

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1033

Introduced by Campbell, 25.

Read first time January 19, 2016

Committee: Health and Human Services

- 1 A BILL FOR AN ACT relating to persons with disabilities; to provide
- 2 legislative intent; to create an advisory committee within the
- 3 Department of Health and Human Services and provide powers and
- 4 duties to the department; to require reports; and to declare an
- 5 emergency.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. The Legislature finds and declares that:

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

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

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

29 Sec. 2. (1) The Department of Health and Human Services shall
30 develop a comprehensive strategic plan for placing qualified persons with
31 disabilities in the most integrated community-based service settings

1 pursuant to the Olmstead decision.

2 (2) The department shall (a) convene a team consisting of persons
3 from each of the six divisions of the department to assess components of
4 the strategic plan which may be in development; (b) consult with other
5 state agencies that administer programs serving persons with
6 disabilities; (c) appoint and convene a stakeholder advisory committee to
7 assist in the review and development of the strategic plan, such
8 committee members to include a representative from the State Advisory
9 Committee on Mental Health Services, the Advisory Committee on
10 Developmental Disabilities, the Nebraska Statewide Independent Living
11 Council, the Nebraska Planning Council on Developmental Disabilities, a
12 housing authority in a city of the first or second class and a housing
13 authority in a city of the primary or metropolitan class, the Assistive
14 Technology Partnership, the protection and advocacy system for Nebraska,
15 an assisted-living organization, the behavioral health regions, mental
16 health practitioners, developmental disability service providers, an
17 organization that advocates for persons with developmental disabilities,
18 an organization that advocates for persons with mental illness, an
19 organization that advocates for persons with brain injuries, an area
20 agency on aging, and, at the department's discretion, other persons with
21 expertise in programs serving persons with disabilities; (d) determine
22 the need for a consultant to assist with the development of the strategic
23 plan; (e) provide a preliminary progress report to the Legislature and
24 the Governor by December 15, 2016, which includes, but is not limited to,
25 (i) the components of the strategic plan which may be in development and
26 (ii) the department's recommendation on hiring a consultant; (f) provide
27 a second progress report to the Legislature and the Governor by December
28 15, 2017; and (g) provide the completed strategic plan to the Legislature
29 and the Governor by December 15, 2018. The reports and completed plan
30 shall be submitted electronically to the Legislature.

31 Sec. 3. Since an emergency exists, this act takes effect when

1 passed and approved according to law.