

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 HOUSE BILL 3977

By: Bell

4  
5  
6 AS INTRODUCED

7 An Act relating to a commission on abilities and  
8 independence; amending 56 O.S. 2021, Section 198.11b,  
9 which relates to the Strategic Planning Committee on  
10 the Olmstead Decision; creating the Commission on  
11 Independence and Ability; creating membership  
12 requirements; authorizing certain actions; creating  
13 reporting requirements; and providing an effective  
14 date.

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

16 SECTION 1. AMENDATORY 56 O.S. 2021, Section 198.11b, is  
17 amended to read as follows:

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

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

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

1           3. Support a service delivery system for individuals with  
2 disabilities ensuring that the individuals, their families, or  
3 guardians are well informed as to the types of services and  
4 resources available to such individuals in order to encourage their  
5 independence, self-esteem, and self-worth, regardless of the  
6 severity of the disability; and

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

14           B. There is hereby created the ~~Strategic Planning Committee on~~  
15 ~~the Olmstead Decision~~ Commission on Independence and Ability to  
16 continue until ~~July 1, 2010~~ July 1, 2025. ~~The purpose of the~~  
17 ~~Committee is to monitor the implementation of the comprehensive,~~  
18 ~~strategic plan for the State of Oklahoma regarding the Olmstead~~  
19 ~~Decision.~~ People with disabilities who utilize community-based  
20 services shall make up the majority of the Commission. Members of  
21 the Commission shall work cooperatively to ensure that the federal  
22 Olmstead Decision is thoroughly implemented, and shall provide  
23 guidance and technical assistance to Medicaid Managed Care  
24

1 Organizations as the State of Oklahoma moves to a privatized  
2 Medicaid system for State Plan and Waiver populations.

3 C. ~~The Strategic Planning Committee on the Olmstead Decision~~  
4 Commission on Independence and Ability shall be composed of ~~fifteen~~  
5 ~~(15)~~ six appointed members, ~~eighteen (18)~~ seven ex officio members,  
6 and representatives from disability-related organizations, all of  
7 whom shall be voting members, as follows:

8 1. a. The Governor shall appoint:

9 ~~(1) one person who is a community placement service~~  
10 ~~provider for persons with disabilities,~~

11 ~~(2) one person who is an advocate for persons with~~  
12 ~~disabilities,~~

13 ~~(3) one parent or personal representative of a person~~  
14 ~~with disabilities,~~

15 ~~(4) one member from an organization that provides~~  
16 ~~direct care services within the Advantage Waiver~~  
17 ~~Program, and~~

18 ~~(5) one member who is a consumer of disability~~  
19 ~~services.~~

20 two persons who have one or more disabilities that  
21 substantially limit one or more major life  
22 activities. One shall reside in Central Oklahoma  
23 and one in Northeast Oklahoma,

24

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

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

4           ~~(2) two members who are consumers of disability~~  
5                ~~services, and~~

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

8           two persons who have one or more disabilities that  
9                substantially limit one or more major life activities.

10           One shall reside in Southwest Oklahoma and one in  
11                Southeast Oklahoma,

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

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

15           ~~(2) one parent or personal representative of a person~~  
16                ~~with disabilities,~~

17           ~~(3) one member who is a consumer of disability~~  
18                ~~services, and~~

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

21           two persons who have one or more disabilities that  
22                substantially limit one or more major life activities.

23           One shall reside in Western Oklahoma and one in  
24                Northwest Oklahoma;

1 2. The ex officio voting members shall be:

2 a. the Attorney General, or designee,

3 b. the Director of the Department of Human Services, or  
4 designee,

5 ~~c. the Division Director of the Developmental~~  
6 ~~Disabilities Division of the Department of Human~~  
7 ~~Services, if not the designee of the Director of Human~~  
8 ~~Services,~~

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

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

12 ~~f.~~ e. the Administrator of the Oklahoma Health Care  
13 Authority, or designee,

14 ~~g.~~ ~~the Director of the Office of Management and~~  
15 ~~Enterprise Services, or designee,~~

16 ~~h.~~ ~~the Director of the State Department of Rehabilitation~~  
17 ~~Services, or designee,~~

18 ~~i.~~ ~~the Director of the Office of Disability Concerns, or~~  
19 ~~designee,~~

20 ~~j.~~ ~~the Director of the Oklahoma Employment Security~~  
21 ~~Commission, or designee,~~

22 ~~k.~~ ~~the state coordinator for the federal Ticket To Work~~  
23 ~~and Work Incentive Act, if not the designee of the~~  
24 ~~Oklahoma Employment Security Director,~~

1 ~~l. the Executive Director of a local housing authority,~~  
2 ~~or designee,~~

3 ~~m.~~ f. the Executive Director of the Oklahoma Housing  
4 Finance Agency, or designee,

5 ~~n. the State Superintendent of Public Instruction, or~~  
6 ~~designee, and~~

7 ~~o.~~ g. the Executive Director of the Department of  
8 Transportation, or designee,

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

10 ~~q. a representative from a local transit authority, or~~  
11 ~~from a Community Action Agency, that provides~~  
12 ~~transportation services to individuals with~~  
13 ~~disabilities, and~~

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

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

17 a. ~~one representative from the Developmental Disabilities~~  
18 ~~Council~~ the executive director of the federally  
19 funded, nonprofit, community-based, nonresidential  
20 organization that is run by and for people with  
21 disabilities and provides programs and services to  
22 enable individuals with disabilities to live an  
23 independent lifestyle, that serves Central Oklahoma,

- 1           b. ~~one representative from the Statewide Independent~~  
2           ~~Living Council~~ the Executive Director of the federally  
3           funded, nonprofit community-based, nonresidential  
4           organization that is run by and for people with  
5           disabilities and provides programs and services to  
6           enable individuals who have disabilities to live an  
7           independent lifestyle, that serves Tulsa County,
- 8           c. ~~two representatives from the Centers for Independent~~  
9           ~~Living~~ the director, or designee, of a federally  
10           funded protection and advocacy system for people with  
11           disabilities,
- 12           d. ~~one representative from the Center for Learning and~~  
13           ~~Leadership~~ the director, or designee, of a federally  
14           designated University Center for Excellence in  
15           Developmental Disabilities (UCEDD),
- 16           e. ~~one representative from the Oklahoma Disability Law~~  
17           ~~Center,~~ the director, or designee, of a council that  
18           coordinates the efforts of state agencies and private  
19           organizations in meeting the needs of Oklahomans with  
20           intellectual and developmental disabilities, and
- 21           f. ~~one representative from ABLE-Tech,~~ the director, or  
22           designee, of a nonprofit organization that advocates  
23           on behalf of all mental health consumers
- 24

1           g. ~~one representative from the Oklahoma Mental Health~~  
2           ~~Consumer Council, and~~

3           h. ~~a representative of a nonprofit agency, in a county of~~  
4           ~~five hundred thousand (500,000) or more population,~~  
5           ~~that collaborates on programs and services for persons~~  
6           ~~with disabilities.~~

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

10          2. A majority of the members of the ~~Committee~~ Commission shall  
11 constitute a quorum. A majority of the members present at a meeting  
12 may act for the ~~Committee~~ Commission.

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

16          4. The cochairs of the ~~Committee~~ Commission shall annually  
17 establish a schedule of each year's meetings. The ~~Committee~~  
18 Commission shall meet at least four times annually.

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

21          6. The ~~Committee~~ Commission may divide into subcommittees in  
22 furtherance of its purpose.

23          7. The Commission may also openly engage in potential Managed  
24 Care Organizations to listen to services, plans, costs of plans, and

1 the overall approach of how services and programs shall shift for  
2 the better.

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

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

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

20 1. The Commission shall develop a five-year implementation plan  
21 for the State of Oklahoma to provide a comprehensive system of  
22 service delivery for Oklahomans with disabilities. The plan shall  
23 utilize outcome measures to determine the success or failure of the  
24 plan.

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

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

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

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

23           ~~2. Nonlegislative members of the Committee shall be reimbursed~~  
24 ~~by their appointing authorities or respective agencies for necessary~~

1 ~~travel expenses incurred in the performance of their duties in~~  
2 ~~accordance with the State Travel Reimbursement Act.~~

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

6 ~~a. monitoring the implementation of the comprehensive,~~  
7 ~~strategic plan for Oklahomans with disabilities,~~  
8 ~~pursuant to the Olmstead Decision,~~

9 ~~b. reviewing the service delivery system within the state~~  
10 ~~and the way in which persons with disabilities~~  
11 ~~currently access the services,~~

12 ~~c. reviewing existing statutes, policies, programs,~~  
13 ~~services and funding sources that affect Oklahomans~~  
14 ~~with disabilities, including, but not limited to,~~  
15 ~~identifying unique approaches and strategies to~~  
16 ~~funding,~~

17 ~~d. identifying and reviewing funding and resource~~  
18 ~~information available to persons with disabilities and~~  
19 ~~their families in this state,~~

20 ~~e. identifying gaps and barriers in programs and services~~  
21 ~~to individuals with disabilities and making any~~  
22 ~~recommendations to enhance programs and the delivery~~  
23 ~~system for persons with disabilities in Oklahoma,~~

24

1           ~~f. examining the feasibility of expanding the eligibility~~  
2           ~~criteria for people served by the Developmental~~  
3           ~~Disabilities Services Division of the Department of~~  
4           ~~Human Services to include people with disabilities who~~  
5           ~~are not eligible for the Advantage Waiver program~~  
6           ~~through the Aging Services Division and those with~~  
7           ~~other diagnoses who are at risk of out-of-home~~  
8           ~~placement,~~

9           ~~g. studying the feasibility and impact of requiring that~~  
10           ~~assistive technology suppliers in this state meet~~  
11           ~~national certification requirements, and~~

12           ~~h. taking all other actions necessary to monitor and~~  
13           ~~assist with the implementation of the comprehensive~~  
14           ~~strategic plan.~~

15           ~~I. The Committee shall prepare and submit a report of its~~  
16           ~~findings and recommendations to the Legislature and Governor by July~~  
17           ~~15, 2007, and each July 15 thereafter, and shall submit a final~~  
18           ~~report by July 1, 2010.~~

19           1. The Attorney General, the CIL in Central Oklahoma, the CIL in  
20           Northeast Oklahoma, and the Oklahoma Disability Law Center, Inc.  
21           shall coordinate efforts to work with the various agencies to help  
22           them assess compliance with the Olmstead Decision and the federal  
23           Americans with Disabilities Act (ADA) in providing services to  
24           qualified individuals with disabilities in community-based settings.

1       2. The partners specified in paragraph 1 of this subsection  
2 shall provide technical guidance and work cooperatively with the  
3 state to achieve the goals of Title II of the ADA, particularly in  
4 the implementation of the Oklahoma plan to provide services to  
5 qualified individuals with disabilities in the most integrated  
6 settings. These agencies shall also ensure that existing federal  
7 resources are used in the most effective manner to support the goals  
8 of the Oklahoma plan.

9       H. The Commission shall make an initial report to the Governor,  
10 the Speaker of the House of Representatives, and the President Pro  
11 Tempore of the Senate within one hundred eighty (180) calendar days  
12 of the effective date of this act. The plan shall be submitted to  
13 the Governor and the Legislature within one (1) calendar year of the  
14 effective date of this act. Thereafter, the Commission shall submit  
15 annual reports throughout the implementation of the plan to the  
16 Governor and the Legislature.

17       I. The Attorney General, the Directors or Executive Directors  
18 of the Department of Human Services, the Oklahoma Department of  
19 Rehabilitation Services, the Department of Transportation, the  
20 Department of Commerce, the Oklahoma Department of Career and  
21 Technology Education, the Commission on Children and Youth, and the  
22 Housing Finance Agency, the State Commissioner of Health, the  
23 Commissioner of the Department of Mental Health and Substance Abuse  
24 Services, the Commissioner of Labor, the Administrator of the

1 Oklahoma Health Care Authority, and the State Superintendent of  
2 Public Education shall evaluate the policies, programs, statutes,  
3 and administrative rules of their respective agencies to determine  
4 whether any should be revised or amended to improve the availability  
5 of community-based services for qualified individuals with  
6 disabilities. The evaluation shall focus on identifying affected  
7 populations, improving the flow of information regarding supports in  
8 the community, and removing barriers that impede opportunities for  
9 community placement. The evaluation shall include the involvement  
10 of consumers, advocacy organizations, providers, and relevant agency  
11 representatives. Each agency director shall report the results of  
12 his or her evaluation to the Governor and the Legislature within one  
13 hundred twenty (120) calendar days of the effective date of this  
14 act. Such issues that shall be evaluated include, but shall not be  
15 limited to, the inherent challenges of utilizing the public transit  
16 system while residing in a nursing home or the challenges of  
17 maintaining staff under CD-PASS and especially during a disaster.

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

21 K. Every state agency shall fully comply with Title II of the  
22 Americans with Disabilities Act (ADA). Individuals may seek  
23 complaint resolution through the grievance process of the  
24 appropriate state agency, alternative dispute resolution, or through

1 the federal Office of Civil Rights. The complaint resolution  
2 process includes investigating and resolving complaints filed on  
3 behalf of individuals who allege they have been the victims of  
4 unjustified institutionalization and resolution of these complaints  
5 in a quick and constructive manner.

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

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8 58-2-9696 KN 01/16/22

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