

An Act

ENROLLED HOUSE
BILL NO. 1210

By: Griffith and Stone of the
House

and

Griffin of the Senate

An Act relating to disabilities; amending 56 O.S. 2011, Section 198.11b, as amended by Section 233, Chapter 304, O.S.L. 2012 (56 O.S. Supp. 2016, Section 198.11b), which relates to the Strategic Planning Committee on the Olmstead Decision; revising certain policy statement; creating the Commission on Independence and Ability until certain date; requiring certain majority membership and certain cooperation; revising membership; modifying certain reference; deleting certain reimbursement; deleting certain duties and responsibilities; requiring Commission to submit reports by certain dates; requiring development of certain plan; requiring certain outcome measures; requiring certain concepts to be examined; directing Attorney General to work with agencies to assess certain compliance and to provide certain guidance; requiring that federal resources be used in certain manner; requiring certain agency heads to make certain evaluation and to submit reports by certain date; providing guidelines for evaluation; directing certain coordination by state agencies; requiring certain compliance with federal law; and providing procedure for complaint resolution.

SUBJECT: Strategic Planning Committee on the Olmstead Decision

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

SECTION 1. AMENDATORY 56 O.S. 2011, Section 198.11b, as amended by Section 233, Chapter 304, O.S.L. 2012 (56 O.S. Supp. 2016, 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. Recognize and support individuals with disabilities by treating them with dignity and respect as productive members of our society in Oklahoma;

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

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

4. Recognize that self-choice on the part of individuals with disabilities is critical and that ~~the most appropriate setting for meeting their needs should be a paramount consideration when determining appropriate placement of such individuals in community-based programs, residential care facilities, or any other placement or service that benefits the needs and well-being of individuals with disabilities~~ it shall be the policy of the State of Oklahoma that priority shall be given to providing services to people with disabilities in the most integrative setting. Institutional services shall be the last resort, ensuring that all resources available shall be exhausted prior to institutional placement.

B. There is hereby created the ~~Strategic Planning Committee on the Olmstead Decision~~ Commission on Independence and Ability to continue until July 1, 2010 2020. The purpose of the Committee is to monitor the implementation of the comprehensive, strategic plan for the State of Oklahoma regarding the Olmstead Decision People with disabilities who utilize community-based services shall make up the majority of the Commission. Members of the Commission shall work cooperatively to ensure that the federal Olmstead decision is thoroughly implemented.

C. ~~The Strategic Planning Committee on the Olmstead Decision Commission~~ shall be composed of ~~fifteen (15)~~ four appointed members, ~~eighteen (18)~~ thirteen ex officio members, and representatives from disability-related organizations, all of whom shall be voting members, as follows:

1. a. The Governor shall appoint:

- ~~(1) one person who is a community placement service provider for persons with disabilities,~~
- ~~(2) one person who is an advocate for persons with disabilities,~~
- ~~(3) one parent or personal representative of a person with disabilities,~~
- ~~(4) one member from an organization that provides direct care services within the Advantage Waiver Program, and~~
- ~~(5) one member who is a consumer of disability services~~ two representatives of agencies who provide services to persons with disabilities.

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

- ~~(1) two members~~ one member of the State Senate,
- ~~(2) two members who are consumers of disability services, and~~
- ~~(3) one member with a disability who has moved from an institutional setting into the community.~~

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

- ~~(1) two members~~ one member of the House of Representatives,
- ~~(2) one parent or personal representative of a person with disabilities,~~

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

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

2. The ex officio voting members shall be:

a. the Attorney General, or designee,

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

c. ~~the Division Director of the Developmental Disabilities Division of the Department of Human Services, if not the designee of the Director of Human Services~~ the Director of the Oklahoma Department of Commerce, or designee,

d. the State Commissioner of Health, or designee,

e. the Commissioner of the Department of Mental Health and Substance Abuse Services, or designee,

f. the Administrator of the Oklahoma Health Care Authority, or designee,

g. ~~the Director of the Office of Management and Enterprise Services, or designee~~ the Director of the Oklahoma Department of Career Technology and Education, or designee,

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

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

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

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

- ~~i.~~ ~~the Executive Director of a local housing authority, or designee,~~
- ~~m.~~ the Executive Director of the Oklahoma Housing Finance Agency, or designee,
- ~~n.~~
- j. the State Superintendent of Public Instruction, or designee,
- ~~o.~~
- k. the Director of the Department of Transportation, or designee,
- ~~p.~~
- l. the Commissioner of Labor, or designee,
- ~~q.~~ ~~a representative from a local transit authority, or from a Community Action Agency, that provides transportation services to individuals with disabilities, and~~
- ~~r.~~
- m. the Director of the Oklahoma Commission on Children and Youth, or designee; and

3. The membership shall also include as voting members:

- a. ~~one representative from the Developmental Disabilities Council~~ the director, or designee, of a council that coordinates the efforts of state agencies and private organizations in meeting the needs of Oklahomans with intellectual and developmental disabilities,
- b. ~~one representative from the Statewide Independent Living Council,~~
- c. ~~two representatives from the Centers for Independent Living~~ the director, or designee, of a nonprofit community-based nonresidential organization that is run by and for people with disabilities and provides

programs and services to help individuals have a more independent lifestyle,

- ~~d. one representative from the Center for Learning and Leadership~~
- c. the director, or designee, of a federally designated University Center for Excellence in Developmental Disabilities (UCEDD),
- ~~e. one representative from the Oklahoma Disability Law Center~~
- d. the director, or designee, of a federally funded protection and advocacy system for people with disabilities,
- ~~f. one representative from ABLE Tech~~
- e. the director, or designee, of a federally funded program that helps enhance the opportunities for Oklahomans with disabilities to access and acquire needed assistive technology,
- ~~g. one representative from the Oklahoma Mental Health Consumer Council, and~~
- ~~h. a representative of a nonprofit agency, in a county of five hundred thousand (500,000) or more population, that collaborates on programs and services for persons with disabilities~~
- f. the director, or designee, of a nonprofit organization that advocates on behalf of all mental health consumers.

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

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

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

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

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

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

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

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

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

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

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

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

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

- ~~a. monitoring the implementation of the comprehensive, strategic plan for Oklahomans with disabilities, pursuant to the Olmstead Decision,~~
- ~~b. reviewing the service delivery system within the state and the way in which persons with disabilities currently access the services,~~
- ~~c. reviewing existing statutes, policies, programs, services and funding sources that affect Oklahomans with disabilities, including, but not limited to, identifying unique approaches and strategies to funding,~~
- ~~d. identifying and reviewing funding and resource information available to persons with disabilities and their families in this state,~~
- ~~e. identifying gaps and barriers in programs and services to individuals with disabilities and making any recommendations to enhance programs and the delivery system for persons with disabilities in Oklahoma,~~
- ~~f. examining the feasibility of expanding the eligibility criteria for people served by the Developmental Disabilities Services Division of the Department of Human Services to include people with disabilities who are not eligible for the Advantage Waiver program through the Aging Services Division and those with other diagnoses who are at risk of out-of-home placement,~~
- ~~g. studying the feasibility and impact of requiring that assistive technology suppliers in this state meet national certification requirements, and~~
- ~~h. taking all other actions necessary to monitor and assist with the implementation of the comprehensive strategic plan.~~

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

The Commission shall develop a five-year implementation plan for the State of Oklahoma to provide a comprehensive system of service delivery for Oklahomans with disabilities. The plan shall utilize outcome measures to determine the success or failure of the plan. The plan shall include, but not be limited to, an examination of the following concepts:

1. Performance-based contracting;
2. Residential and vocational rate structure;
3. Prioritization of access to services;
4. Privatization of case management and other services;
5. Maximization of federal funding;
6. State agency administrative structure;
7. Review of requirements based on administrative rules;
8. Medicaid waiver assurance; and
9. Rural support access.

H. The Attorney General shall work with the various agencies to help them assess their compliance with the Olmstead decision and the federal Americans with Disabilities Act (ADA) in providing services to qualified individuals with disabilities in community-based settings, as long as such services are appropriate to the needs of those individuals. The Attorney General shall provide technical guidance and work cooperatively with the state to achieve the goals of Title II of the ADA, particularly in the implementation of the Oklahoma plan to provide services to qualified individuals with disabilities in the most integrated settings. These agencies should also ensure that existing federal resources are used in the most effective manner to support the goals of the Oklahoma plan.

I. The Commission shall make an initial report to the Governor and the Legislature within one hundred eighty (180) calendar days of

the effective date of this act. The plan shall be submitted to the Governor and the Legislature within one (1) calendar year of the effective date of this act. Thereafter, the Commission shall submit annual reports throughout the implementation of the plan to the Governor and the Legislature.

J. The Attorney General, the Directors of the Department of Human Services, the State Department of Rehabilitation Services, the Department of Transportation, the Department of Commerce, the Oklahoma Department of Career Technology and Education, the Oklahoma Commission on Children and Youth and the Oklahoma Housing Finance Agency, the State Commissioner of Health, the Commissioner of the Department of Mental Health and Substance Abuse Services, the Commissioner of Labor, the Administrator of the Oklahoma Health Care Authority and the State Superintendent of Public Education shall evaluate the policies, programs, statutes and administrative rules of their respective agencies to determine whether any should be revised or amended to improve the availability of community-based services for qualified individuals with disabilities. The evaluation shall focus on identifying affected populations, improving the flow of information regarding supports in the community and removing barriers that impede opportunities for community placement. The evaluation shall include the involvement of consumers, advocacy organizations, providers and relevant agency representatives. Each agency director shall report the results of his or her evaluation to the Governor and the Legislature within one hundred twenty (120) calendar days of the effective date of this act.

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

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

Passed the House of Representatives the 17th day of May, 2017.

Presiding Officer of the House
of Representatives

Passed the Senate the 26th day of April, 2017.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____