



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

SB2394

Introduced 1/18/2006, by Sen. John J. Cullerton

#### SYNOPSIS AS INTRODUCED:

20 ILCS 2407/10	
20 ILCS 4010/2002	from Ch. 91 1/2, par. 1952
105 ILCS 5/2-3.83	from Ch. 122, par. 2-3.83
210 ILCS 45/3-801.1	from Ch. 111 1/2, par. 4153-801.1
405 ILCS 5/1-106	from Ch. 91 1/2, par. 1-106
405 ILCS 25/2.03	from Ch. 91 1/2, par. 602.03
405 ILCS 40/1	from Ch. 91 1/2, par. 1151
410 ILCS 250/2	from Ch. 111 1/2, par. 2102
740 ILCS 110/8.1	from Ch. 91 1/2, par. 808.1
755 ILCS 5/11a-1	from Ch. 110 1/2, par. 11a-1

Amends the Disabilities Services Act of 2003, the Illinois Council on Developmental Disabilities Law, the School Code, the Nursing Home Care Act, the Mental Health and Developmental Disabilities Code, the Specialized Living Centers Act, the Protection and Advocacy for Developmentally Disabled Persons Act, the Developmental Disability Prevention Act, the Mental Health and Developmental Disabilities Confidentiality Act, and the Probate Act of 1975. Changes the definition of "developmental disability" throughout the statutes to provide that the term means a severe, chronic disability of an individual that: (i) is attributable to a mental or physical impairment or combination of mental and physical impairments; (ii) is manifested before the individual attains age 22; (iii) is likely to continue indefinitely; (iv) results in substantial functional limitations in 3 or more specified areas of major life activity; and (v) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated. Contains a provision for infants and young children.

LRB094 17673 DRJ 52971 b

1 AN ACT concerning health.

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

4 Section 5. The Disabilities Services Act of 2003 is amended  
5 by changing Section 10 as follows:

6 (20 ILCS 2407/10)

7 Sec. 10. Application of Act; definitions.

8 (a) This Act applies to persons with disabilities. The  
9 disabilities included are defined for purposes of this Act as  
10 follows:

11 "Disability" means a disability as defined by the Americans  
12 with Disabilities Act of 1990 that is attributable to a  
13 developmental disability, a mental illness, or a physical  
14 disability, or combination of those.

15 "Developmental disability" means a severe, chronic  
16 disability of an individual that:

17 (1) is attributable to a mental or physical impairment  
18 or combination of mental and physical impairments;

19 (2) is manifested before the individual attains age 22;

20 (3) is likely to continue indefinitely;

21 (4) results in substantial functional limitations in 3

22 or more of the following areas of major life activity:

23 (A) self-care;

24 (B) receptive and expressive language;

25 (C) learning;

26 (D) mobility;

27 (E) self-direction;

28 (F) capacity for independent living; and

29 (G) economic self-sufficiency; and

30 (5) reflects the individual's need for a combination  
31 and sequence of special, interdisciplinary, or generic  
32 services, individualized supports, or other forms of

1 assistance that are of lifelong or extended duration and  
2 are individually planned and coordinated.

3 An individual from birth to age 9, inclusive, who has a  
4 substantial developmental delay or specific congenital or  
5 acquired condition, may be considered to have a developmental  
6 disability without meeting 3 or more of the criteria described  
7 in clauses (1) through (5) of this definition if the  
8 individual, without services and supports, has a high  
9 probability of meeting those criteria later in life.

10 ~~"Developmental disability" means a disability that is~~  
11 ~~attributable to mental retardation or a related condition. A~~  
12 ~~related condition must meet all of the following conditions:~~

13 ~~(1) It must be attributable to cerebral palsy,~~  
14 ~~epilepsy, or any other condition (other than mental~~  
15 ~~illness) found to be closely related to mental retardation~~  
16 ~~because that condition results in impairment of general~~  
17 ~~intellectual functioning or adaptive behavior similar to~~  
18 ~~that of individuals with mental retardation, and requires~~  
19 ~~treatment or services similar to those required for those~~  
20 ~~individuals. For purposes of this Section, autism is~~  
21 ~~considered a related condition.~~

22 ~~(2) It must be manifested before the individual reaches~~  
23 ~~age 22.~~

24 ~~(3) It must be likely to continue indefinitely.~~

25 ~~(4) It must result in substantial functional~~  
26 ~~limitations in 3 or more of the following areas of major~~  
27 ~~life activity: self care, language, learning, mobility,~~  
28 ~~self direction, and capacity for independent living.~~

29 "Mental Illness" means a mental or emotional disorder  
30 verified by a diagnosis contained in the Diagnostic and  
31 Statistical Manual of Mental Disorders-Fourth Edition,  
32 published by the American Psychiatric Association (DSM-IV), or  
33 its successor, or International Classification of Diseases,  
34 9th Revision, Clinical Modification (ICD-9-CM), or its  
35 successor, that substantially impairs a person's cognitive,  
36 emotional, or behavioral functioning, or any combination of

1 those, excluding (i) conditions that may be the focus of  
2 clinical attention but are not of sufficient duration or  
3 severity to be categorized as a mental illness, such as  
4 parent-child relational problems, partner-relational problems,  
5 sexual abuse of a child, bereavement, academic problems,  
6 phase-of-life problems, and occupational problems  
7 (collectively, "V codes"), (ii) organic disorders such as  
8 substance intoxication dementia, substance withdrawal  
9 dementia, Alzheimer's disease, vascular dementia, dementia due  
10 to HIV infection, and dementia due to Creutzfeld-Jakob disease  
11 and disorders associated with known or unknown physical  
12 conditions such as hallucinosis ~~hallucinosis~~, amnestic  
13 disorders and delirium, and psychoactive substance-induced  
14 organic disorders, and (iii) mental retardation or  
15 psychoactive substance use disorders.

16 "Mental retardation" means significantly sub-average  
17 general intellectual functioning existing concurrently with  
18 deficits in adaptive behavior and manifested before the age of  
19 22 years.

20 "Physical disability" means a disability as defined by the  
21 Americans with Disabilities Act of 1990 that meets the  
22 following criteria:

23 (1) It is attributable to a physical impairment.

24 (2) It results in a substantial functional limitation  
25 in any of the following areas of major life activity: (i)  
26 self-care, (ii) receptive and expressive language, (iii)  
27 learning, (iv) mobility, (v) self-direction, (vi) capacity  
28 for independent living, and (vii) economic sufficiency.

29 (3) It reflects the person's need for a combination and  
30 sequence of special, interdisciplinary, or general care,  
31 treatment, or other services that are of lifelong or of  
32 extended duration and must be individually planned and  
33 coordinated.

34 (b) In this Act:

35 "Chronological age-appropriate services" means services,  
36 activities, and strategies for persons with disabilities that

1 are representative of the lifestyle activities of nondisabled  
2 peers of similar age in the community.

3 "Comprehensive evaluation" means procedures used by  
4 qualified professionals selectively with an individual to  
5 determine whether a person has a disability and the nature and  
6 extent of the services that the person with a disability needs.

7 "Department" means the Department on Aging, the Department  
8 of Human Services, the Department of Public Health, the  
9 Department of Public Aid (now Department Healthcare and Family  
10 Services), the University of Illinois Division of Specialized  
11 Care for Children, the Department of Children and Family  
12 Services, and the Illinois State Board of Education, where  
13 appropriate, as designated in the implementation plan  
14 developed under Section 20.

15 "Family" means a natural, adoptive, or foster parent or  
16 parents or other person or persons responsible for the care of  
17 an individual with a disability in a family setting.

18 "Family or individual support" means those resources and  
19 services that are necessary to maintain an individual with a  
20 disability within the family home or his or her own home. These  
21 services may include, but are not limited to, cash subsidy,  
22 respite care, and counseling services.

23 "Independent service coordination" means a social service  
24 that enables persons with developmental disabilities and their  
25 families to locate, use, and coordinate resources and  
26 opportunities in their communities on the basis of individual  
27 need. Independent service coordination is independent of  
28 providers of services and funding sources and is designed to  
29 ensure accessibility, continuity of care, and accountability  
30 and to maximize the potential of persons with developmental  
31 disabilities for independence, productivity, and integration  
32 into the community. Independent service coordination includes,  
33 at a minimum: (i) outreach to identify eligible individuals;  
34 (ii) assessment and periodic reassessment to determine each  
35 individual's strengths, functional limitations, and need for  
36 specific services; (iii) participation in the development of a

1 comprehensive individual service or treatment plan; (iv)  
2 referral to and linkage with needed services and supports; (v)  
3 monitoring to ensure the delivery of appropriate services and  
4 to determine individual progress in meeting goals and  
5 objectives; and (vi) advocacy to assist the person in obtaining  
6 all services for which he or she is eligible or entitled.

7 "Individual service or treatment plan" means a recorded  
8 assessment of the needs of a person with a disability, a  
9 description of the services recommended, the goals of each type  
10 of element of service, an anticipated timetable for the  
11 accomplishment of the goals, and a designation of the qualified  
12 professionals responsible for the implementation of the plan.

13 "Least restrictive environment" means an environment that  
14 represents the least departure from the normal patterns of  
15 living and that effectively meets the needs of the person  
16 receiving the service.

17 (Source: P.A. 93-638, eff. 12-31-03; revised 12-15-05.)

18 Section 10. The Illinois Council on Developmental  
19 Disabilities Law is amended by changing Section 2002 as  
20 follows:

21 (20 ILCS 4010/2002) (from Ch. 91 1/2, par. 1952)

22 Sec. 2002. Definitions. As used in this Article, unless the  
23 context requires otherwise:

24 (a) "Council" means the Illinois Council on Developmental  
25 Disabilities.

26 (b) "Chairperson" means the chairperson of the Illinois  
27 Council on Developmental Disabilities.

28 (c) "Director" means the director of the Illinois Council  
29 on Developmental Disabilities.

30 (d) "Developmental disability" means a severe, chronic  
31 disability of an individual that:

32 (1) is attributable to a mental or physical impairment  
33 or combination of mental and physical impairments;

34 (2) is manifested before the individual attains age 22;

1 (3) is likely to continue indefinitely;

2 (4) results in substantial functional limitations in 3

3 or more of the following areas of major life activity:

4 (A) self-care;

5 (B) receptive and expressive language;

6 (C) learning;

7 (D) mobility;

8 (E) self-direction;

9 (F) capacity for independent living; and

10 (G) economic self-sufficiency; and

11 (5) reflects the individual's need for a combination  
 12 and sequence of special, interdisciplinary, or generic  
 13 services, individualized supports, or other forms of  
 14 assistance that are of lifelong or extended duration and  
 15 are individually planned and coordinated.

16 An individual from birth to age 9, inclusive, who has a  
 17 substantial developmental delay or specific congenital or  
 18 acquired condition, may be considered to have a developmental  
 19 disability without meeting 3 or more of the criteria described  
 20 in clauses (1) through (5) of this definition if the  
 21 individual, without services and supports, has a high  
 22 probability of meeting those criteria later in life.

23 ~~(d) "Developmental disability" means, in general, a severe~~  
 24 ~~chronic disability of an individual that:~~

25 ~~(1) is attributable to a mental or physical impairment~~  
 26 ~~or combination of mental and physical impairments;~~

27 ~~(2) is manifested before the person attains age 22;~~

28 ~~(3) is likely to continue indefinitely;~~

29 ~~(4) results in substantial functional limitations in 3~~

30 ~~or more of the following areas of major life activity: self~~

31 ~~care, receptive and expressive language, learning,~~

32 ~~mobility, self direction, capacity for independent living,~~

33 ~~and economic sufficiency; and~~

34 ~~(5) reflects the person's need for a combination and~~

35 ~~sequence of special interdisciplinary or generic services~~

36 ~~care, individualized supports, or other forms of~~

1 ~~assistance that are of life long or extended duration and~~  
2 ~~are individually planned and coordinated.~~

3 ~~When applied to infants and young children, an individual~~  
4 ~~may be considered to have a "developmental disability" if the~~  
5 ~~individual from birth to age 9, inclusive, has (i) a~~  
6 ~~substantial developmental delay or specific congenital or~~  
7 ~~acquired conditions and (ii) does not meet 3 or more of the~~  
8 ~~criteria described in paragraphs (1) through (5) but who,~~  
9 ~~without services and support, has a high probability of meeting~~  
10 ~~those criteria later in life.~~

11 (Source: P.A. 91-798, eff. 7-9-00.)

12 Section 15. The School Code is amended by changing Section  
13 2-3.83 as follows:

14 (105 ILCS 5/2-3.83) (from Ch. 122, par. 2-3.83)

15 Sec. 2-3.83. Individual transition plan model pilot  
16 program.

17 (a) The General Assembly finds that transition services for  
18 special education students in secondary schools are needed for  
19 the increasing numbers of students exiting school programs.  
20 Therefore, to ensure coordinated and timely delivery of  
21 services, the State shall establish a model pilot program to  
22 provide such services. Local school districts, using joint  
23 agreements and regional service delivery systems for special  
24 and vocational education selected by the Governor's Planning  
25 Council on Developmental Disabilities, shall have the primary  
26 responsibility to convene transition planning meetings for  
27 these students who will require post-school adult services.

28 (b) For purposes of this Section:

29 ~~(1)~~ "Post-secondary Service Provider" means a provider  
30 of services for adults who have any developmental  
31 disability as defined in Section 1-106 of the Mental Health  
32 and Developmental Disabilities Code or who are disabled as  
33 defined in the Disabled Persons Rehabilitation Act.

34 ~~(2)~~ "Individual Education Plan" means a written



1 statement for an exceptional child that provides at least a  
2 statement of: the child's present levels of educational  
3 performance, annual goals and short-term instructional  
4 objectives; specific special education and related  
5 services; the extent of participation in the regular  
6 education program; the projected dates for initiation of  
7 services; anticipated duration of services; appropriate  
8 objective criteria and evaluation procedures; and a  
9 schedule for annual determination of short-term  
10 objectives.

11 ~~(3)~~ "Individual Transition Plan" (ITP) means a  
12 multi-agency informal assessment of a student's needs for  
13 post-secondary adult services including but not limited to  
14 employment, post-secondary education or training and  
15 residential independent living.

16 "Developmental disability" means a severe, chronic  
17 disability of an individual that:

18 (1) is attributable to a mental or physical  
19 impairment or combination of mental and physical  
20 impairments;

21 (2) is manifested before the individual attains  
22 age 22;

23 (3) is likely to continue indefinitely;

24 (4) results in substantial functional limitations  
25 in 3 or more of the following areas of major life  
26 activity:

27 (A) self-care;

28 (B) receptive and expressive language;

29 (C) learning;

30 (D) mobility;

31 (E) self-direction;

32 (F) capacity for independent living; and

33 (G) economic self-sufficiency; and

34 (5) reflects the individual's need for a  
35 combination and sequence of special,  
36 interdisciplinary, or generic services, individualized

1 supports, or other forms of assistance that are of  
2 lifelong or extended duration and are individually  
3 planned and coordinated.

4 An individual from birth to age 9, inclusive, who has a  
5 substantial developmental delay or specific congenital or  
6 acquired condition, may be considered to have a  
7 developmental disability without meeting 3 or more of the  
8 criteria described in clauses (1) through (5) of this  
9 definition if the individual, without services and  
10 supports, has a high probability of meeting those criteria  
11 later in life.

12 ~~(4) "Developmental Disability" means a disability~~  
13 ~~which is attributable to: (a) mental retardation, cerebral~~  
14 ~~palsy, epilepsy or autism; or to (b) any other condition~~  
15 ~~which results in impairment similar to that caused by~~  
16 ~~mental retardation and which requires services similar to~~  
17 ~~those required by mentally retarded persons. Such~~  
18 ~~disability must originate before the age of 18 years, be~~  
19 ~~expected to continue indefinitely, and constitute a~~  
20 ~~substantial handicap.~~

21 ~~(5) "Exceptional Characteristic" means any disabling~~  
22 ~~or exceptional characteristic which interferes with a~~  
23 ~~student's education including, but not limited to, a~~  
24 ~~determination that the student is severely or profoundly~~  
25 ~~mentally disabled, trainably mentally disabled,~~  
26 ~~deaf-blind, or has some other health impairment.~~

27 (c) The model pilot program required by this Section shall  
28 be established and administered by the Governor's Planning  
29 Council on Developmental Disabilities in conjunction with the  
30 case coordination pilot projects established by the Department  
31 of Human Services pursuant to Section 4.1 of the Community  
32 Services Act, as amended.

33 (d) The model pilot program shall include the following  
34 features:

35 (1) Written notice shall be sent to the student and,  
36 when appropriate, his or her parent or guardian giving the

1 opportunity to consent to having the student's name and  
2 relevant information shared with the local case  
3 coordination unit and other appropriate State or local  
4 agencies for purposes of inviting participants to the  
5 individual transition plan meeting.

6 (2) Meetings to develop and modify, as needed, an  
7 Individual Transition Plan shall be conducted annually for  
8 all students with a developmental disability in the pilot  
9 program area who are age 16 or older and who are receiving  
10 special education services for 50% or more of their public  
11 school program. These meetings shall be convened by the  
12 local school district and conducted in conjunction with any  
13 other regularly scheduled meetings such as the student's  
14 annual individual educational plan meeting. The Governor's  
15 Planning Council on Developmental Disabilities shall  
16 cooperate with and may enter into any necessary written  
17 agreements with the Department of Human Services and the  
18 State Board of Education to identify the target group of  
19 students for transition planning and the appropriate case  
20 coordination unit to serve these individuals.

21 (3) The ITP meetings shall be co-chaired by the  
22 individual education plan coordinator and the case  
23 coordinator. The ITP meeting shall include but not be  
24 limited to discussion of the following: the student's  
25 projected date of exit from the public schools; his  
26 projected post-school goals in the areas of employment,  
27 residential living arrangement and post-secondary  
28 education or training; specific school or post-school  
29 services needed during the following year to achieve the  
30 student's goals, including but not limited to vocational  
31 evaluation, vocational education, work experience or  
32 vocational training, placement assistance, independent  
33 living skills training, recreational or leisure training,  
34 income support, medical needs and transportation; and  
35 referrals and linkage to needed services, including a  
36 proposed time frame for services and the responsible agency

1 or provider. The individual transition plan shall be signed  
2 by participants in the ITP discussion, including but not  
3 limited to the student's parents or guardian, the student  
4 (where appropriate), multi-disciplinary team  
5 representatives from the public schools, the case  
6 coordinator and any other individuals who have  
7 participated in the ITP meeting at the discretion of the  
8 individual education plan coordinator, the developmental  
9 disability case coordinator or the parents or guardian.

10 (4) At least 10 days prior to the ITP meeting, the  
11 parents or guardian of the student shall be notified in  
12 writing of the time and place of the meeting by the local  
13 school district. The ITP discussion shall be documented by  
14 the assigned case coordinator, and an individual student  
15 file shall be maintained by each case coordination unit.  
16 One year following a student's exit from public school the  
17 case coordinator shall conduct a follow up interview with  
18 the student.

19 (5) Determinations with respect to individual  
20 transition plans made under this Section shall not be  
21 subject to any due process requirements prescribed in  
22 Section 14-8.02 of this Code.

23 (e) (Blank).

24 (Source: P.A. 91-96; eff. 7-9-99.)

25 Section 20. The Nursing Home Care Act is amended by  
26 changing Section 3-801.1 as follows:

27 (210 ILCS 45/3-801.1) (from Ch. 111 1/2, par. 4153-801.1)

28 Sec. 3-801.1. Notwithstanding the other provisions of this  
29 Act to the contrary, the agency designated by the Governor  
30 under Section 1 of "An Act in relation to the protection and  
31 advocacy of the rights of persons with developmental  
32 disabilities, and amending Acts therein named", enacted by the  
33 84th General Assembly, shall have access to the records of a  
34 person with developmental disabilities who resides in a

1 facility, subject to the limitations of this Act. The agency  
2 shall also have access for the purpose of inspection and  
3 copying, to the records of a person with developmental  
4 disabilities who resides in any such facility if (1) a  
5 complaint is received by such agency from or on behalf of the  
6 person with a developmental disability, and (2) such person  
7 does not have a guardian or the State or the designee of the  
8 State is the guardian of such person. The designated agency  
9 shall provide written notice to the person with developmental  
10 disabilities and the State guardian of the nature of the  
11 complaint based upon which the designated agency has gained  
12 access to the records. No record or the contents of any record  
13 shall be redisclosed by the designated agency unless the person  
14 with developmental disabilities and the State guardian are  
15 provided 7 days advance written notice, except in emergency  
16 situations, of the designated agency's intent to redisclose  
17 such record, during which time the person with developmental  
18 disabilities or the State guardian may seek to judicially  
19 enjoin the designated agency's redisclosure of such record on  
20 the grounds that such redisclosure is contrary to the interests  
21 of the person with developmental disabilities. If a person with  
22 developmental disabilities resides in such a facility and has a  
23 guardian other than the State or the designee of the State, the  
24 facility director shall disclose the guardian's name, address,  
25 and telephone number to the designated agency at the agency's  
26 request.

27 Upon request, the designated agency shall be entitled to  
28 inspect and copy any records or other materials which may  
29 further the agency's investigation of problems affecting  
30 numbers of persons with developmental disabilities. When  
31 required by law any personally identifiable information of  
32 persons with a developmental disability shall be removed from  
33 the records. However, the designated agency may not inspect or  
34 copy any records or other materials when the removal of  
35 personally identifiable information imposes an unreasonable  
36 burden on the facility.

1 For the purposes of this Section, "developmental  
2 disability" means a severe, chronic disability of an individual  
3 that:

4 (1) is attributable to a mental or physical impairment  
5 or combination of mental and physical impairments;

6 (2) is manifested before the individual attains age 22;

7 (3) is likely to continue indefinitely;

8 (4) results in substantial functional limitations in 3  
9 or more of the following areas of major life activity:

10 (A) self-care;

11 (B) receptive and expressive language;

12 (C) learning;

13 (D) mobility;

14 (E) self-direction;

15 (F) capacity for independent living; and

16 (G) economic self-sufficiency; and

17 (5) reflects the individual's need for a combination  
18 and sequence of special, interdisciplinary, or generic  
19 services, individualized supports, or other forms of  
20 assistance that are of lifelong or extended duration and  
21 are individually planned and coordinated.

22 An individual from birth to age 9, inclusive, who has a  
23 substantial developmental delay or specific congenital or  
24 acquired condition, may be considered to have a developmental  
25 disability without meeting 3 or more of the criteria described  
26 in clauses (1) through (5) of this definition if the  
27 individual, without services and supports, has a high  
28 probability of meeting those criteria later in life.

29 ~~For the purposes of this Section, "developmental~~  
30 ~~disability" means a severe, chronic disability of a person~~  
31 ~~which—~~

32 ~~(A) is attributable to a mental or physical impairment or~~  
33 ~~combination of mental and physical impairments;~~

34 ~~(B) is manifested before the person attains age 22;~~

35 ~~(C) is likely to continue indefinitely;~~

36 ~~(D) results in substantial functional limitations in 3 or~~

~~more of the following areas of major life activity: (i) self care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, and (vii) economic self-sufficiency; and (E) reflects the person's need for combination and sequence of special, interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated.~~

(Source: P.A. 88-380.)

Section 25. The Mental Health and Developmental Disabilities Code is amended by changing Section 1-106 as follows:

(405 ILCS 5/1-106) (from Ch. 91 1/2, par. 1-106)

Sec. 1-106. "Developmental disability" means a severe, chronic disability of an individual that:

(1) is attributable to a mental or physical impairment or combination of mental and physical impairments;

(2) is manifested before the individual attains age 22;

(3) is likely to continue indefinitely;

(4) results in substantial functional limitations in 3 or more of the following areas of major life activity:

(A) self-care;

(B) receptive and expressive language;

(C) learning;

(D) mobility;

(E) self-direction;

(F) capacity for independent living; and

(G) economic self-sufficiency; and

(5) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

An individual from birth to age 9, inclusive, who has a

1 substantial developmental delay or specific congenital or  
2 acquired condition, may be considered to have a developmental  
3 disability without meeting 3 or more of the criteria described  
4 in clauses (1) through (5) of this definition if the  
5 individual, without services and supports, has a high  
6 probability of meeting those criteria later in life.

7 ~~"Developmental disability" means a disability which is~~  
8 ~~attributable to: (a) mental retardation, cerebral palsy,~~  
9 ~~epilepsy or autism; or to (b) any other condition which results~~  
10 ~~in impairment similar to that caused by mental retardation and~~  
11 ~~which requires services similar to those required by mentally~~  
12 ~~retarded persons. Such disability must originate before the age~~  
13 ~~of 18 years, be expected to continue indefinitely, and~~  
14 ~~constitute a substantial handicap.~~

15 (Source: P.A. 80-1414.)

16 Section 30. The Specialized Living Centers Act is amended  
17 by changing Section 2.03 as follows:

18 (405 ILCS 25/2.03) (from Ch. 91 1/2, par. 602.03)

19 Sec. 2.03. "Person with a developmental disability" means  
20 an individual who has a severe, chronic disability that:

21 (1) is attributable to a mental or physical impairment  
22 or combination of mental and physical impairments;

23 (2) is manifested before the individual attains age 22;

24 (3) is likely to continue indefinitely;

25 (4) results in substantial functional limitations in 3  
26 or more of the following areas of major life activity:

27 (A) self-care;

28 (B) receptive and expressive language;

29 (C) learning;

30 (D) mobility;

31 (E) self-direction;

32 (F) capacity for independent living; and

33 (G) economic self-sufficiency; and

34 (5) reflects the individual's need for a combination



1 and sequence of special, interdisciplinary, or generic  
2 services, individualized supports, or other forms of  
3 assistance that are of lifelong or extended duration and  
4 are individually planned and coordinated.

5 An individual from birth to age 9, inclusive, who has a  
6 substantial developmental delay or specific congenital or  
7 acquired condition, may be considered to have a developmental  
8 disability without meeting 3 or more of the criteria described  
9 in clauses (1) through (5) of this definition if the  
10 individual, without services and supports, has a high  
11 probability of meeting those criteria later in life.

12 ~~individuals whose disability is attributable to mental~~  
13 ~~retardation, cerebral palsy, epilepsy or other neurological~~  
14 ~~condition which generally originates before such individuals~~  
15 ~~attain age 18 which had continued or can be expected to~~  
16 ~~continue indefinitely and which constitutes a substantial~~  
17 ~~handicap to such individuals.~~

18 (Source: P.A. 88-380.)

19 Section 35. The Protection and Advocacy for  
20 Developmentally Disabled Persons Act is amended by changing  
21 Section 1 as follows:

22 (405 ILCS 40/1) (from Ch. 91 1/2, par. 1151)

23 Sec. 1. The Governor may designate a private not-for-profit  
24 corporation as the agency to administer a State plan to protect  
25 and advocate the rights of persons with developmental  
26 disabilities pursuant to the requirements of the federal  
27 Developmental Disabilities Assistance and Bill of Rights Act,  
28 42 U.S.C. 6001 to 6081, as now or hereafter amended. The  
29 designated agency may pursue legal, administrative, and other  
30 appropriate remedies to ensure the protection of the rights of  
31 such persons who are receiving treatment, services or  
32 habilitation within this State. The agency designated by the  
33 Governor shall be independent of any agency which provides  
34 treatment, services, guardianship, or habilitation to persons

1 with developmental disabilities, and such agency shall not be  
2 administered by the Governor's Planning Council on  
3 Developmental Disabilities or any successor State Planning  
4 Council organized pursuant to federal law.

5 The designated agency may receive and expend funds to  
6 protect and advocate the rights of persons with developmental  
7 disabilities. In order to properly exercise its powers and  
8 duties, such agency shall have access to developmental  
9 disability facilities and mental health facilities, as defined  
10 under Sections 1-107 and 1-114 of the Mental Health and  
11 Developmental Disabilities Code, and facilities as defined in  
12 Section 1-113 of the Nursing Home Care Act. Such access shall  
13 be granted for the purposes of meeting with residents and  
14 staff, informing them of services available from the agency,  
15 distributing written information about the agency and the  
16 rights of persons with developmental disabilities, conducting  
17 scheduled and unscheduled visits, and performing other  
18 activities designed to protect the rights of persons with  
19 developmental disabilities. The agency also shall have access,  
20 for the purpose of inspection and copying, to the records of a  
21 person with developmental disabilities who resides in any such  
22 facility subject to the limitations of this Act, the Mental  
23 Health and Developmental Disabilities Confidentiality Act, and  
24 the Nursing Home Care Act. The agency also shall have access,  
25 for the purpose of inspection and copying, to the records of a  
26 person with developmental disabilities who resides in any such  
27 facility if (1) a complaint is received by the agency from or  
28 on behalf of the person with a developmental disability, and  
29 (2) such person does not have a legal guardian or the State or  
30 the designee of the State is the legal guardian of such person.  
31 The designated agency shall provide written notice to the  
32 person with developmental disabilities and the State guardian  
33 of the nature of the complaint based upon which the designated  
34 agency has gained access to the records. No record or the  
35 contents of any record shall be redisclosed by the designated  
36 agency unless the person with developmental disabilities and

1 the State guardian are provided 7 days advance written notice,  
2 except in emergency situations, of the designated agency's  
3 intent to redisclose such record, during which time the person  
4 with developmental disabilities or the State guardian may seek  
5 to judicially enjoin the designated agency's redisclosure of  
6 such record on the grounds that such redisclosure is contrary  
7 to the interests of the person with developmental disabilities.  
8 Any person who in good faith complains to the designated agency  
9 on behalf of a person with developmental disabilities, or  
10 provides information or participates in the investigation of  
11 any such complaint shall have immunity from any liability,  
12 civil, criminal or otherwise, and shall not be subject to any  
13 penalties, sanctions, restrictions or retaliation as a  
14 consequence of making such complaint, providing such  
15 information or participating in such investigation.

16 Upon request, the designated agency shall be entitled to  
17 inspect and copy any records or other materials which may  
18 further the agency's investigation of problems affecting  
19 numbers of persons with developmental disabilities. When  
20 required by law any personally identifiable information of  
21 persons with developmental disabilities shall be removed from  
22 the records. However, the designated agency may not inspect or  
23 copy any records or other materials when the removal of  
24 personally identifiable information imposes an unreasonable  
25 burden on mental health and developmental disabilities  
26 facilities pursuant to the Mental Health and Developmental  
27 Disabilities Code or facilities as defined in the Nursing Home  
28 Care Act.

29 The Governor shall not redesignate the agency to administer  
30 the State plan to protect and advocate the rights of persons  
31 with developmental disabilities unless there is good cause for  
32 the redesignation and unless notice of the intent to make such  
33 redesignation is given to persons with developmental  
34 disabilities or their representatives, the federal Secretary  
35 of Health and Human Services, and the General Assembly at least  
36 60 days prior thereto.

1 As used in this Act, the term "developmental disability"  
 2 means a severe, chronic disability of an individual that:

3 (1) is attributable to a mental or physical impairment  
 4 or combination of mental and physical impairments;

5 (2) is manifested before the individual attains age 22;

6 (3) is likely to continue indefinitely;

7 (4) results in substantial functional limitations in 3  
 8 or more of the following areas of major life activity:

9 (A) self-care;

10 (B) receptive and expressive language;

11 (C) learning;

12 (D) mobility;

13 (E) self-direction;

14 (F) capacity for independent living; and

15 (G) economic self-sufficiency; and

16 (5) reflects the individual's need for a combination  
 17 and sequence of special, interdisciplinary, or generic  
 18 services, individualized supports, or other forms of  
 19 assistance that are of lifelong or extended duration and  
 20 are individually planned and coordinated.

21 An individual from birth to age 9, inclusive, who has a  
 22 substantial developmental delay or specific congenital or  
 23 acquired condition, may be considered to have a developmental  
 24 disability without meeting 3 or more of the criteria described  
 25 in clauses (1) through (5) of this definition if the  
 26 individual, without services and supports, has a high  
 27 probability of meeting those criteria later in life.

28 ~~"developmental disability" means a severe, chronic disability~~  
 29 ~~of a person which:~~

30 ~~(A) is attributable to a mental or physical impairment~~  
 31 ~~or combination of mental and physical impairments;~~

32 ~~(B) is manifested before the person attains age 22;~~

33 ~~(C) is likely to continue indefinitely;~~

34 ~~(D) results in substantial functional limitations in 3~~  
 35 ~~or more of the following areas of major life activity: (i)~~  
 36 ~~self care, (ii) receptive and expressive language, (iii)~~

1 ~~learning, (iv) mobility, (v) self-direction, (vi) capacity~~  
2 ~~for independent living, and (vii) economic~~  
3 ~~self-sufficiency; and~~

4 ~~(E) reflects the person's need for combination and~~  
5 ~~sequence of special, interdisciplinary or generic care,~~  
6 ~~treatment or other services which are of lifelong or~~  
7 ~~extended duration and are individually planned and~~  
8 ~~coordinated.~~

9 (Source: P.A. 88-380.)

10 Section 40. The Developmental Disability Prevention Act is  
11 amended by changing Section 2 as follows:

12 (410 ILCS 250/2) (from Ch. 111 1/2, par. 2102)

13 Sec. 2. Definitions.

14 As used in this Act:

15 a "perinatal" means the period of time between the  
16 conception of an infant and the end of the first month of life;

17 b "congenital" means those intrauterine factors which  
18 influence the growth, development and function of the fetus;

19 c "environmental" means those extrauterine factors which  
20 influence the adaptation, well being or life of the newborn and  
21 may lead to disability;

22 d "high risk" means an increased level of risk of harm or  
23 mortality to the woman of childbearing age, fetus or newborn  
24 from congenital and/or environmental factors;

25 e "perinatal center" means a referral facility intended to  
26 care for the high risk patient before, during, or after labor  
27 and delivery and characterized by sophistication and  
28 availability of personnel, equipment, laboratory,  
29 transportation techniques, consultation and other support  
30 services;

31 f "Developmental disability" means a severe, chronic  
32 disability of an individual that:

33 (1) is attributable to a mental or physical impairment  
34 or combination of mental and physical impairments;

1 (2) is manifested before the individual attains age 22;

2 (3) is likely to continue indefinitely;

3 (4) results in substantial functional limitations in 3  
4 or more of the following areas of major life activity:

5 (A) self-care;

6 (B) receptive and expressive language;

7 (C) learning;

8 (D) mobility;

9 (E) self-direction;

10 (F) capacity for independent living; and

11 (G) economic self-sufficiency; and

12 (5) reflects the individual's need for a combination  
13 and sequence of special, interdisciplinary, or generic  
14 services, individualized supports, or other forms of  
15 assistance that are of lifelong or extended duration and  
16 are individually planned and coordinated.

17 An individual from birth to age 9, inclusive, who has a  
18 substantial developmental delay or specific congenital or  
19 acquired condition, may be considered to have a developmental  
20 disability without meeting 3 or more of the criteria described  
21 in clauses (1) through (5) of this definition if the  
22 individual, without services and supports, has a high  
23 probability of meeting those criteria later in life.

24 ~~f "developmental disability" means mental retardation,~~  
25 ~~cerebral palsy, epilepsy, or other neurological handicapping~~  
26 ~~conditions of an individual found to be closely related to~~  
27 ~~mental retardation or to require treatment similar to that~~  
28 ~~required by mentally retarded individuals, and the disability~~  
29 ~~originates before such individual attains age 18, and has~~  
30 ~~continued, or can be expected to continue indefinitely, and~~  
31 ~~constitutes a substantial handicap of such individuals;~~

32 g "disability" means a condition characterized by  
33 temporary or permanent, partial or complete impairment of  
34 physical, mental or physiological function;

35 h "Department" means the Department of Public Health.

36 (Source: P.A. 78-557.)

1           Section 45. The Mental Health and Developmental  
2           Disabilities Confidentiality Act is amended by changing  
3           Section 8.1 as follows:

4           (740 ILCS 110/8.1) (from Ch. 91 1/2, par. 808.1)

5           Sec. 8.1. The agency designated by the Governor under  
6           Section 1 of "An Act in relation to the protection and advocacy  
7           of the rights of persons with developmental disabilities, and  
8           amending Acts therein named", approved September 20, 1985, as  
9           now or hereafter amended, shall have access, for the purpose of  
10          inspection and copying, to the records of a person with  
11          developmental disabilities who resides in a developmental  
12          disability facility or mental health facility, as defined in  
13          Sections 1-107 and 1-114, respectively, of the Mental Health  
14          and Developmental Disabilities Code, as now or hereafter  
15          amended, if (a) a complaint is received by such agency from or  
16          on behalf of the person with a developmental disability, and  
17          (b) such person does not have a guardian of the person or the  
18          State or the designee of the State is his or her guardian of  
19          the person. The designated agency shall provide written notice  
20          of the receipt of a complaint to the custodian of the records  
21          of the person from whom or on whose behalf a complaint is  
22          received. The designated agency shall provide to the person  
23          with developmental disabilities and to his or her State  
24          guardian, if appointed, written notice of the nature of the  
25          complaint based upon which the designated agency has gained  
26          access to the records. No record or the contents of any record  
27          shall be redisclosed by the designated agency unless the person  
28          with developmental disabilities and the State guardian are  
29          provided 7 days advance written notice, except in emergency  
30          situations, of the designated agency's intent to redisclose  
31          such record, during which time the person with developmental  
32          disabilities or the State guardian may seek to judicially  
33          enjoin the designated agency's redisclosure of such record on  
34          the grounds that such redisclosure is contrary to the interests

1 of the person with developmental disabilities. If a person with  
2 developmental disabilities resides in a developmental  
3 disability or mental health facility and has a guardian other  
4 than the State or the designee of the State, the facility  
5 director shall disclose the guardian's name, address and  
6 telephone number to the designated agency at the agency's  
7 request.

8 Upon written request and after the provision of written  
9 notice to the agency, facility or other body from which records  
10 and other materials are sought of the designated agency's  
11 investigation of problems affecting numbers of persons with  
12 developmental disabilities, the designated agency shall be  
13 entitled to inspect and copy any records or other materials  
14 which may further the agency's investigation of problems  
15 affecting numbers of persons with developmental disabilities.  
16 When required by law any personally identifiable information of  
17 persons with developmental disabilities shall be removed from  
18 the records. However, the designated agency may not inspect or  
19 copy records or other materials when the removal of personally  
20 identifiable information imposes an unreasonable burden on  
21 mental health and developmental disabilities facilities.

22 For the purposes of this Section, "developmental  
23 disability" means a severe, chronic disability of an individual  
24 that:

25 (1) is attributable to a mental or physical impairment  
26 or combination of mental and physical impairments;

27 (2) is manifested before the individual attains age 22;

28 (3) is likely to continue indefinitely;

29 (4) results in substantial functional limitations in 3  
30 or more of the following areas of major life activity:

31 (A) self-care;

32 (B) receptive and expressive language;

33 (C) learning;

34 (D) mobility;

35 (E) self-direction;

36 (F) capacity for independent living; and



1 (G) economic self-sufficiency; and

2 (5) reflects the individual's need for a combination  
3 and sequence of special, interdisciplinary, or generic  
4 services, individualized supports, or other forms of  
5 assistance that are of lifelong or extended duration and  
6 are individually planned and coordinated.

7 An individual from birth to age 9, inclusive, who has a  
8 substantial developmental delay or specific congenital or  
9 acquired condition, may be considered to have a developmental  
10 disability without meeting 3 or more of the criteria described  
11 in clauses (1) through (5) of this definition if the  
12 individual, without services and supports, has a high  
13 probability of meeting those criteria later in life.

14 ~~"developmental disability" means a severe, chronic disability~~  
15 ~~of a person which—~~

16 ~~(A) is attributable to a mental or physical impairment or~~  
17 ~~combination of mental and physical impairments;~~

18 ~~(B) is manifested before the person attains age 22;~~

19 ~~(C) is likely to continue indefinitely;~~

20 ~~(D) results in substantial functional limitations in 3 or~~  
21 ~~more of the following areas of major life activity: (i)~~  
22 ~~self care, (ii) receptive and expressive language, (iii)~~  
23 ~~learning, (iv) mobility, (v) self direction, (vi) capacity for~~  
24 ~~independent living, and (vii) economic self-sufficiency; and~~

25 ~~(E) reflects the person's need for a combination and~~  
26 ~~sequence of special, interdisciplinary or generic care,~~  
27 ~~treatment or other services which are of lifelong or extended~~  
28 ~~duration and are individually planned and coordinated.~~

29 (Source: P.A. 88-380.)

30 Section 50. The Probate Act of 1975 is amended by changing  
31 Section 11a-1 as follows:

32 (755 ILCS 5/11a-1) (from Ch. 110 1/2, par. 11a-1)

33 Sec. 11a-1. Developmental disability defined.)

34 "Developmental disability" means a severe, chronic disability

1 of an individual that:

2 (1) is attributable to a mental or physical impairment  
3 or combination of mental and physical impairments;

4 (2) is manifested before the individual attains age 22;

5 (3) is likely to continue indefinitely;

6 (4) results in substantial functional limitations in 3  
7 or more of the following areas of major life activity:

8 (A) self-care;

9 (B) receptive and expressive language;

10 (C) learning;

11 (D) mobility;

12 (E) self-direction;

13 (F) capacity for independent living; and

14 (G) economic self-sufficiency; and

15 (5) reflects the individual's need for a combination  
16 and sequence of special, interdisciplinary, or generic  
17 services, individualized supports, or other forms of  
18 assistance that are of lifelong or extended duration and  
19 are individually planned and coordinated.

20 An individual from birth to age 9, inclusive, who has a  
21 substantial developmental delay or specific congenital or  
22 acquired condition, may be considered to have a developmental  
23 disability without meeting 3 or more of the criteria described  
24 in clauses (1) through (5) of this definition if the  
25 individual, without services and supports, has a high  
26 probability of meeting those criteria later in life.

27 ~~"Developmental disability" means a disability which is~~  
28 ~~attributable to: (a) mental retardation, cerebral palsy,~~  
29 ~~epilepsy or autism; or to (b) any other condition which results~~  
30 ~~in impairment similar to that caused by mental retardation and~~  
31 ~~which requires services similar to those required by mentally~~  
32 ~~retarded persons. Such disability must originate before the age~~  
33 ~~of 18 years, be expected to continue indefinitely, and~~  
34 ~~constitute a substantial handicap.~~

35 (Source: P.A. 80-1415.)