

B. There is hereby created the Strategic Planning Committee on the Olmstead Decision to continue until ~~January~~ July 1, 2007. The purpose of the Committee is to develop a comprehensive, strategic plan of implementation for the State of Oklahoma regarding the Olmstead Decision.

C. The Strategic Planning Committee on the Olmstead Decision shall be composed of seventeen (17) appointed members, eighteen (18) ex officio members, and representatives from disability-related organizations, all of whom shall be voting members, as follows:

1. a. The Governor shall appoint:
 - (1) one person who is a community placement service provider for persons with disabilities,
 - (2) one person who is an advocate for persons with disabilities,
 - (3) one parent or personal representative of a person with disabilities,
 - (4) one member from an organization that provides direct care services within the Advantage Waiver Program, and
 - (5) one member who is a consumer of disability services.
- b. The President Pro Tempore of the Senate shall appoint:
 - (1) one member of the State Senate who is a member of the Human Resources Committee,
 - (2) one member of the State Senate who is a member of the Appropriations Subcommittee on Health and Human Services,
 - (3) a representative of a nonprofit agency, in a city of five hundred thousand (500,000) or more population, that collaborates on programs and services for persons with disabilities,
 - (4) two members who are consumers of disability services, and
 - (5) one member of the State Senate.

- c. The Speaker of the House of Representatives shall appoint:
 - (1) one member of the House of Representatives who is a member of the Human Services Committee,
 - (2) one member of the House of Representatives who is a member of the Mental Health Committee,
 - (3) one parent or personal representative of a person with disabilities,
 - (4) two members who are consumers of disability services, and
 - (5) one member of the Oklahoma House of Representatives;

2. The ex officio voting members shall be:

- a. the Attorney General, or designee,
- b. the Director of the Department of Human Services, or designee,
- c. the Division Director of the Developmental Disabilities Division of the Department of Human Services, if not the designee of the Director of Human Services,
- d. the State Commissioner of Health, or designee,
- e. the Commissioner of the Department of Mental Health and Substance Abuse Services, or designee,
- f. the Administrator of the Oklahoma Health Care Authority, or designee,
- g. the Director of the Office of State Finance, or designee,
- h. the Director of the State Department of Rehabilitation Services, or designee,
- i. the Director of the Office of Handicapped Concerns, or designee,
- j. the Director of the Oklahoma Employment Security Commission, or designee,
- k. the state coordinator for the federal Ticket To Work and Work Incentive Act, if not the designee of the Oklahoma Employment Security Director,
- l. the Executive Director of a local housing authority, or designee,

- m. the Executive Director of the Oklahoma Housing Finance Agency, or designee,
- n. the State Superintendent of Public Instruction, or designee,
- o. the Director of the Department of Transportation, or designee,
- p. the Commissioner of Labor, or designee,
- q. a representative from a local transit authority, or from a Community Action Agency, that provides transportation services to individuals with disabilities, and
- r. the Director of the Oklahoma Commission on Children and Youth, or designee; and

3. The membership may also include as voting members, but need not be limited to, a representative from each of the following disability-related organizations:

- a. the Developmental Disabilities Council,
- b. the Statewide Independent Living Council,
- c. the Centers for Independent Living,
- d. the Center for Learning and Leadership,
- e. the Oklahoma Disability Law Center,
- f. ABLE-Tech, and
- g. the Oklahoma Mental Health Consumer Council.

D. 1. Members shall serve at the pleasure of their appointing authorities. A vacancy on the Committee shall be filled by the original appointing authority.

2. The Committee shall be composed of persons serving on the Strategic Planning Committee on the Olmsted Decision, immediately prior to enactment of Enrolled House Bill No. 1253 of the 1st Session of the 50th Oklahoma Legislature.

3. A majority of the members of the Committee shall constitute a quorum. A majority of the members present at a meeting may act for the Committee.

4. The President Pro Tempore and the Speaker shall each designate a cochair from among the members of the Committee.

5. The cochairs of the Committee shall annually establish a schedule of each year's meetings. The Committee shall meet at least four times annually.

6. Proceedings of all meetings of the Committee shall comply with the provisions of the Oklahoma Open Meeting Act.

7. The Committee may divide into subcommittees in furtherance of its purpose.

E. 1. The Department of Human Services and the Office of the Attorney General shall serve as lead agencies and as such shall provide primary staffing for the Committee. Appropriate personnel from the Oklahoma Health Care Authority and the Department of Mental Health and Substance Abuse Services shall also assist with the work of the Committee.

2. The Committee may use the expertise and services of the staffs of the State Senate and the House of Representatives and may, as necessary, employ and contract for the advice and services of experts in the field as well as other necessary professional and clerical staff.

F. All departments, officers, agencies, and employees of this state shall cooperate with the Committee in fulfilling its duties and responsibilities including, but not limited to, providing any information, records, or reports requested by the Committee.

G. Members of the Committee shall receive no compensation for their service, but shall receive travel reimbursement as follows:

1. Legislative members of the Committee shall be reimbursed for necessary travel expenses incurred in the performance of their duties in accordance with the provisions of Section 456 of Title 74 of the Oklahoma Statutes; and

2. Nonlegislative members of the Committee shall be reimbursed by their appointing authorities or respective agencies for necessary travel expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act.

H. The duties and responsibilities of the Strategic Planning Committee on the Olmstead Decision shall include, but need not be limited to:

- a. developing a comprehensive, strategic plan for Oklahomans with disabilities, pursuant to the Olmstead Decision,
- b. reviewing Oklahoma's service delivery system and the way in which persons with disabilities currently access the services,
- c. reviewing existing statutes, policies, programs, services and funding sources that affect Oklahomans with disabilities, including, but not limited to, identifying unique approaches and strategies to funding,

- d. identifying and reviewing funding and resource information available to persons with disabilities and their families in this state,
- e. identifying gaps and barriers in programs and services to individuals with disabilities and making any recommendations to enhance programs and the delivery system for persons with disabilities in Oklahoma, and
- f. taking all other actions necessary to develop the comprehensive strategic plan.

I. The Committee shall prepare and submit a report of its findings and recommendations to the Legislature and Governor by July 15, 2005, and each July 15 thereafter, and shall submit a final report by ~~January~~ July 1, 2007.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 198.11c 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 "Opportunities for Independent Living Act".

B. The Legislature finds that:

1. In the landmark *Olmstead v. L.C.* decision, the Supreme Court interpreted Title II of the Americans with Disabilities Act to require states to administer programs in the most integrated setting appropriate to meet the needs of qualified persons with disabilities;

2. Medicaid is presently structured to provide care to persons with disabilities in institutional settings such as skilled nursing facilities and private intermediate care facilities for persons with mental retardation (ICFs-MR), and in community-based settings such as group homes and waiver programs; and

3. Persons with disabilities living in institutional settings must meet certain low-income standards to become eligible for institutional care. Therefore, when a person with disabilities wishes to move into the community, he or she has little or no resources to pay for rent and utility deposits or purchase basic household items.

C. It is the intent of the Legislature to establish a three-year pilot program that:

- 1. Is consistent with and implements the *Olmstead Decision*;
- 2. Develops eligibility criteria for the pilot program;

3. In coordination with the Oklahoma Health Care Authority and the Department of Human Services Aging Division, utilizes the Centers for Medicare and Medicaid Minimum Data Set (MDS) information to identify thirty people who have requested to receive their services in a community setting;

4. Identifies barriers to moving into the community;
5. Works with nurses and case managers to coordinate services for eligible participants within the pilot program to ensure the health and safety of each consumer;
6. Establishes an infrastructure to allow for an effective system that allows money to follow the person from Medicaid programs into the community settings;
7. Increases the availability of safe, affordable and accessible housing;
8. Establishes a presence within local hospitals to reduce the number of inappropriate placements within institutional settings;
9. Develops benefits counseling options; and
10. Allows qualified persons with disabilities the opportunity to transition from institutions into the community.

D. Subject to the availability of funding, the Oklahoma Health Care Authority shall establish and maintain a three-year pilot program to assist qualified individuals with disabilities living in institutions to transition into the community. The Authority shall act as the lead agency and is authorized to consult and cooperate with the Department of Human Services as necessary to carry out the provisions of this act.

E. The Authority shall enter into contracts to carry out the provisions of this act. Such contracted entities shall be consumer-controlled, non-residence-based, community-based, nonprofit organizations with experience in transitioning persons with disabilities into community settings.

F. The Authority through its duly contracted entities shall:

1. Utilize MDS data to identify participants who prefer to receive services within the community;
2. Develop eligibility criteria for pilot program participants;
3. Provide ongoing assistance to further develop assessment criteria for pilot program participants;
4. Work in conjunction with health care providers and case managers to coordinate services for pilot program participants;
5. Establish an effective system that allows money to follow pilot program participants from the institutional setting to the community;
6. Increase pilot program participant access to safe and affordable housing;

7. Offer follow-up services such as training, technical assistance and support for pilot program participants; and

8. Develop curriculum and marketing materials to train future service providers.

G. The Authority through its duly contracted entities is authorized to use available funding to assist eligible persons under this act to:

1. Pay rent deposits;
2. Pay utility deposits;
3. Purchase initial household supplies;
4. Purchase basic initial household appliances; and
5. Purchase initial furniture and pay moving expenses.

H. The Authority shall promulgate rules as necessary to carry out the provisions of this act. Such rules shall include but are not limited to:

1. Eligibility criteria for services;
2. Assessment protocols to identify persons in need of services; and
3. Funding to assist eligible persons.

I. The Authority and the Department of Human Services shall evaluate the implementation of the pilot program and annually make recommendations to the Legislature regarding its effectiveness.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 40 of Title 25, unless there is created a duplication in numbering, reads as follows:

A. Beginning November 1, 2006, all new and revised statutes, administrative rules, local laws, ordinances, charters, or regulations promulgated or any publication published by the state or any political subdivision that refers to persons with disabilities shall:

1. Avoid language that:
 - a. implies that a person as a whole is disabled, such as the "mentally ill" or the "learning disabled", or
 - b. equates persons with their condition, such as "epileptics", "autistics", or "quadriplegics"; and
2. Replace nonrespectful language by referring to persons with disabilities as persons first; for example, persons with disabilities, persons with developmental disabilities, persons with

mental illness, persons with autism, or persons with mental retardation.

B. Violation of this section shall not be grounds to invalidate any new or revised statutes, administrative rules, local laws, ordinances, charters, or regulations promulgated or any publication published by the state or any political subdivision; provided, however, such documents shall be changed to reflect the provisions of this section in subsequent revisions.

C. Nothing in this section shall constitute a requirement to change the name of any agency or program. Existing printed material may be utilized until such time as supplies are required to be replenished.

SECTION 4. This act shall become effective November 1, 2006.

Passed the Senate the 25th day of May, 2006.

Presiding Officer of the Senate

Passed the House of Representatives the 26th day of May, 2006.

Presiding Officer of the House
of Representatives

