

LEGISLATIVE BILL 1033

Approved by the Governor April 18, 2016

Introduced by Campbell, 25.

A BILL FOR AN ACT relating to persons with disabilities; to provide legislative intent; to create an advisory committee within the Department of Health and Human Services and provide powers and duties to the department; to require reports; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. The Legislature finds and declares that:

(1) In 1999 the United States Supreme Court held in the case of Olmstead v. L.C., 527 U.S. 581, that unjustified segregation of persons with disabilities constitutes discrimination in violation of Title II of the federal Americans with Disabilities Act of 1990. The court held that public entities must provide community-based services to persons with disabilities when (a) such services are appropriate, (b) the affected persons do not oppose community-based services, and (c) community-based services can be reasonably accommodated, taking into account the resources available to the public entity and the needs of others who are receiving disability services from the entity. The court stated that institutional placement of persons who can handle and benefit from community-based services perpetuates unwarranted assumptions that persons so isolated are incapable or unworthy of participating in community life, and that confinement in an institution severely diminishes the everyday life activities of individuals, including family relations, social contacts, work options, economic independence, educational advancement, and cultural enrichment;

(2) Many Nebraskans with disabilities live in institutional placements where they are segregated and isolated with diminished opportunities to participate in community life; and

(3) The United States Supreme Court further stated in the Olmstead decision that development of (a) a comprehensive, effective working plan for providing services to qualified persons with disabilities in the most integrated community-based settings and (b) a waiting list that moves at a reasonable pace could be important ways for a state to demonstrate its commitment to achieving compliance with the federal Americans with Disabilities Act of 1990.

Sec. 2. (1) The Department of Health and Human Services shall develop a comprehensive strategic plan for providing services to qualified persons with disabilities in the most integrated community-based settings pursuant to the Olmstead decision.

(2) The department shall (a) convene a team consisting of persons from each of the six divisions of the department to assess components of the strategic plan which may be in development; (b) consult with other state agencies that administer programs serving persons with disabilities; (c) appoint and convene a stakeholder advisory committee to assist in the review and development of the strategic plan, such committee members to include a representative from the State Advisory Committee on Mental Health Services, the Advisory Committee on Developmental Disabilities, the Nebraska Statewide Independent Living Council, the Nebraska Planning Council on Developmental Disabilities, the Division of Rehabilitation Services in the State Department of Education, a housing authority in a city of the first or second class and a housing authority in a city of the primary or metropolitan class, the Assistive Technology Partnership, the protection and advocacy system for Nebraska, an assisted-living organization, the behavioral health regions, mental health practitioners, developmental disability service providers, an organization that advocates for persons with developmental disabilities, an organization that advocates for persons with mental illness, an organization that advocates for persons with brain injuries, and an area agency on aging, and including two persons with disabilities representing self-advocacy organizations, and, at the department's discretion, other persons with expertise in programs serving persons with disabilities; (d) determine the need for a consultant to assist with the development of the strategic plan; (e) provide a preliminary progress report to the Legislature and the Governor by December 15, 2016, which includes, but is not limited to, (i) the components of the strategic plan which may be in development and (ii) the department's recommendation on hiring a consultant; (f) provide a second progress report to the Legislature and the Governor by December 15, 2017; and (g) provide the completed strategic plan to the Legislature and the Governor by December 15, 2018. The reports and completed plan shall be submitted electronically to the Legislature.

Sec. 3. Since an emergency exists, this act takes effect when passed and approved according to law.