

**CHAPTER 403 (HB 144)**

AN ACT relating to services for persons with mental retardation and other developmental disabilities, and declaring an emergency.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:

*The General Assembly of the Commonwealth of Kentucky hereby finds and declares that:*

- (1) Assistance and support to citizens of the Commonwealth with mental retardation and other developmental disabilities are necessary and appropriate roles of state government;*
- (2) The current system of services and supports to persons with mental retardation and other developmental disabilities suffers from a lack of program coordination, funding, controls on quality of care, and review and evaluation;*
- (3) As part of the review and evaluation, it is necessary to require:*
  - (a) Identification, development, and provision of services and supports for persons with mental retardation and other developmental disabilities using available institutional care as appropriate and integrated with community-based services designed to be inclusive, responsive to individual needs, and protective of the individual's legal rights to equal opportunity;*
  - (b) Review of current funding mechanisms to determine the best method to establish an array of community-based comprehensive services using facility-based outpatient services and supports that are available through public and private sectors including nonprofit and for-profit service providers that will allow persons with mental retardation and other developmental disabilities the opportunity to participate in community life. The review shall include consideration of the availability of residential alternatives, employment opportunities, and opportunities for participation in community-based social and recreational activities; and*
  - (c) Development of funding strategies to promote appropriate use of community-based services and supports that provide:*
    - 1. Flexibility for persons with mental retardation and other developmental disabilities;*
    - 2. Distribution of available funds among all interested service providers, including nonprofit and for-profit service providers, based on the needs of the person with mental retardation and other developmental disabilities; and*
    - 3. Efficiency and accountability to the general public;*
- (4) Sections 1 to 3 of this Act shall be construed to protect and to promote the continuing development and maintenance of the physical, mental, and social skills of persons with mental retardation and other developmental disabilities; and*
- (5) Sections 1 to 3 of this Act shall not be construed:*
  - (a) To alter any requirements or responsibilities that are mandated by any state or federal law;*

- (b) To relieve any organizational unit or administrative body of its duties under state or federal law; or*
- (c) To transfer among state organizations or administrative bodies any responsibilities, powers, or duties that are mandated by state or federal law.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:

- (1) There is created the Kentucky Commission on Services and Supports for Individuals with Mental Retardation and Other Developmental Disabilities. The commission shall consist of:*
  - (a) The secretary of the Cabinet for Health Services;*
  - (b) The secretary of the Cabinet for Families and Children;*
  - (c) The commissioner of the Department for Mental Health and Mental Retardation Services;*
  - (d) The commissioner of the Department for Medicaid Services;*
  - (e) The commissioner of the Department of Vocational Rehabilitation;*
  - (f) The director of the University Affiliated Program at the Interdisciplinary Human Development Institute of the University of Kentucky;*
  - (g) The director of the Developmental Disabilities Council;*
  - (h) Two (2) members of the House of Representatives, appointed by the Speaker of the House;*
  - (i) Two (2) members of the Senate, appointed by the Senate President; and*
  - (j) Public members, appointed by the Governor within ninety (90) days of the effective date of this Act, as follows:*
    - 1. Three (3) family members, at least one (1) of whom shall be a member of a family with a child with mental retardation or other developmental disabilities, and one (1) of whom shall be a member of a family with an adult with mental retardation or other developmental disabilities;*
    - 2. Three (3) persons with mental retardation or other developmental disabilities;*
    - 3. Two (2) business leaders;*
    - 4. Three (3) direct service providers representing the Kentucky Association of Regional Programs and the Kentucky Association of Residential Resources; and*
    - 5. One (1) representative of a statewide advocacy group.*

*The six (6) appointments made under subparagraph 1. and subparagraph 2. of this paragraph shall be chosen to reflect representation from each of Kentucky's six (6) congressional districts.*
- (2) The secretary of the Cabinet for Health Services shall serve as chair of the commission.*
- (3) Members defined in paragraphs (a) to (h) of subsection (1) of this section shall serve during their terms of office. All public members appointed by the Governor shall serve a four (4) year term and may be reappointed.*

- (4) *All public members of the commission shall receive twenty-five dollars (\$25) per day for attending each meeting. All commission members shall be reimbursed for necessary travel and other expenses actually incurred in the discharge of duties of the commission.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:

- (1) *The commission created in Section 2 of this Act shall meet at least quarterly during the 2000-2001 biennium, at least biennially thereafter, or upon the call of the chair, the request of four (4) or more members, or the request of the Governor.*
- (2) *The commission shall serve in an advisory capacity to accomplish the following;*
- (a) *Advise the Governor and the General Assembly concerning the needs of persons with mental retardation and other developmental disabilities;*
  - (b) *Develop a statewide strategy to increase access to community-based services and supports for persons with mental retardation and other developmental disabilities. The strategy shall include:*
    - 1. *Identification of funding needs and related fiscal impact; and*
    - 2. *Criteria that establishes priority for services for individuals approved for slots that consider timeliness and service needs;*
  - (c) *Assess the need and potential utilization of specialized outpatient clinics for medical, dental, and special therapeutic services for persons with mental retardation and other developmental disabilities;*
  - (d) *Evaluate the effectiveness of state agencies and public and private service providers, including nonprofit and for-profit service providers in:*
    - 1. *Dissemination of information and education;*
    - 2. *Providing outcome oriented services; and*
    - 3. *Efficiently utilizing available slots and resources, including blended funding streams;*
  - (e) *Develop a recommended comprehensive ten (10) year plan for placement of qualified persons in the most integrated setting appropriate to their needs;*
  - (f) *Recommend an effective quality assurance and consumer satisfaction monitoring program that includes recommendations as to the appropriate role of family members, persons with mental retardation and other developmental disabilities, and advocates in quality assurance efforts; and*
  - (g) *Advise the Governor and the General Assembly on whether the recommendations should be implemented by administrative regulations or proposed legislation for the 2002 General Assembly.*
- (3) *Within six (6) months after the effective date of this Act, the secretary of the Cabinet for Health Services shall present the plan to the Governor and the members of the General Assembly.*
- (4) *The commission shall review the plan annually and shall submit annual updates no later than October 1 to the Governor and the Legislative Research Commission.*

- (5) *The commission shall cease to exist four (4) years after the effective date of this Act unless otherwise reauthorized by the General Assembly.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

- (a) *"Supports for Community Living waiver program" means funding from the Department for Medicaid Services to serve individuals with mental retardation or other developmental disabilities who qualify for intermediate care and choose to live in a community-based setting; and*
- (b) *"Slots" means the dedication of provider or financial resources for services to persons with mental retardation or other developmental disabilities.*

- (2) *The Department for Medicaid Services shall develop and implement flexible reimbursement and payment strategies that reflect the individually determined needs for services and supports by persons with mental retardation and other developmental disabilities participating in the Supports for Community Living waiver program.*
- (3) *The Department for Medicaid Services shall allocate slots to the fourteen (14) community mental health regions based on percentage of total population.*
- (4) *The Department for Medicaid Services shall reallocate underutilized slots to address statewide needs and shall reallocate slots in emergency situations to address unmet needs for services and supports.*
- (5) *Within six (6) months after the effective date of this Act, the Department for Medicaid Services shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement the requirements of this section.*

Section 5. KRS 347.010 is amended to read as follows:

The General Assembly of the Commonwealth of Kentucky hereby finds and declares that:

- (1) A *comprehensive and outcome-driven* ~~complete, effective~~ system of services and *supports* ~~care~~ provided to persons with developmental disabilities must be *designed*, coordinated, consistent, *and* monitored ~~and designed~~ to meet the *self-determined* needs of those persons as well as to protect their legal and human rights;
- (2) The current system of services and *supports* ~~care~~ for persons with developmental disabilities needs substantial improvement in order to provide an array of services *including person-driven community-based services and supports* ~~which allows active treatment and habilitation~~;
- (3) It is necessary to require:
- (a) The identification, ~~and evaluation of, and the~~ development, ~~and~~ provision, *and evaluation* of services and *supports* ~~active treatment~~ for ~~,~~ persons with developmental disabilities;
- (b) *Inter and intra-agency planning, development, implementation, and evaluation of services and supports that are the most community inclusive, responsive to individual needs, and that assure legal and human rights for equal opportunity* ~~Interagency development, coordinated planning and implementation of active treatment and service~~

~~programs which are the least restrictive and individually appropriate for persons with developmental disabilities, while safeguarding their legal and human rights];~~

~~(c) Development and provision of programs in the public and private sectors for the habilitation and active treatment of persons with developmental disabilities; and~~

~~(d) Establishment of an array of **community-based** comprehensive services and **supports, provided by** residential alternatives in the public and private sectors **that** allow persons with developmental disabilities the **right to participate in the life of the community, including residential alternatives, employment, and social and recreational activities** opportunity to live in the least restrictive, individually appropriate environment]; and~~

*(d) Funding strategies that promote the development of community-based services and supports that demonstrate:*

*1. Flexibility for the person with developmental disabilities;*

*2. Distribution of available funds among all interested service providers based on the needs of the person with developmental disabilities; and*

*3. Efficiency and accountability to the general public.*

(4) The provisions of this chapter shall be construed to protect and promote the continuing development and maintenance of physical, mental, and social skills of persons with developmental disabilities; **and**

(5) The provisions of this chapter shall not alter requirements and responsibilities mandated under any state or federal act, relieve any organizational unit or administrative body of its duties under **those** acts, or transfer among state organizations or administrative bodies any responsibilities, powers, or duties mandated by **those** acts.

Section 6. Whereas the current methods of providing access to community-based services and supports to persons with mental retardation and other developmental disabilities are inefficient and ineffective; and whereas there is a fundamental need for a comprehensive evaluation of the efforts of state agencies to provide needed services; and whereas there is a need to increase access to community-based services for persons with mental retardation and other developmental disabilities, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

**Approved April 14, 2000**