

STATE OF OKLAHOMA

1st Session of the 51st Legislature (2007)

CONFERENCE COMMITTEE
SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 1933

By: Steele, Pittman and
McAffrey of the House

and

Johnson (Constance) of the
Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to persons with disabilities; amending Section 6, Chapter 434, O.S.L. 2005 (56 O.S. Supp. 2006, Section 198.11b), as last amended by Section 1 of Enrolled House Bill No. 1084 of the 1st Session of the 51st Oklahoma Legislature, which relates to the Strategic Planning Committee on the Olmstead Decision; extending effective date of Committee; altering membership of Committee; adding to duties of the Committee; extending date for submission of report; requiring certain agencies to develop certain prescreening process; providing purpose and components of the prescreening process; requiring the Commission on Human Services to promulgate certain rules; requiring the Oklahoma Health Care Authority to develop durable medical equipment retrieval program; specifying purpose of program; requiring the Oklahoma Health Care Authority Board to promulgate certain rules and establish certain procedures; defining term; providing for codification; and declaring an emergency.

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

2 SECTION 1. AMENDATORY Section 6, Chapter 434, O.S.L.
3 2005 (56 O.S. Supp. 2006, Section 198.11b), as last amended by
4 Section 1 of Enrolled House Bill No. 1084 of the 1st Session of the
5 51st Oklahoma Legislature, is amended to read as follows:

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

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

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

14 3. Support a service delivery system for individuals with
15 disabilities ensuring that the individuals, their families, or
16 guardians are well informed as to the types of services and
17 resources available to such individuals in order to encourage their
18 independence, self-esteem, and self-worth, regardless of the
19 severity of the disability; and

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

1 or service that benefits the needs and well-being of individuals
2 with disabilities.

3 B. There is hereby created the Strategic Planning Committee on
4 the Olmstead Decision to continue until July 1, ~~2007~~ 2010. The
5 purpose of the Committee is to ~~develop a~~ monitor the implementation
6 of the comprehensive, strategic plan ~~of implementation~~ for the State
7 of Oklahoma regarding the Olmstead Decision.

8 C. The Strategic Planning Committee on the Olmstead Decision
9 shall be composed of ~~seventeen (17)~~ fifteen (15) appointed members,
10 eighteen (18) ex officio members, and representatives from
11 disability-related organizations, all of whom shall be voting
12 members, as follows:

13 1. a. The Governor shall appoint:

14 (1) one person who is a community placement service
15 provider for persons with disabilities,

16 (2) one person who is an advocate for persons with
17 disabilities,

18 (3) one parent or personal representative of a person
19 with disabilities,

20 (4) one member from an organization that provides
21 direct care services within the Advantage Waiver
22 Program, and

23 (5) one member who is a consumer of disability
24 services.

1 b. The President Pro Tempore of the Senate shall appoint:

2 (1) ~~one member~~ two members of the State Senate ~~who is~~
3 ~~a member of the Human Resources Committee,~~

4 (2) ~~one member of the State Senate who is a member of~~
5 ~~the Appropriations Subcommittee on Health and~~
6 ~~Human Services,~~

7 ~~(3) a representative of a nonprofit agency, in a~~
8 ~~city of five hundred thousand (500,000) or more~~
9 ~~population, that collaborates on programs and~~
10 ~~services for persons with disabilities,~~

11 ~~(4) two members who are consumers of disability~~
12 ~~services, and~~

13 ~~(5) one member of the State Senate~~

14 (3) one member with a disability who has moved from
15 an institutional setting into the community.

16 c. The Speaker of the House of Representatives shall
17 appoint:

18 (1) ~~one member~~ two members of the House of
19 ~~Representatives who is a member of the Human~~
20 ~~Services Committee,~~

21 (2) ~~one member of the House of Representatives who is~~
22 ~~a member of the Mental Health Committee,~~

23 ~~(3) one parent or personal representative of a person~~
24 ~~with disabilities,~~

1 ~~(4) two members who are consumers~~

2 (3) one member who is a consumer of disability
3 services, and

4 ~~(5) one member of the Oklahoma House of~~
5 Representatives

6 (4) one member with a disability who has moved from
7 an institutional setting into the community;

8 2. The ex officio voting members shall be:

9 a. the Attorney General, or designee,

10 b. the Director of the Department of Human Services, or
11 designee,

12 c. the Division Director of the Developmental
13 Disabilities Division of the Department of Human
14 Services, if not the designee of the Director of Human
15 Services,

16 d. the State Commissioner of Health, or designee,

17 e. the Commissioner of the Department of Mental Health
18 and Substance Abuse Services, or designee,

19 f. the Administrator of the Oklahoma Health Care
20 Authority, or designee,

21 g. the Director of the Office of State Finance, or
22 designee,

23 h. the Director of the State Department of Rehabilitation
24 Services, or designee,

- 1 i. the Director of the Office of Disability Concerns, or
- 2 designee,
- 3 j. the Director of the Oklahoma Employment Security
- 4 Commission, or designee,
- 5 k. the state coordinator for the federal Ticket To Work
- 6 and Work Incentive Act, if not the designee of the
- 7 Oklahoma Employment Security Director,
- 8 l. the Executive Director of a local housing authority,
- 9 or designee,
- 10 m. the Executive Director of the Oklahoma Housing Finance
- 11 Agency, or designee,
- 12 n. the State Superintendent of Public Instruction, or
- 13 designee,
- 14 o. the Director of the Department of Transportation, or
- 15 designee,
- 16 p. the Commissioner of Labor, or designee,
- 17 q. a representative from a local transit authority, or
- 18 from a Community Action Agency, that provides
- 19 transportation services to individuals with
- 20 disabilities, and
- 21 r. the Director of the Oklahoma Commission on Children
- 22 and Youth, or designee; and
- 23
- 24

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

- 4 a. one representative from the Developmental Disabilities
5 Council,
- 6 b. one representative from the Statewide Independent
7 Living Council,
- 8 c. two representatives from the Centers for Independent
9 Living,
- 10 d. one representative from the Center for Learning and
11 Leadership,
- 12 e. one representative from the Oklahoma Disability Law
13 Center,
- 14 f. one representative from ABLE-Tech, and
- 15 g. one representative from the Oklahoma Mental Health
16 Consumer Council.

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

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

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

4 ~~4.~~ 3. The President Pro Tempore and the Speaker shall each
5 designate a cochair from among the members of the Committee.

6 ~~5.~~ 4. The cochairs of the Committee shall annually establish a
7 schedule of each year's meetings. The Committee shall meet at least
8 four times annually.

9 ~~6.~~ 5. Proceedings of all meetings of the Committee shall comply
10 with the provisions of the Oklahoma Open Meeting Act.

11 ~~7.~~ 6. The Committee may divide into subcommittees in
12 furtherance of its purpose.

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

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

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

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

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

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

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

- 18 a. ~~developing a~~ monitoring the implementation of the
19 comprehensive, strategic plan for Oklahomans with
20 disabilities, pursuant to the Olmstead Decision,
- 21 b. reviewing Oklahoma's the service delivery system
22 within the state and the way in which persons with
23 disabilities currently access the services,

24

- 1 c. reviewing existing statutes, policies, programs,
2 services and funding sources that affect Oklahomans
3 with disabilities, including, but not limited to,
4 identifying unique approaches and strategies to
5 funding,
- 6 d. identifying and reviewing funding and resource
7 information available to persons with disabilities and
8 their families in this state,
- 9 e. identifying gaps and barriers in programs and services
10 to individuals with disabilities and making any
11 recommendations to enhance programs and the delivery
12 system for persons with disabilities in Oklahoma, ~~and~~
- 13 f. examining the feasibility of expanding the eligibility
14 criteria for people served by the Developmental
15 Disabilities Services Division of the Department of
16 Human Services to include people with disabilities who
17 are not eligible for the Advantage Waiver program
18 through the Aging Services Division and those with
19 other diagnoses who are at risk of out-of-home
20 placement,
- 21 g. studying the feasibility and impact of requiring that
22 assistive technology suppliers in this state meet
23 national certification requirements, and
24

1 B. The Commission for Human Services shall promulgate rules
2 necessary to implement the prescreening process developed pursuant
3 to this section, provided funding is made available to implement the
4 process.

5 SECTION 3. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 1011.11 of Title 56, unless
7 there is created a duplication in numbering, reads as follows:

8 A. The Oklahoma Health Care Authority shall develop and
9 implement, no later than December 31, 2010, a durable medical
10 equipment retrieval program that will allow the Authority to:

11 1. Retrieve durable medical equipment, purchased with Medicaid
12 funds, from the Medicaid consumers who no longer utilize the
13 equipment; and

14 2. Donate such equipment to community-based programs that will
15 distribute the equipment to individuals who are disabled or elderly.

16 B. The Oklahoma Health Care Authority Board shall promulgate
17 rules and establish procedures necessary to implement the program
18 established in this section.

19 C. For the purpose of this section, "durable medical equipment"
20 means equipment that is primarily and customarily used to serve a
21 medical purpose, can withstand repeated use and is appropriate for
22 use in the home.

23 SECTION 4. It being immediately necessary for the preservation
24 of the public peace, health and safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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