

CHAPTER 231

HUMAN SERVICES - SOCIAL SERVICES

HOUSE BILL 25-1017

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also SENATOR(S) Michaelson Jenet and Amabile, Ball, Cutter, Danielson, Daugherty, Exum, Gonzales J., Jodeh, Kipp, Kolker, Rodriguez, Snyder, Wallace, Weissman, Winter F.

AN ACT

CONCERNING A COMMUNITY INTEGRATION PLAN FOR INDIVIDUALS WITH DISABILITIES, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** 8-88-102.5 as follows:

8-88-102.5. Comprehensive community integration plan for individuals with disabilities - review and assessment. (1) ON OR BEFORE SEPTEMBER 1, 2028, CDOO SHALL SERVE AS THE LEAD AGENCY RESPONSIBLE FOR DEVELOPING A COMPREHENSIVE COMMUNITY INTEGRATION PLAN, REFERRED TO IN THIS SECTION AS THE "PLAN", FOR IMPLEMENTING THE STATE'S COMMITMENT TO PROVIDING INDIVIDUALS WITH DISABILITIES OPPORTUNITIES TO LIVE, WORK, AND BE SERVED IN THE LEAST RESTRICTIVE SETTINGS POSSIBLE. IN DEVELOPING THE PLAN, CDOO SHALL COLLABORATE WITH THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, THE DEPARTMENT OF HUMAN SERVICES, THE DEPARTMENT OF LOCAL AFFAIRS, OTHER STATE AGENCIES IMPACTED BY THE PLAN, AND STAKEHOLDERS. THE PLAN MUST INCLUDE:

- (a) AN ANALYSIS OF THE EXTENT TO WHICH THE STATE IS PROVIDING SERVICES IN THE MOST INTEGRATED SETTING;
- (b) CONCRETE COMMITMENTS TO EXPAND INTEGRATED OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES;

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(c) SPECIFIC AND REASONABLE TIME FRAMES, MEASURABLE GOALS, AND BENCHMARKS FOR WHICH THE STATE IS HELD ACCOUNTABLE;

(d) FUNDING SOURCES TO SUPPORT THE PLAN, WHICH MAY COME FROM REALLOCATING EXISTING SERVICE MONEY; AND

(e) COMMITMENTS CONCERNING HOW THE STATE WILL MEET ITS GOALS FOR EACH GROUP OF INDIVIDUALS WITH DISABILITIES WHO ARE UNNECESSARILY SEGREGATED.

(2) THE CDOO SHALL REVIEW AND UPDATE THE PLAN EVERY THREE YEARS, BEGINNING ON SEPTEMBER 1, 2031. PART OF THE REVIEW MUST BE AN ASSESSMENT OF WHETHER THE TIME FRAMES, GOALS, AND BENCHMARKS SET PURSUANT TO SUBSECTION (1)(c) OF THIS SECTION HAVE BEEN MET. IF THE BENCHMARKS WERE NOT MET, THE UPDATED PLAN MUST INCLUDE A DESCRIPTION OF THE BARRIERS TO IMPLEMENTATION AND HOW THOSE BARRIERS WILL BE ADDRESSED.

(3) MONEY FOR THE CDOO TO DEVELOP, REVIEW, AND UPDATE THE PLAN IS LIMITED TO THE MONEY IN THE DISABILITY SUPPORT FUND CREATED IN SECTION 8-88-205, AND THE GENERAL ASSEMBLY SHALL NOT APPROPRIATE ANY MONEY FROM THE GENERAL FUND FOR THAT PURPOSE.

SECTION 2. In Colorado Revised Statutes, **add** part 11 to article 1 of title 25.5 as follows:

PART 11 COMMUNITY INTEGRATION

25.5-1-1101. Legislative declaration. (1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(a) THE UNITED STATES SUPREME COURT DECISION IN *OLMSTEAD V. L.C.*, 527 U.S. 581 (1999), REFERRED TO IN THIS PART 11 AS "*OLMSTEAD*", ENSHRINED IN LAW THE DUTY UPON STATES TO ACTIVELY WORK TOWARD HELPING INDIVIDUALS WITH DISABILITIES TRANSITION OUT OF INSTITUTIONS AND INTO THE COMMUNITY AND TO HAVE COMMUNITY-BASED SERVICES AVAILABLE TO DECREASE THE RISK OF INSTITUTIONALIZATION;

(b) *OLMSTEAD* PLACED ON STATES THE OBLIGATION TO ADMINISTER SERVICES, PROGRAMS, AND ACTIVITIES IN THE MOST INTEGRATED SETTING APPROPRIATE TO THE NEEDS OF QUALIFIED INDIVIDUALS WITH DISABILITIES;

(c) SEGREGATING INDIVIDUALS WITH DISABILITIES IN INSTITUTIONS DENIES THOSE INDIVIDUALS THE FREEDOM TO MAKE DECISIONS, KEEPS THEM APART FROM FAMILY AND FRIENDS, AND DENIES THEM OPPORTUNITIES THAT EXIST IN THEIR COMMUNITIES. SEGREGATION ALSO DENIES COMMUNITIES THE CONTRIBUTIONS THAT INDIVIDUALS WITH DISABILITIES MAKE TO THEIR COMMUNITIES.

(d) COMMUNITY-BASED SERVICES ARE CHEAPER IN THE LONG RUN THAN INSTITUTIONALIZATION SERVICES.

(2) THE GENERAL ASSEMBLY FURTHER DECLARES THAT CODIFYING IN STATE LAW

THE RIGHTS THAT WERE LEGALLY RECOGNIZED AS FEDERAL LAW THROUGH *OLMSTEAD* IS CRUCIAL BECAUSE:

(a) THE FUNDAMENTAL RIGHTS FOR INDIVIDUALS WITH DISABILITIES TO LIVE IN THE LEAST RESTRICTIVE SETTING AND TO HAVE ACCESS TO SERVICES IN THE COMMUNITY IS CONSISTENT WITH COLORADO'S RECOGNITION OF THE HUMANITY AND DIGNITY OF ALL INDIVIDUALS;

(b) THE *OLMSTEAD* DECISION REQUIRED STATES TO DEVELOP AN *OLMSTEAD* PLAN. COLORADO'S PLAN, CALLED THE "COLORADO COMMUNITY LIVING PLAN", WAS DEVELOPED MORE THAN TEN YEARS AGO AS A COLLABORATION BETWEEN THE STATE DEPARTMENTS OF HEALTH CARE POLICY AND FINANCING, HUMAN SERVICES, AND LOCAL AFFAIRS. THE PLAN'S EFFECTIVENESS HAS NEVER BEEN EVALUATED OR UPDATED, AND THE PLAN IS INSUFFICIENT; AND

(c) FEDERAL LAW UNDER *OLMSTEAD* CURRENTLY PROVIDES A PRIVATE RIGHT OF ACTION TO ENFORCE THE LAW. THEREFORE, THE GENERAL ASSEMBLY DOES NOT SEE A NEED TO CREATE A NEW RIGHT OF ACTION. HOWEVER, IF THE *OLMSTEAD* PROTECTIONS ARE WEAKENED, WE URGE A FUTURE GENERAL ASSEMBLY TO STRENGTHEN THESE RIGHTS BY CREATING A PRIVATE RIGHT OF ACTION TO FURTHER ENFORCE THIS LAW FOR INDIVIDUALS WITH DISABILITIES.

25.5-1-1102. Definitions. AS USED IN THIS PART 11, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "COMMUNITY-BASED SERVICES" MEANS ANY OF THE FOLLOWING:

(a) HOME HEALTH-CARE SERVICES AUTHORIZED PURSUANT TO PARAGRAPH (7) OF SECTION 1905(a) OF THE "SOCIAL SECURITY ACT", 42 U.S.C. SEC. 1396d(a);

(b) PERSONAL CARE SERVICES AUTHORIZED PURSUANT TO PARAGRAPH (24) OF SECTION 1905(a) OF THE "SOCIAL SECURITY ACT", 42 U.S.C. SEC. 1396d(a);

(c) PACE SERVICES AUTHORIZED PURSUANT TO PARAGRAPH (26) OF SECTION 1905(a) OF THE "SOCIAL SECURITY ACT", 42 U.S.C. SEC. 1396d(a);

(d) HOME- AND COMMUNITY-BASED SERVICES AUTHORIZED PURSUANT TO SUBSECTIONS (b), (c), (i), (j), AND (k) OF SECTION 1915 OF THE "SOCIAL SECURITY ACT", 42 U.S.C. SEC. 1396n; SERVICES AUTHORIZED PURSUANT TO A WAIVER UNDER SECTION 1115 OF THE "SOCIAL SECURITY ACT", 42 U.S.C. SEC. 1315; AND SERVICES THROUGH COVERAGE AUTHORIZED UNDER SECTION 1937 OF THE "SOCIAL SECURITY ACT", 42 U.S.C. SEC. 1396u-7;

(e) CASE MANAGEMENT SERVICES AUTHORIZED UNDER SECTION 1905(a)(19) OF THE "SOCIAL SECURITY ACT", 42 U.S.C. SEC. 1396d(a)(19), AND SECTION 1915(g) OF THE "SOCIAL SECURITY ACT", 42 U.S.C. SEC. 1396n(g);

(f) REHABILITATIVE SERVICES, INCLUDING THOSE RELATED TO BEHAVIORAL HEALTH, DESCRIBED IN SECTION 1905(a)(13) OF THE "SOCIAL SECURITY ACT", 42 U.S.C. SEC. 1396d(a)(13); AND

(g) ANY OTHER SERVICES SPECIFIED BY THE UNITED STATES SECRETARY OF HEALTH AND HUMAN SERVICES.

(2) "DISABILITY" HAS THE SAME MEANING AS SET FORTH IN THE FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC. 12101 ET SEQ.

(3) "FUNDAMENTAL ALTERATION" MEANS A MODIFICATION THAT ALTERS THE ESSENTIAL NATURE OF THE GOODS, SERVICES, FACILITIES, PRIVILEGES, ADVANTAGES, OR ACCOMMODATIONS OFFERED BY A STATE OR PUBLIC ENTITY.

(4) "MOST INTEGRATED SETTING" AND "LEAST RESTRICTIVE SETTING" BOTH MEAN THE SETTING THAT ENABLES A QUALIFIED INDIVIDUAL WITH A DISABILITY TO INTERACT TO THE FULLEST EXTENT POSSIBLE WITH PERSONS WHO DO NOT HAVE A DISABILITY.

(5) "PLAN" MEANS THE STATE'S COMPREHENSIVE COMMUNITY INTEGRATION PLAN, DEVELOPED PURSUANT TO SECTION 8-88-102.5.

(6) "PUBLIC OR GOVERNMENTAL ENTITY" MEANS:

(a) THE STATE OR ANY DEPARTMENT, BOARD, AGENCY, INSTRUMENTALITY, AUTHORITY, OR COMMISSION OF THE STATE; AND

(b) ANY POLITICAL SUBDIVISION OF THE STATE, INCLUDING:

(I) A COUNTY, CITY, OR CITY AND COUNTY;

(II) A SCHOOL DISTRICT AS DEFINED IN SECTION 22-36-107;

(III) A LOCAL IMPROVEMENT DISTRICT AS DEFINED IN SECTION 32-7-103;

(IV) A LAW ENFORCEMENT AUTHORITY;

(V) A WATER, SANITATION, FIRE PROTECTION, METROPOLITAN, IRRIGATION, DRAINAGE, OR OTHER SPECIAL DISTRICT CREATED PURSUANT TO TITLE 32;

(VI) ANY OTHER MUNICIPAL, QUASI-MUNICIPAL, OR PUBLIC CORPORATION ORGANIZED PURSUANT TO THE STATE CONSTITUTION OR OTHER LAW; AND

(VII) ANY DEPARTMENT, BOARD, AGENCY, INSTRUMENTALITY, AUTHORITY, OR COMMISSION OF A POLITICAL SUBDIVISION OF THE STATE.

(7) "QUALIFIED INDIVIDUAL WITH A DISABILITY" HAS THE SAME MEANING AS SET FORTH IN THE FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC. 12101 ET SEQ.

25.5-1-1103. Case management-based services and activities. EACH PUBLIC AND GOVERNMENTAL ENTITY SHALL ADMINISTER SERVICES, PROGRAMS, AND ACTIVITIES IN THE MOST INTEGRATED SETTING APPROPRIATE TO THE NEEDS OF A QUALIFIED INDIVIDUAL WITH A DISABILITY.

25.5-1-1104. Community-based services - cutting services by state or public entity - plan to ameliorate risk of institutionalization for qualified individuals with disabilities. (1) EACH PUBLIC AND GOVERNMENTAL ENTITY SHALL PROVIDE COMMUNITY-BASED SERVICES TO A QUALIFIED INDIVIDUAL WITH A DISABILITY WHEN:

(a) THE SERVICES ARE APPROPRIATE, AS DETERMINED BY THE STATE'S TREATING PROFESSIONALS;

(b) THE AFFECTED INDIVIDUAL DOES NOT OPPOSE RECEIVING COMMUNITY-BASED SERVICES; AND

(c) COMMUNITY-BASED SERVICES CAN BE REASONABLY ACCOMMODATED, TAKING INTO ACCOUNT THE RESOURCES AVAILABLE TO THE PUBLIC OR GOVERNMENTAL ENTITY AND THE NEEDS OF OTHER QUALIFIED INDIVIDUALS WITH DISABILITIES.

(2) IF THE PUBLIC OR GOVERNMENTAL ENTITY CUTS SERVICES, IT SHALL ASSESS WHETHER THE SERVICE CUTS INCREASE THE RISK OF INSTITUTIONALIZATION FOR THOSE INDIVIDUALS WHO ARE RECEIVING SERVICES. IN MAKING SUCH BUDGET CUTS, PUBLIC AND GOVERNMENTAL ENTITIES HAVE A DUTY TO TAKE ALL REASONABLE STEPS TO AVOID PLACING QUALIFIED INDIVIDUALS WITH DISABILITIES AT RISK OF INSTITUTIONALIZATION.

25.5-1-1105. Exception for fundamental alteration of an entity's program.

(1) A PUBLIC OR GOVERNMENTAL ENTITY IS NOT REQUIRED TO COMPLY WITH THIS PART 11 IF DOING SO WOULD REQUIRE A FUNDAMENTAL ALTERATION OF THE ENTITY'S PROGRAM.

(2) (a) THE FOLLOWING FACTORS MUST BE CONSIDERED FOR PURPOSES OF EVALUATING A FUNDAMENTAL ALTERATION DEFENSE TO NOT COMPLYING WITH THIS PART 11:

(I) THE AMOUNT OF MONEY THE PUBLIC OR GOVERNMENTAL ENTITY ALLOTS, SPENDS, RECEIVES, OR COULD RECEIVE IF THE ENTITY APPLIED FOR AVAILABLE FEDERAL FUNDING TO PROVIDE SERVICES TO QUALIFIED INDIVIDUALS WITH DISABILITIES;

(II) ALL RELEVANT COSTS, NOT JUST THOSE FUNDED BY THE SINGLE AGENCY THAT OPERATES OR FUNDS THE SEGREGATED OR INTEGRATED SETTING FOR QUALIFIED INDIVIDUALS WITH DISABILITIES;

(III) CHANGES IN THE COSTS OF THE SEGREGATED SETTING COMPARED WITH CHANGES IN COSTS OF COMMUNITY-BASED SERVICES;

(IV) ANY POSSIBLE TRANSITIONAL COSTS OF CONVERTING FROM SEGREGATED TO INTEGRATED SETTINGS FOR QUALIFIED INDIVIDUALS WITH DISABILITIES. TRANSITIONAL COSTS MAY BE CONSIDERED, BUT ARE NOT DETERMINATIVE; AND

(V) WHETHER THE PROPOSED MODIFICATION RESULTS IN THE REDUCTION OR DELAY OF THE RECEIPT OF COMMUNITY-BASED SERVICES FOR OTHER INDIVIDUALS WITH DISABILITIES.

(b) IF A PUBLIC OR GOVERNMENTAL ENTITY DECIDES TO SERVE NEW QUALIFIED INDIVIDUALS WITH DISABILITIES IN SEGREGATED SETTINGS AFTER INDIVIDUALS WITH DISABILITIES IN A PLAINTIFF CLASS ARE MOVED TO INTEGRATED SETTINGS, RATHER THAN TO CLOSE OR DOWNSIZE THE SEGREGATED SETTINGS, THE COSTS ASSOCIATED WITH SUCH A DECISION MUST NOT BE INCLUDED IN THE FUNDAMENTAL ALTERATION ANALYSIS.

25.5-1-1106. No private right of action - consistency with federal *Olmstead* standard. (1) NOTHING IN THIS PART 11 CREATES:

(a) A NEW RIGHT OF ACTION AGAINST THE STATE OF COLORADO OR OTHER PUBLIC ENTITIES; OR

(b) A STANDARD DIFFERENT THAN THAT DELINEATED IN *OLMSTEAD*, SUBSEQUENT CASES INTERPRETING *OLMSTEAD*, AND UNITED STATES DEPARTMENT OF JUSTICE GUIDANCE INTERPRETING *OLMSTEAD*, AS OF APRIL 20, 2025.

SECTION 3. In Colorado Revised Statutes, **amend** 8-88-205 as follows:

8-88-205. Disability support fund. (1) There is created in the state treasury the disability support fund, which consists of money that may be appropriated or transferred to the fund by the general assembly; and any gifts, grants, or donations received by the department for the purpose of implementing this ~~part 2~~ ARTICLE 88.

(2) The money in the fund is subject to annual appropriation by the general assembly for the direct and indirect costs associated with the implementation of this ~~part 2~~ ARTICLE 88. Any money in the fund not expended for the purpose of this section may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of money in the fund must be credited to the fund. Any unexpended and unencumbered money remaining in the fund at the end of a fiscal year must remain in the fund for use as provided in this ~~part 2~~ ARTICLE 88 and must not be credited or transferred to the general fund or another fund. If this section is repealed, prior to its repeal, all unexpended and unencumbered money remaining in the fund must be transferred to the general fund.

SECTION 4. Appropriation. For the 2025-26 state fiscal year, \$658,410 is appropriated to the department of labor and employment. This appropriation is from the disability support fund created in section 8-88-205 (1), C.R.S., and is based on an assumption that the department will require an additional 1.8 FTE. To implement this act, the department may use this appropriation for the Colorado disability opportunity office.

SECTION 5. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be

held in November 2026 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 22, 2025