

ENROLLED HOUSE
BILL NO. 1933

By: Steele, Pittman and
McAffrey of the House

and

Johnson (Constance) of the
Senate

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 Oklahoma Health Care Authority Board 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.

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. 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, 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 July 1, ~~2007~~ 2010. The purpose of the Committee is to ~~develop a~~ monitor the implementation of the 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)~~ fifteen (15) 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~~ two members 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~~
- (3) one member with a disability who has moved from an institutional setting into the community.

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

- (1) ~~one member~~ two members 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~~
- (3) one member who is a consumer of disability services, and
- ~~(5) one member of the Oklahoma House of Representatives~~
- (4) one member with a disability who has moved from an institutional setting into the community;

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 Disability 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~~ shall also include as voting members, ~~but need not be limited to, a representative from each of the following disability related organizations:~~

- a. one representative from the Developmental Disabilities Council,
- b. one representative from the Statewide Independent Living Council,
- c. two representatives from the Centers for Independent Living,
- d. one representative from the Center for Learning and Leadership,
- e. one representative from the Oklahoma Disability Law Center,

- f. one representative from ABLE-Tech, and
- g. one representative from the Oklahoma Mental Health Consumer Council, and
- h. a representative of a nonprofit agency, in a county of five hundred thousand (500,000) or more population, that collaborates on programs and services for persons with disabilities.

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

~~5. 4. 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. 5. Proceedings of all meetings of the Committee shall comply with the provisions of the Oklahoma Open Meeting Act.~~

~~7. 6. 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~~ monitoring the implementation of the comprehensive, strategic plan for Oklahomans with disabilities, pursuant to the Olmstead Decision,
- b. reviewing Oklahoma's the service delivery system within the state 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. examining the feasibility of expanding the eligibility criteria for people served by the Developmental Disabilities Services Division of the Department of Human Services to include people with disabilities who are not eligible for the Advantage Waiver program through the Aging Services Division and those with other diagnoses who are at risk of out-of-home placement,
- g. studying the feasibility and impact of requiring that assistive technology suppliers in this state meet national certification requirements, and
- h. taking all other actions necessary to ~~develop~~ monitor and assist with the implementation of 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~~ 2007, and each July 15 thereafter, and shall submit a final report by July 1, ~~2007~~ 2010.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 198.17 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Health Care Authority, the Department of Human Services and the Department of Mental Health and Substance Abuse Services, in cooperation with community stakeholders, shall develop a prescreening process to be utilized prior to an individual being admitted to a nursing facility or within twenty (20) days of admission to such a facility. The purpose of the screening process shall be to ensure that individuals who wish to avoid placement in a nursing facility have access to supports necessary to remain in the community. The prescreening process shall include, but not be limited to, the use of the following tools:

- 1. Resident Assessment Instrument - Minimum Data Set (RAI-MDS), as designated by the Centers for Medicare and Medicaid Services;

2. Universal Comprehensive Assessment Tool (UCAT);
3. Preadmission Screening and Annual Resident Review (PASARR);
4. Inventory for Client and Agency Planning (ICAP); and
5. Uniform Case Assessment Protocol (UCAP).

B. The Oklahoma Health Care Authority Board shall promulgate rules necessary to implement the prescreening process developed pursuant to this section, provided funding is made available to implement the process.

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

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

1. Retrieve durable medical equipment, purchased with Medicaid funds, from the Medicaid consumers who no longer utilize the equipment; and
2. Donate such equipment to community-based programs that will distribute the equipment to individuals who are disabled or elderly.

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

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

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.

Passed the House of Representatives the 23rd day of May, 2007.

Presiding Officer of the House of
Representatives

Passed the Senate the 24th day of May, 2007.

Presiding Officer of the Senate