

SB0437



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
SB0437

Introduced 2/16/2005, by Sen. Wendell E. Jones

SYNOPSIS AS INTRODUCED:

New Act

Creates the MI Olmstead Initiative Act to establish a 5-year program to provide individuals with mental illness or a co-occurring disorder of mental illness and substance abuse with appropriate residential and community-based support services. Requires the Department of Human Services to identify potential participants for the program. Sets forth the services and supports that constitute the program. Requires that implementation of the program begin by July 1, 2006. Requires the Department to annually report to the General Assembly concerning the program. Effective immediately.

LRB094 10560 DRJ 40856 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT in relation to mental health.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the MI
5 Olmstead Initiative Act.

6 Section 5. Purposes.

7 (a) The General Assembly recognizes that the United States
8 Supreme Court in *Olmstead v. L.C. ex rel. Zimring*, 119 S. Ct.
9 2176 (1999), affirmed that the unjustifiable
10 institutionalization of a person with a disability who could
11 live in the community with proper support, and wishes to do so,
12 is unlawful discrimination in violation of the Americans with
13 Disabilities Act (ADA). The State of Illinois, along with all
14 other states, is required to provide appropriate residential
15 and community-based support services to persons with
16 disabilities who wish to live in less restrictive settings and
17 are able to do so.

18 (b) It is the purpose of this Act to implement the MI
19 Olmstead Initiative in response to the U.S. Supreme Court's
20 decision in *Olmstead v. L.C.* in order (1) to enable 1,000
21 persons with mental illness or a co-occurring disorder of
22 mental illness and substance abuse, who currently reside in
23 nursing facilities, who choose to move, and who are able to do
24 so, to move within the next 5 years to the most integrated
25 residential settings possible in the community and (2) to
26 provide cost-effective community residential environments and
27 supports to enable these persons to live successfully in the
28 community.

29 (c) It is the further purpose of this Act to create a
30 continuum of residential and supportive services in community
31 settings for persons with mental illness or a co-occurring
32 disorder of mental illness and substance abuse, while

1 increasing federal and client financial participation through
2 the Medicaid and Social Security programs, wherever possible.

3 (d) The MI Olmstead Initiative is not intended to
4 substitute for or replace the obligation of the State of
5 Illinois to develop and implement a comprehensive, effectively
6 working plan for placing persons with disabilities in less
7 restrictive settings, under the Supreme Court decision in
8 *Olmstead v. L.C.*

9 Section 10. Definitions. For purposes of this Act:

10 "Department" means the Department of Human Services.

11 "Institution for mental diseases" (IMD) means a nursing
12 facility licensed by the Illinois Department of Public Health
13 under the Nursing Home Care Act as defined, consistent with
14 federal regulations, by the Illinois Department of Public Aid
15 where services to residents are ineligible for federal
16 financial participation under the Medicaid program because
17 mental illness is the specific reason for being in the facility
18 for more than 50% of the residents over 21 and under 65 years
19 of age.

20 "Qualified individual" means an adult who is 19 years of
21 age or older and under 65 years of age who agrees to
22 participate in the MI Olmstead Initiative, is assessed by an
23 appropriate professional and found to be able to move to a less
24 restrictive setting, and meets one of the following criteria:

25 (1) the person is substantially impaired in 2 or more
26 major life activities as a consequence of a mental illness
27 or a co-occurring mental illness and substance abuse
28 disorder; or

29 (2) the person has a record of having been
30 substantially impaired in 2 or more major life activities
31 as a consequence of a mental illness or a co-occurring
32 mental illness and substance abuse disorder.

33 Section 15. Programs and services of the MI Olmstead
34 Initiative.

1 (a) The Department shall identify 200 qualified
2 individuals during each of the 5 years following the
3 implementation date of this Act, or 1,000 persons in total, who
4 agree to and are able to be transitioned to alternative
5 residential settings within the community. In order to
6 appropriately select persons for the MI Olmstead Initiative,
7 the Department, by working in conjunction with an owner or
8 operator of a nursing facility or an IMD, and with the guardian
9 of the qualified individual, if any, shall ensure that:

10 (1) a comprehensive evaluation and diagnosis of the
11 qualified individual has been administered by a qualified
12 examiner, including an assessment of skills, abilities,
13 and potential for residential and work placement, adapted
14 to the person's primary language, cultural background, and
15 ethnic origin;

16 (2) an individual program plan or individual treatment
17 plan, or both, has been completed for the qualified
18 individual, outlining a range of services to be provided as
19 described in subsection (b) of this Section;

20 (3) the qualified individual is advised of available
21 and appropriate community-based alternatives for his or
22 her care before a decision on placement is made; and

23 (4) a planning specialist or case manager assists the
24 individual in making the move from an institution to a
25 community setting.

26 (b) The MI Olmstead Initiative shall be designed with a
27 capacity for 1,000 qualified individuals over 5 years and shall
28 offer, or create as necessary, services and supports for these
29 individuals to live in the most integrated community-based
30 setting possible. The services and supports in community-based
31 settings shall include, but not be limited to:

32 (1) Residence in the most integrated setting possible,
33 whether independent living in a private residence, a
34 supported residential program, a supervised residential
35 program, or supportive housing, as appropriate.

36 (2) Rehabilitation and support services, including

1 assertive community treatment, case management, supportive
2 and supervised day treatment, and psychosocial
3 rehabilitation.

4 (3) Vocational training, as appropriate, that
5 contributes to the person's independence and employment
6 potential.

7 (4) Employment, as appropriate, free from
8 discrimination pursuant to the Constitution and laws of
9 this State.

10 (5) Periodic reevaluation and review of the individual
11 program plan or the individual treatment plan, or both, at
12 least twice each year, in order to measure progress, to
13 modify or change objectives if necessary, and to provide
14 guidance and remediation techniques. The qualified
15 individual and his or her guardian, if any, shall have the
16 right (i) to participate in the planning and
17 decision-making process regarding the plan and (ii) to be
18 informed in writing, or in that individual's mode of
19 communication, of progress at reasonable time intervals.

20 (6) Due process so that any individual aggrieved by a
21 decision of the Department regarding services provided
22 under this Act is given an opportunity to present
23 complaints at a due process hearing before a hearing
24 officer designated by the Director of the Department, in
25 addition to any other rights under federal, State, or local
26 laws.

27 (c) The Department shall implement, coordinate, monitor,
28 and evaluate the MI Olmstead Initiative in cooperation with the
29 Department of Public Aid, the Department of Public Health, the
30 Governor's Office of Management and Budget, and other State
31 agencies as appropriate, as well as organizations or service
32 providers whose mission includes advocacy for or the provision
33 of quality services to persons with mental illness or a
34 co-occurring disorder of mental illness and substance abuse.

35 Section 20. Prospective savings. Any monetary savings to

1 the State derived from transitioning qualified individuals to
2 alternative residential settings shall first be used to ensure
3 that all necessary services and supports are available to the
4 individual within the community.

5 Section 25. Report to the General Assembly. The
6 Department, in cooperation with the Department of Public Aid
7 and the Department of Public Health, shall report to the
8 General Assembly on the status of the MI Olmstead Initiative by
9 October 1 in each year of the 5-year initiative, and shall
10 include in the report an analysis of the costs and benefits of
11 the Initiative, a review of the State's use of nursing
12 facilities, including IMD's, for the care of persons with
13 severe mental illness, and a plan for adjusting State policy,
14 including the further consolidation or conversion of IMD
15 facilities to non-IMD nursing facilities for the purpose of
16 maximizing federal financial participation under the Medicaid
17 program.

18 Section 30. Implementation dates. The Department shall
19 adopt rules to govern all aspects of this Act by April 1, 2006.
20 Subject to available appropriations, the Department shall
21 begin implementation of the MI Olmstead Initiative by July 1,
22 2006.

23 Section 99. Effective date. This Act takes effect upon
24 becoming law.