

1 ENGROSSED HOUSE  
2 BILL NO. 3977

By: Bell of the House

and

Boren of the Senate

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5  
6 An Act relating to a commission on abilities and  
7 independence; amending 56 O.S. 2021, Section 198.11b,  
8 which relates to the Strategic Planning Committee on  
9 the Olmstead Decision; creating the Commission on  
10 Independence and Ability; creating membership  
11 requirements; providing for appointments; modifying  
12 references; providing for input from certain  
13 organizations; modifying staffing requirements;  
14 requiring development of five-year plan; prescribing  
15 requirements for plan; modifying provisions related  
16 to travel reimbursement; modifying provisions related  
17 to Strategic Planning Committee on the Olmstead  
18 Decision; requiring certain entities to coordinate  
19 efforts related to compliance with decision in  
20 certain judicial proceeding; requiring initial  
21 report; imposing time limit for submission; requiring  
22 annual reporting; requiring administrators of  
23 executive branch agencies and other entities to  
24 evaluate policies, programs, statutes and rules;  
prescribing scope of evaluation; requiring reports;  
requiring coordination of funding; requiring  
compliance with provisions of the Americans with  
Disabilities Act; providing for complaint process;  
prescribing procedures; and providing an effective  
date.

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

SECTION 1. AMENDATORY 56 O.S. 2021, 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 1. Recognize and support individuals with disabilities by  
2 treating them with dignity and respect as productive members of our  
3 society in Oklahoma;

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

7 3. Support a service delivery system for individuals with  
8 disabilities ensuring that the individuals, their families, or  
9 guardians are well informed as to the types of services and  
10 resources available to such individuals in order to encourage their  
11 independence, self-esteem, and self-worth, regardless of the  
12 severity of the disability; and

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

20 B. There is hereby created the ~~Strategic Planning Committee on~~  
21 ~~the Olmstead Decision~~ Commission on Independence and Ability to  
22 continue until ~~July 1, 2010~~ July 1, 2025. ~~The purpose of the~~  
23 ~~Committee is to monitor the implementation of the comprehensive,~~  
24 ~~strategic plan for the State of Oklahoma regarding the Olmstead~~

1 ~~Decision.~~ People with disabilities who utilize community-based  
2 services shall make up the majority of the Commission. Members of  
3 the Commission shall work cooperatively to ensure that the federal  
4 Olmstead Decision is thoroughly implemented, and shall provide  
5 guidance and technical assistance to Medicaid Managed Care  
6 Organizations as the State of Oklahoma moves to a privatized  
7 Medicaid system for state plan and waiver populations.

8 C. ~~The Strategic Planning Committee on the Olmstead Decision~~  
9 Commission on Independence and Ability shall be composed of ~~fifteen~~  
10 ~~(15)~~ six appointed members, ~~eighteen (18)~~ seven ex officio members,  
11 and representatives from disability-related organizations, all of  
12 whom shall be voting 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           two persons who have one or more disabilities that  
2           substantially limit one or more major life  
3           activities. One shall reside in Central Oklahoma  
4           and one in Northeast Oklahoma,

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

6           ~~(1) two members of the State Senate,~~

7           ~~(2) two members who are consumers of disability~~  
8           ~~services, and~~

9           ~~(3) one member with a disability who has moved from~~  
10           ~~an institutional setting into the community.~~

11           two persons who have one or more disabilities that  
12           substantially limit one or more major life activities.

13           One shall reside in Southwest Oklahoma and one in  
14           Southeast Oklahoma, and

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

17           ~~(1) two members of the House of Representatives,~~

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

20           ~~(3) one member who is a consumer of disability~~  
21           ~~services, and~~

22           ~~(4) one member with a disability who has moved from~~  
23           ~~an institutional setting into the community~~

24

1           two persons who have one or more disabilities that  
2           substantially limit one or more major life activities.  
3           One shall reside in Western Oklahoma and one in  
4           Northwest Oklahoma;

5           2. The ex officio voting members shall be:

6           a. the Attorney General, or designee,

7           b. the Director of the Department of Human Services, or  
8           designee,

9           ~~c. the Division Director of the Developmental~~  
10           ~~Disabilities Division of the Department of Human~~  
11           ~~Services, if not the designee of the Director of Human~~  
12           ~~Services,~~

13           ~~d.~~ the State Commissioner of Health, or designee,

14           ~~e.~~ d. the Commissioner of the Department of Mental Health  
15           and Substance Abuse Services, or designee,

16           ~~f.~~ e. the Administrator of the Oklahoma Health Care  
17           Authority, or designee,

18           ~~g.~~ ~~the Director of the Office of Management and~~  
19           ~~Enterprise Services, or designee,~~

20           ~~h.~~ ~~the Director of the State Department of Rehabilitation~~  
21           ~~Services, or designee,~~

22           ~~i.~~ ~~the Director of the Office of Disability Concerns, or~~  
23           ~~designee,~~

24

1           ~~j. the Director of the Oklahoma Employment Security~~  
2           ~~Commission, or designee,~~

3           ~~k. the state coordinator for the federal Ticket To Work~~  
4           ~~and Work Incentive Act, if not the designee of the~~  
5           ~~Oklahoma Employment Security Director,~~

6           ~~l. the Executive Director of a local housing authority,~~  
7           ~~or designee,~~

8           ~~m. f. the Executive Director of the Oklahoma Housing Finance~~  
9           ~~Agency, or designee, and~~

10           ~~n. the State Superintendent of Public Instruction, or~~  
11           ~~designee,~~

12           ~~o. g. the Executive Director of the Department of~~  
13           ~~Transportation, or designee,~~

14           ~~p. the Commissioner of Labor, or designee,~~

15           ~~q. a representative from a local transit authority, or~~  
16           ~~from a Community Action Agency, that provides~~  
17           ~~transportation services to individuals with~~  
18           ~~disabilities, and~~

19           ~~r. the Director of the Oklahoma Commission on Children~~  
20           ~~and Youth, or designee; and~~

21           3. The membership shall also include as voting members:

22           ~~a. one representative from the Developmental Disabilities~~  
23           ~~Council the executive director of the federally~~  
24           ~~funded, nonprofit, community-based, nonresidential~~

1 organization that is run by and for people with  
2 disabilities and provides programs and services to  
3 enable individuals with disabilities to live an  
4 independent lifestyle, that serves Central Oklahoma,

5 b. ~~one representative from the Statewide Independent~~  
6 ~~Living Council~~ the executive director of the federally  
7 funded, nonprofit, community-based, nonresidential  
8 organization that is run by and for people with  
9 disabilities and provides programs and services to  
10 enable individuals who have disabilities to live an  
11 independent lifestyle, that serves Tulsa County,

12 c. ~~two representatives from the Centers for Independent~~  
13 ~~Living~~ the director, or designee, of a federally  
14 funded protection and advocacy system for people with  
15 disabilities,

16 d. ~~one representative from the Center for Learning and~~  
17 ~~Leadership~~ the director, or designee, of a federally  
18 designated University Center for Excellence in  
19 Developmental Disabilities (UCEDD),

20 e. ~~one representative from the Oklahoma Disability Law~~  
21 ~~Center,~~ the director, or designee, of a council that  
22 coordinates the efforts of state agencies and private  
23 organizations in meeting the needs of Oklahomans with  
24 intellectual and developmental disabilities, and

- 1 f. ~~one representative from ABLE-Tech,~~  
2 g. ~~one representative from the Oklahoma Mental Health~~  
3 ~~Consumer Council, and~~  
4 h. ~~a representative of a nonprofit agency, in a county of~~  
5 ~~five hundred thousand (500,000) or more population,~~  
6 ~~that collaborates on programs and services for persons~~  
7 ~~with disabilities~~ the director, or designee, of a  
8 nonprofit organization that advocates on behalf of all  
9 mental health consumers.

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

13 2. A majority of the members of the ~~Committee~~ Commission shall  
14 constitute a quorum. A majority of the members present at a meeting  
15 may act for the ~~Committee~~ Commission.

16 3. The President Pro Tempore and the Speaker shall each  
17 designate a ~~cochair~~ co-chair from among the members of the ~~Committee~~  
18 Commission.

19 4. The ~~cochairs~~ co-chairs of the ~~Committee~~ Commission shall  
20 annually establish a schedule of each year's meetings. The  
21 ~~Committee~~ Commission shall meet at least four times annually.

22 5. Proceedings of all meetings of the ~~Committee~~ Commission  
23 shall comply with the provisions of the Oklahoma Open Meeting Act.  
24

1       6. The ~~Committee~~ Commission may divide into subcommittees in  
2 furtherance of its purpose.

3       7. The Commission may also openly engage potential Managed Care  
4 Organizations to listen to services, plans, costs of plans, and the  
5 overall approach of how services and programs shall shift for the  
6 better.

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

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

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

1        1. The Commission shall develop a five-year implementation plan  
2 for the State of Oklahoma to provide a comprehensive system of  
3 service delivery for Oklahomans with disabilities. The plan shall  
4 utilize outcome measures to determine the success or failure of the  
5 plan.

6        2. The plan shall include, but not be limited to, an  
7 examination of the following concepts:

- 8            a. performance-based contracting,
- 9            b. residential and vocational rate structure,
- 10           c. prioritization of access to services,
- 11           d. privatization of case management and other services,
- 12           e. maximization of federal funding,
- 13           f. state agency administrative structure,
- 14           g. review of requirements based on administrative rules,
- 15           h. Medicaid waiver assurance,
- 16           i. rural support access,
- 17           j. provider rates,
- 18           k. provider networks, and
- 19           l. utilization of CD-PASS and how to move the program  
20 back into Oklahoma to be operated by the federally  
21 funded Centers for Independent Living (CILs).

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

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

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

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

- 12       ~~a. monitoring the implementation of the comprehensive,~~  
13       ~~strategic plan for Oklahomans with disabilities,~~  
14       ~~pursuant to the Olmstead Decision,~~
- 15       ~~b. reviewing the service delivery system within the state~~  
16       ~~and the way in which persons with disabilities~~  
17       ~~currently access the services,~~
- 18       ~~c. reviewing existing statutes, policies, programs,~~  
19       ~~services and funding sources that affect Oklahomans~~  
20       ~~with disabilities, including, but not limited to,~~  
21       ~~identifying unique approaches and strategies to~~  
22       ~~funding,~~

- 1           d. ~~identifying and reviewing funding and resource~~  
2           ~~information available to persons with disabilities and~~  
3           ~~their families in this state,~~
- 4           e. ~~identifying gaps and barriers in programs and services~~  
5           ~~to individuals with disabilities and making any~~  
6           ~~recommendations to enhance programs and the delivery~~  
7           ~~system for persons with disabilities in Oklahoma,~~
- 8           f. ~~examining the feasibility of expanding the eligibility~~  
9           ~~criteria for people served by the Developmental~~  
10           ~~Disabilities Services Division of the Department of~~  
11           ~~Human Services to include people with disabilities who~~  
12           ~~are not eligible for the Advantage Waiver program~~  
13           ~~through the Aging Services Division and those with~~  
14           ~~other diagnoses who are at risk of out-of-home~~  
15           ~~placement,~~
- 16           g. ~~studying the feasibility and impact of requiring that~~  
17           ~~assistive technology suppliers in this state meet~~  
18           ~~national certification requirements, and~~
- 19           h. ~~taking all other actions necessary to monitor and~~  
20           ~~assist with the implementation of the comprehensive~~  
21           ~~strategic plan.~~

22           i. ~~The Committee shall prepare and submit a report of its~~  
23           ~~findings and recommendations to the Legislature and Governor by July~~  
24

1 ~~15, 2007, and each July 15 thereafter, and shall submit a final~~  
2 ~~report by July 1, 2010.~~

3 1. The Attorney General, the CIL in Central Oklahoma, the CIL in  
4 Northeast Oklahoma, and the Oklahoma Disability Law Center, Inc.  
5 shall coordinate efforts to work with the various agencies to help  
6 them assess compliance with the Olmstead Decision and the federal  
7 Americans with Disabilities Act (ADA) in providing services to  
8 qualified individuals with disabilities in community-based settings.

9 2. The partners specified in paragraph 1 of this subsection  
10 shall provide technical guidance and work cooperatively with the  
11 state to achieve the goals of Title II of the ADA, particularly in  
12 the implementation of the Oklahoma plan to provide services to  
13 qualified individuals with disabilities in the most integrated  
14 settings. These agencies shall also ensure that existing federal  
15 resources are used in the most effective manner to support the goals  
16 of the Oklahoma plan.

17 H. The Commission shall make an initial report to the Governor,  
18 the Speaker of the Oklahoma House of Representatives, and the  
19 President Pro Tempore of the Oklahoma State Senate within one  
20 hundred eighty (180) calendar days of the effective date of this  
21 act. The plan shall be submitted to the Governor and the  
22 Legislature within one (1) calendar year of the effective date of  
23 this act. Thereafter, the Commission shall submit annual reports

1 throughout the implementation of the plan to the Governor and the  
2 Legislature.

3 I. The Attorney General, the Directors or Executive Directors  
4 of the Department of Human Services, the Oklahoma Department of  
5 Rehabilitation Services, the Department of Transportation, the  
6 Department of Commerce, the Oklahoma Department of Career and  
7 Technology Education, the Commission on Children and Youth, and the  
8 Oklahoma Housing Finance Agency, the State Commissioner of Health,  
9 the Commissioner of the Department of Mental Health and Substance  
10 Abuse Services, the Commissioner of Labor, the Administrator of the  
11 Oklahoma Health Care Authority, and the State Superintendent of  
12 Public Instruction shall evaluate the policies, programs, statutes,  
13 and administrative rules of their respective agencies to determine  
14 whether any should be revised or amended to improve the availability  
15 of community-based services for qualified individuals with  
16 disabilities. The evaluation shall focus on identifying affected  
17 populations, improving the flow of information regarding supports in  
18 the community, and removing barriers that impede opportunities for  
19 community placement. The evaluation shall include the involvement  
20 of consumers, advocacy organizations, providers, and relevant agency  
21 representatives. Each agency director shall report the results of  
22 his or her evaluation to the Governor and the Legislature within one  
23 hundred twenty (120) calendar days of the effective date of this  
24 act. Such issues that shall be evaluated include, but shall not be

1 limited to, the inherent challenges of utilizing the public transit  
2 system while residing in a nursing home or the challenges of  
3 maintaining staff under CD-PASS and especially during a disaster.

4 J. All state agencies shall coordinate planning and future  
5 funding with the Commission to ensure that funding is utilized for  
6 supporting people with disabilities in the most integrated setting.

7 K. Every state agency shall fully comply with Title II of the  
8 Americans with Disabilities Act (ADA). Individuals may seek  
9 complaint resolution through the grievance process of the  
10 appropriate state agency, alternative dispute resolution, or through  
11 the federal Office for Civil Rights. The complaint resolution  
12 process includes investigating and resolving complaints filed on  
13 behalf of individuals who allege they have been the victims of  
14 unjustified institutionalization and resolution of these complaints  
15 in a quick and constructive manner.

16 SECTION 2. This act shall become effective November 1, 2022.

17 Passed the House of Representatives the 24th day of March, 2022.

18  
19  
20 Presiding Officer of the House  
of Representatives

21 Passed the Senate the \_\_\_ day of \_\_\_\_\_, 2022.

22  
23  
24 Presiding Officer of the Senate