

117TH CONGRESS  
2D SESSION

# H. R. 6860

To prohibit discrimination against individuals with disabilities who need long-term services and supports, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 28, 2022

Ms. CLARKE of New York (for herself, Mr. COHEN, Mr. YARMUTH, Ms. SCHAKOWSKY, Mr. DOGGETT, Mr. FITZPATRICK, Mr. TONKO, Mr. DANNY K. DAVIS of Illinois, Mr. LANGEVIN, Ms. NORTON, Mr. RASKIN, Mrs. BUSTOS, Mr. DAVID SCOTT of Georgia, Mr. DELGADO, Mr. GARCÍA of Illinois, Mr. BOWMAN, Ms. WASSERMAN SCHULTZ, Mr. KILMER, Mr. MOULTON, Ms. HOULAHAN, Ms. BONAMICI, Mr. KEATING, Mr. MORELLE, Mr. SUOZZI, Mr. STANTON, Mr. THOMPSON of Mississippi, Ms. MCCOLLUM, Mr. SMITH of Washington, Mr. JOHNSON of Georgia, Ms. SEWELL, Mr. CICILLINE, Mr. CONNOLLY, Mr. CARSON, Ms. TLAIB, Mr. VARGAS, Mrs. MCBATH, Mr. DEUTCH, Mr. CORREA, Mr. PERLMUTTER, Ms. TITUS, Ms. ADAMS, Mr. LEVIN of Michigan, Mr. GRIJALVA, Mr. DESAULNIER, Ms. PRESSLEY, Mr. EVANS, and Mr. GARAMENDI) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To prohibit discrimination against individuals with disabilities who need long-term services and supports, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Latonya Reeves Free-  
3 dom Act of 2022”.

4 **SEC. 2. PURPOSES.**

5       The purposes of this Act are—

6           (1) to clarify and strengthen the integration  
7 mandate of the Americans with Disabilities Act of  
8 1990, held by the Supreme Court in *Olmstead v.*  
9 *L.C.*, 527 U.S. 581 (1999) in a manner that acceler-  
10 ates and improves State compliance;

11           (2) to ensure that States provide long-term  
12 services and supports to individuals with disabilities  
13 in a manner that allows individuals with disabilities  
14 to live in the most integrated setting, including the  
15 individual’s own home, have maximum control over  
16 their services and supports, and ensure that long-  
17 term services and supports are provided in a manner  
18 that allows individuals with disabilities to lead an  
19 independent life;

20           (3) to establish a comprehensive State planning  
21 requirement that includes enforceable, measurable  
22 objectives that are designed to transition individuals  
23 with all types of disabilities at all ages out of institu-  
24 tions and into the most integrated setting, if they  
25 choose that transition; and

1           (4) to identify and address racial, ethnic, geo-  
2           graphic, socioeconomic, sexual orientation, gender  
3           identity, and other disparities in the provision of  
4           community-based long-term services and supports.

5 **SEC. 3. DEFINITIONS AND RULE.**

6           (a) DEFINITIONS.—In this Act:

7           (1) ACTIVITIES OF DAILY LIVING.—The term  
8           “activities of daily living” has the meaning given the  
9           term in section 441.505 of title 42, Code of Federal  
10          Regulations (or a successor regulation).

11          (2) ADMINISTRATOR.—The term “Adminis-  
12          trator” means—

13                (A) the Administrator of the Administra-  
14                tion for Community Living; or

15                (B) another designee of the Secretary of  
16                Health and Human Services.

17          (3) COMMUNITY-BASED.—The term “commu-  
18          nity-based”, when used in reference to services or  
19          supports, means services or supports that are pro-  
20          vided to an individual with an LTSS disability to en-  
21          able that individual to live in the community and  
22          lead an independent life, and that are delivered in  
23          whichever setting the individual with an LTSS dis-  
24          ability has chosen out of the following settings with  
25          the following qualities:

1 (A) In the case of a dwelling or a nonresi-  
2 dential setting (such as a setting in which an  
3 individual with an LTSS disability receives day  
4 services and supported employment), a dwelling  
5 or setting—

6 (i) that, as a matter of infrastructure,  
7 environment, amenities, location, services,  
8 and features, is integrated into the greater  
9 community and supports, for each indi-  
10 vidual with an LTSS disability who re-  
11 ceives services or supports at the setting—

12 (I) full access to the greater com-  
13 munity (including access to opportuni-  
14 ties to seek employment and work in  
15 competitive integrated settings, en-  
16 gage in community life, control per-  
17 sonal resources, and receive services  
18 in the community); and

19 (II) access to the greater commu-  
20 nity to the same extent as access to  
21 the community is enjoyed by an indi-  
22 vidual who is not receiving long-term  
23 services or supports;

24 (ii) that the individual has selected as  
25 a meaningful choice from among nonresi-

1           dential setting options, including nondis-  
2           ability-specific settings;

3           (iii) in which an individual has rights  
4           to privacy, dignity, and respect, and free-  
5           dom from coercion and restraint;

6           (iv) that, as a matter of infrastruc-  
7           ture, environment, amenities, location,  
8           services, and features, optimizes, but does  
9           not regiment, individual initiative, auton-  
10          omy, and independence in making life  
11          choices, including choices about daily ac-  
12          tivities, physical environment, and persons  
13          with whom the individual interacts; and

14          (v) that, as a matter of infrastructure,  
15          environment, amenities, location, services,  
16          and features, facilitates individual choice  
17          regarding the provision of services and  
18          supports, and who provides those services  
19          and supports.

20        (B) In the case of a dwelling, a dwelling—

21           (i) that is owned by an individual with  
22           an LTSS disability or the individual's fam-  
23           ily member;

24           (ii) that is leased to the individual  
25           with an LTSS disability under an indi-

vidual lease, that has lockable access and egress, and that includes living, sleeping, bathing, and cooking areas over which an individual with an LTSS disability or the individual's family member has domain and control; or

(iii) that is a group or shared residence—

(I) in which no more than 4 unrelated individuals with an LTSS disability reside;

(II) for which each individual with an LTSS disability living at the residence owns, rents, or occupies the residence under a legally enforceable agreement under which the individual has, at a minimum, the same responsibilities and protections as tenants have under applicable landlord-tenant law;

(III) in which each individual with an LTSS disability living at the residence—

(aa) has privacy in the individual's sleeping unit, including a

1 lockable entrance door controlled  
2 by the individual;

3 (bb) shares a sleeping unit  
4 only if such individual and the  
5 individual sharing the unit choose  
6 to do so, and if individuals in the  
7 residence so choose, they also  
8 have a choice of roommates with-  
9 in the residence;

10 (cc) has the freedom to fur-  
11 nish and decorate the individual's  
12 sleeping or living unit as per-  
13 mitted under the lease or other  
14 agreement;

15 (dd) has the freedom and  
16 support to control the individ-  
17 ual's own schedules and activi-  
18 ties; and

19 (ee) is able to have visitors  
20 of the individual's choosing at  
21 any time; and

22 (IV) that is physically accessible  
23 to the individual with an LTSS dis-  
24 ability living at the residence.

1           (4) DWELLING.—The term “dwelling” has the  
2           meaning given the term in section 802 of the Fair  
3           Housing Act (42 U.S.C. 3602).

4           (5) HEALTH-RELATED TASKS.—The term  
5           “health-related tasks” means specific nonacute  
6           tasks, typically regulated by States as medical or  
7           nursing tasks that an individual with a disability  
8           may require to live in the community, including—

9                   (A) administration of medication;

10                   (B) assistance with use, operation, and  
11                   maintenance of a ventilator; and

12                   (C) maintenance and use of a gastrostomy  
13                   tube, a catheter, or a stable ostomy.

14           (6) INDIVIDUAL WITH A DISABILITY.—The term  
15           “individual with a disability” means an individual  
16           who is a person with a disability, as defined in sec-  
17           tion 3 of the Americans with Disabilities Act of  
18           1990 (42 U.S.C. 12102).

19           (7) INDIVIDUAL WITH AN LTSS DISABILITY.—  
20           The term “individual with an LTSS disability”  
21           means an individual with a disability who—

22                   (A) in order to live in the community and  
23                   lead an independent life requires assistance in  
24                   accomplishing—

25                           (i) activities of daily living;



1 (ii) instrumental activities of daily liv-  
 2 ing;

3 (iii) health-related tasks; or

4 (iv) other functions, tasks, or activi-  
 5 ties related to an activity or task described  
 6 in clause (i), (ii), or (iii); and

7 (B)(i) is currently in an institutional place-  
 8 ment; or

9 (ii) is at risk of institutionalization if the  
 10 individual does not receive community-based  
 11 long-term services and supports.

12 (8) INSTITUTION.—The term “institution”  
 13 means—

14 (A) a skilled nursing facility (as defined in  
 15 section 1819(a) of the Social Security Act (42  
 16 U.S.C. 1395i–3(a)));

17 (B) a nursing facility (as defined in section  
 18 1919(a) of such Act (42 U.S.C. 1396r(a)));

19 (C) a long-term care hospital (as described  
 20 in section 1886(d)(1)(B)(iv) of such Act (42  
 21 U.S.C. 1395ww(d)(1)(B)(iv)));

22 (D) a facility described in section 1905(d)  
 23 of such Act (42 U.S.C. 1396d(d));

24 (E) an institution which is a psychiatric  
 25 hospital (as defined in section 1861(f) of such

1 Act (42 U.S.C. 1395x(f)) or that provides in-  
2 patient psychiatric services in a residential set-  
3 ting specified by the Secretary;

4 (F) an institution described in section  
5 1905(i) of such Act (42 U.S.C. 1396d(i)); and

6 (G) any congregate health care services  
7 setting that is not community-based.

8 (9) INSTRUMENTAL ACTIVITIES OF DAILY LIV-  
9 ING.—

10 (A) IN GENERAL.—The term “instru-  
11 mental activities of daily living” means one or  
12 more activities related to living independently in  
13 the community, including activities related to—

14 (i) nutrition, such as preparing meals  
15 or special diets, monitoring to prevent  
16 choking or aspiration, or assisting with  
17 special utensils;

18 (ii) household chores and environ-  
19 mental maintenance tasks;

20 (iii) communication and interpersonal  
21 skills, such as—

22 (I) using the telephone or other  
23 communications devices;

24 (II) forming and maintaining  
25 interpersonal relationships; or

1 (III) securing opportunities to  
2 participate in group support or peer-  
3 to-peer support arrangements;

4 (iv) travel and community participa-  
5 tion, such as shopping, arranging appoint-  
6 ments, or moving around the community;

7 (v) care of others, such as raising  
8 children, taking care of pets, or selecting  
9 caregivers; or

10 (vi) management of personal property  
11 and personal safety, such as—

12 (I) taking medication;

13 (II) handling or managing  
14 money; or

15 (III) responding to emergent sit-  
16 uations or unscheduled needs requir-  
17 ing an immediate response.

18 (B) ASSISTANCE.—The term “assistance”  
19 used with respect to instrumental activities of  
20 daily living, includes support provided to an in-  
21 dividual by another person due to confusion, de-  
22 mentia, behavioral symptoms, or cognitive, in-  
23 tellectual, mental, or emotional disabilities, in-  
24 cluding support to—

1 (i) help the individual identify and set  
2 goals, overcome fears, and manage transi-  
3 tions;

4 (ii) help the individual with executive  
5 functioning, decision making, and problem  
6 solving;

7 (iii) provide reassurance to the indi-  
8 vidual; and

9 (iv) help the individual with orienta-  
10 tion, memory, and other activities related  
11 to independent living.

12 (10) LONG-TERM SERVICE OR SUPPORT.—The  
13 terms “long-term service or support” and “LTSS”  
14 mean the assistance provided to an individual with  
15 a disability in accomplishing, acquiring the means or  
16 ability to accomplish, maintaining, or enhancing—

17 (A) activities of daily living;

18 (B) instrumental activities of daily living;

19 (C) health-related tasks; or

20 (D) other functions, tasks, or activities re-  
21 lated to an activity or task described in sub-  
22 paragraph (A), (B), or (C).

23 (11) LTSS INSURANCE PROVIDER.—The term  
24 “LTSS insurance provider” means a public or pri-  
25 vate entity that—

1 (A) provides funds for long-term services  
2 and supports; and

3 (B) is engaged in commerce or in an in-  
4 dustry or activity affecting commerce.

5 (12) PUBLIC ENTITY.—

6 (A) IN GENERAL.—The term “public enti-  
7 ty” means an entity that—

8 (i) provides or funds institutional  
9 placements for individuals with LTSS dis-  
10 abilities; and

11 (ii) is—

12 (I) a State or local government;

13 or

14 (II) any department, agency, en-  
15 tity administering a special purpose  
16 district, or other instrumentality, of a  
17 State or local government.

18 (B) INTERSTATE COMMERCE.—For pur-  
19 poses of subparagraph (A), a public entity shall  
20 be considered to be a person engaged in com-  
21 merce or in an industry or activity affecting  
22 commerce.

23 (b) RULE OF CONSTRUCTION.—Nothing in sub-  
24 section (a)(2) or any other provision of this section shall  
25 be construed to preclude an individual with a disability

1 from receiving community-based services and supports in  
2 an integrated community setting such as a grocery store,  
3 retail establishment, restaurant, bank, park, concert  
4 venue, theater, or workplace.

5 **SEC. 4. DISCRIMINATION.**

6 (a) IN GENERAL.—No public entity or LTSS insur-  
7 ance provider shall deny an individual with an LTSS dis-  
8 ability who is eligible for institutional placement, or other-  
9 wise discriminate against that individual in the provision  
10 of, community-based long-term services and supports that  
11 enable the individual to live in the community and lead  
12 an independent life.

13 (b) SPECIFIC PROHIBITIONS.—For purposes of this  
14 Act, discrimination by a public entity or LTSS insurance  
15 provider includes—

16 (1) the imposition or application of eligibility  
17 criteria or another policy that prevents or tends to  
18 prevent an individual with an LTSS disability, or  
19 any class of individuals with LTSS disabilities, from  
20 receiving a community-based long-term service or  
21 support;

22 (2) the imposition or application of a policy or  
23 other mechanism, such as a service or cost cap, that  
24 prevent or tends to prevent an individual with an  
25 LTSS disability, or any class of individuals with

1 LTSS disabilities, from receiving a community-based  
2 long-term service or support;

3 (3) a failure to provide a specific community-  
4 based long-term service or support or a type of com-  
5 munity-based long-term service or support needed  
6 for an individual with an LTSS disability, or any  
7 class of individuals with LTSS disabilities;

8 (4) the imposition or application of a policy,  
9 rule, regulation, or restriction that interferes with  
10 the opportunity for an individual with an LTSS dis-  
11 ability, or any class of individuals with LTSS dis-  
12 abilities, to live in the community and lead an inde-  
13 pendent life, which may include a requirement that  
14 an individual with an LTSS disability receive a serv-  
15 ice or support (such as day services or employment  
16 services) in a congregate or disability-specific set-  
17 ting;

18 (5) the imposition or application of a waiting  
19 list or other mechanism that delays or restricts ac-  
20 cess of an individual with an LTSS disability to a  
21 community-based long-term service or support;

22 (6) a failure to establish an adequate rate or  
23 other payment structure that is necessary to ensure  
24 the availability of a workforce sufficient to support

1 an individual with an LTSS disability in living in  
2 the community and leading an independent life;

3 (7) a failure to provide community-based serv-  
4 ices and supports, on an intermittent, short-term, or  
5 emergent basis, that assist an individual with an  
6 LTSS disability to live in the community and lead  
7 an independent life;

8 (8) the imposition or application of a policy,  
9 such as a requirement that an individual utilize in-  
10 formal support, that restricts, limits, or delays the  
11 ability of an individual with an LTSS disability to  
12 secure a community-based long-term service or sup-  
13 port to live in the community or lead an independent  
14 life;

15 (9) a failure to implement a formal procedure  
16 and a mechanism to ensure that—

17 (A) individuals with LTSS disabilities are  
18 offered the alternative of community-based  
19 long-term services and supports prior to institu-  
20 tionalization; and

21 (B) if selected by an individual with an  
22 LTSS disability, the community-based long-  
23 term services and supports described in sub-  
24 paragraph (A) are provided;



1           (10) a failure to ensure that each institutional-  
2       ized individual with an LTSS disability is regularly  
3       notified of the alternative of community-based long-  
4       term services and supports and that those commu-  
5       nity-based long-term services and supports are pro-  
6       vided if the individual with an LTSS disability se-  
7       lects such services and supports; and

8           (11) a failure to make a reasonable modifica-  
9       tion in a policy, practice, or procedure, when such  
10      modification is necessary to allow an individual with  
11      an LTSS disability to receive a community-based  
12      long-term service or support.

13      (c) ADDITIONAL PROHIBITION.—For purposes of this  
14   Act, discrimination by a public entity also includes a fail-  
15   ure to ensure that there is sufficient availability of afford-  
16   able, accessible, and integrated housing to allow an indi-  
17   vidual with an LTSS disability to choose to live in the  
18   community and lead an independent life, including the  
19   availability of an option to live in housing where the re-  
20   ceipt of LTSS is not tied to tenancy.

21      (d) CONSTRUCTION.—Nothing in this section—

22           (1) shall be construed—

23                (A) to prevent a public entity or LTSS in-  
24           surance provider from providing community-  
25           based long-term services and supports at a level

1           that is greater than the level that is required by  
2           this section; or

3                   (B) to limit the rights of an individual with  
4           a disability under any provision of law other  
5           than this section;

6           (2) shall be construed to affect the scope of ob-  
7           ligations imposed by any other provision of law; or

8           (3) shall be construed to prohibit a public entity  
9           or LTSS insurance provider from using managed  
10          care techniques, as long as the use of such tech-  
11          niques does not have the effect of discriminating  
12          against an individual in the provision of community-  
13          based long-term services and supports, as prohibited  
14          by this Act.

15 **SEC. 5. ADMINISTRATION.**

16          (a) **AUTHORITY AND RESPONSIBILITY.**—

17                  (1) **DEPARTMENT OF JUSTICE.**—The Attorney  
18          General shall investigate and take enforcement ac-  
19          tion for violations of this Act.

20                  (2) **DEPARTMENT OF HEALTH AND HUMAN**  
21          **SERVICES.**—The Secretary of Health and Human  
22          Services, through the Administrator, shall—

23                          (A) review, and approve or disapprove,  
24                  transition plans submitted by public entities,  
25                  under section 6(b)(10);

1 (B) establish a task force to assess racial,  
2 ethnic, geographic, socioeconomic, sexual ori-  
3 entation, gender identity, and other disparities  
4 in the availability and provision of community-  
5 based long-term services and supports, which  
6 task force shall be responsible for—

7 (i) overseeing studies regarding the  
8 nature and extent of racial, ethnic, geo-  
9 graphic, socioeconomic, sexual orientation,  
10 gender identity, and other disparities in  
11 the availability and provision of commu-  
12 nity-based long-term services and supports  
13 and the impact that those disparities have  
14 on the institutionalization of individuals  
15 with LTSS disabilities; and

16 (ii) submitting to Congress not later  
17 than 2 years after the date of enactment  
18 of this Act a report on the nature and ex-  
19 tent of racial, ethnic, geographic, socio-  
20 economic, sexual orientation, gender iden-  
21 tity, and other disparities in the avail-  
22 ability and provision of community-based  
23 long-term services and supports, including  
24 recommendations for addressing those dis-  
25 parities;

1 (C) establish a task force to identify obsta-  
2 cles that prevent individuals with LTSS disabil-  
3 ities from being able to choose community-  
4 based alternatives to institutionalization, and to  
5 recommend legislative or executive action to ad-  
6 dress the obstacles; and

7 (D) refer information on violations of this  
8 Act to the Attorney General for investigation  
9 and enforcement action under this Act.

10 (b) COOPERATION OF EXECUTIVE DEPARTMENTS  
11 AND AGENCIES.—Each Federal agency and, in particular,  
12 each Federal agency covered by Executive Order 13217  
13 (66 Fed. Reg. 33155; relating to community-based alter-  
14 natives for individuals with disabilities), shall carry out  
15 programs and activities relating to the institutionalization  
16 of individuals with LTSS disabilities and the provision of  
17 community-based long-term services and supports for indi-  
18 viduals with LTSS disabilities in accordance with this Act  
19 and shall cooperate with the Attorney General and the Ad-  
20 ministrator to further the purposes of this Act.

21 **SEC. 6. REGULATIONS.**

22 (a) ISSUANCE OF REGULATIONS.—Not later than 2  
23 years after the date of enactment of this Act, the Attorney  
24 General shall issue, in accordance with section 553 of title  
25 5, United States Code, final regulations to carry out this

1 Act, which shall include the regulations described in sub-  
2 section (b).

3 (b) REQUIRED CONTENTS OF REGULATIONS.—

4 (1) PROTECTED INDIVIDUALS.—The regula-  
5 tions shall require each public entity and LTSS in-  
6 surance provider to offer, and, if accepted, provide  
7 community-based long-term services and supports as  
8 required under this Act to any individual with an  
9 LTSS disability who would otherwise qualify for in-  
10 stitutional placement provided or funded by the pub-  
11 lic entity or LTSS insurance provider.

12 (2) SERVICES TO BE PROVIDED.—The regula-  
13 tions issued under this section shall require each  
14 public entity and LTSS insurance provider to pro-  
15 vide the Attorney General and the Administrator  
16 (for purposes of enabling the Attorney General to  
17 consult with the Administrator) with an assurance  
18 that the public entity or LTSS insurance provider—

19 (A) ensures that individuals with LTSS  
20 disabilities receive assistance through hands-on  
21 assistance, training, cueing, and safety moni-  
22 toring, including access to backup systems,  
23 with—

24 (i) activities of daily living;

1 (ii) instrumental activities of daily liv-  
2 ing;

3 (iii) health-related tasks; or

4 (iv) other functions, tasks, or activi-  
5 ties related to an activity or task described  
6 in clause (i), (ii), or (iii);

7 (B) coordinates, conducts, performs, pro-  
8 vides, or funds discharge planning from acute,  
9 rehabilitation, and long-term facilities to pro-  
10 mote individuals with LTSS disabilities living in  
11 the most integrated setting chosen by the indi-  
12 viduals;

13 (C) issues, conducts, performs, provides, or  
14 funds policies and programs to promote self-di-  
15 rection and the provision of consumer-directed  
16 services and supports for all populations of indi-  
17 viduals with LTSS disabilities served;

18 (D) issues, conducts, performs, provides,  
19 or funds policies and programs to support infor-  
20 mal caregivers who provide services for individ-  
21 uals with LTSS disabilities; and

22 (E) ensures that individuals with all types  
23 of LTSS disabilities are able to live in the com-  
24 munity and lead an independent life, including  
25 ensuring that the individuals have maximum

1 control over the services and supports that the  
2 individuals receive, choose the setting in which  
3 the individuals receive those services and sup-  
4 ports, and exercise control and direction over  
5 their own lives.

6 (3) PUBLIC PARTICIPATION.—

7 (A) PUBLIC ENTITY.—The regulations  
8 issued under this section shall require each pub-  
9 lic entity to carry out a public participation  
10 process in preparing the public entity's self-  
11 evaluation under paragraph (5) and transition  
12 plan under paragraph (10).

13 (B) LTSS INSURANCE PROVIDER.—The  
14 regulations issued under this section shall re-  
15 quire each LTSS insurance provider to carry  
16 out a public participation process that involves  
17 holding a public hearing, providing an oppor-  
18 tunity for public comment, and consulting with  
19 individuals with LTSS disabilities, in preparing  
20 the LTSS insurance provider's self-evaluation  
21 under paragraph (5).

22 (C) PROCESS.—In carrying out a public  
23 participation process under subparagraph (A)  
24 or (B), a public entity or LTSS insurance pro-  
25 vider shall ensure that the process meets the re-

1           quirements of subparagraphs (A) and (C) of  
2           section 1115(d)(2) of the Social Security Act  
3           (42 U.S.C. 1315(d)(2)), except that—

4                   (i) the reference to “at the State  
5                   level” shall be disregarded; and

6                   (ii) the reference to an application  
7                   shall be considered to be a reference to the  
8                   self-evaluation or plan involved.

9           (4) ADDITIONAL SERVICES AND SUPPORTS.—

10          The regulations issued under this section shall es-  
11          tablish circumstances under which a public entity  
12          shall provide community-based long-term services  
13          and supports under this section beyond the level of  
14          community-based long-term services and supports  
15          which would otherwise be required under this sub-  
16          section.

17          (5) SELF-EVALUATION.—

18                (A) IN GENERAL.—The regulations issued  
19                under this section shall require each public enti-  
20                ty and each LTSS insurance provider, not later  
21                than 30 months after the date of enactment of  
22                this Act, to evaluate current services, policies,  
23                and practices, and the effects thereof, that do  
24                not or may not meet the requirements of this  
25                Act and, to the extent modification of any such



1 services, policies, and practices is required to  
2 meet the requirements of this Act, make the  
3 necessary modifications. The self-evaluation  
4 shall include—

5 (i) collection of baseline information,  
6 including the numbers of individuals with  
7 LTSS disabilities in various institutional  
8 and community-based settings served by  
9 the public entity or LTSS insurance pro-  
10 vider, including demographic data that—

11 (I) specifies whether the individ-  
12 uals are women, veterans, or minori-  
13 ties; and

14 (II) is disaggregated by race in a  
15 manner that captures all the racial  
16 groups specified in the American  
17 Community Survey conducted by the  
18 Bureau of the Census;

19 (ii) a review of community capacity, in  
20 communities served by the entity or pro-  
21 vider, in providing community-based long-  
22 term services and supports;

23 (iii) identification of improvements  
24 needed to ensure that all community-based  
25 long-term services and supports provided

1 by the public entity or LTSS insurance  
2 provider to individuals with LTSS disabil-  
3 ities are comprehensive, are accessible, are  
4 not duplicative of existing (as of the date  
5 of the identification) services and supports,  
6 meet the needs of persons who are likely to  
7 require assistance in order to live, or lead  
8 a life, as described in section 4(a), and are  
9 culturally competent, high-quality services  
10 and supports, which may include identi-  
11 fying system improvements that create an  
12 option to self-direct receipt of such services  
13 and supports for all populations of such in-  
14 dividuals served; and

15 (iv) a review of funding sources for  
16 community-based long-term services and  
17 supports and an analysis of how those  
18 funding sources could be organized into a  
19 fair, coherent system that affords individ-  
20 uals reasonable and timely access to cul-  
21 turally competent, community-based long-  
22 term services and supports.

23 (B) PUBLIC ENTITY.—A public entity, in-  
24 cluding an LTSS insurance provider that is a  
25 public entity, shall—

1 (i) include in the self-evaluation de-  
2 scribed in subparagraph (A)—

3 (I) an assessment of the avail-  
4 ability of accessible, affordable trans-  
5 portation across the State involved  
6 and whether transportation barriers  
7 prevent individuals from receiving  
8 long-term services and supports in the  
9 most integrated setting; and

10 (II) an assessment of the avail-  
11 ability of integrated employment op-  
12 portunities in the jurisdiction served  
13 by the public entity for individuals  
14 with LTSS disabilities;

15 (ii) provide the self-evaluation de-  
16 scribed in subparagraph (A) to the Attor-  
17 ney General; and

18 (iii) make the self-evaluation described  
19 in subparagraph (A) available on the pub-  
20 lic internet website of the public entity.

21 (C) LTSS INSURANCE PROVIDER.—An  
22 LTSS insurance provider shall keep the self-  
23 evaluation described in subparagraph (A) on  
24 file, and may be required to produce such self-

1 evaluation in the event of a review, investiga-  
2 tion, or action described in section 8.

3 (6) ADDITIONAL REQUIREMENT FOR PUBLIC  
4 ENTITIES.—The regulations issued under this sec-  
5 tion shall require a public entity, in conjunction with  
6 the housing agencies serving the jurisdiction served  
7 by the public entity, to review and improve commu-  
8 nity capacity, in all communities throughout the en-  
9 tirety of that jurisdiction, in providing affordable,  
10 accessible, and integrated housing, including an eval-  
11 uation of available units, unmet need, and other  
12 identifiable barriers to the provision of that housing.  
13 In carrying out that improvement, the public entity,  
14 in conjunction with such housing agencies, shall—

15 (A) ensure, and assure the Attorney Gen-  
16 eral and the Administrator that there is, suffi-  
17 cient availability of affordable, accessible, and  
18 integrated housing in a setting that is not a dis-  
19 ability-specific residential setting or a setting  
20 where services are tied to tenancy, in order to  
21 provide individuals with LTSS disabilities a  
22 meaningful choice in their housing;

23 (B) in order to address the need for af-  
24 fordable, accessible, and integrated housing—

1 (i) in the case of such a housing agen-  
2 cy, establish relationships with State and  
3 local housing authorities; and

4 (ii) in the case of the public entity, es-  
5 tablish relationships with State and local  
6 housing agencies, including housing au-  
7 thorities;

8 (C) establish, where needed, necessary  
9 preferences and set-asides in housing programs  
10 for individuals with LTSS disabilities who are  
11 transitioning from or avoiding institutional  
12 placement;

13 (D) establish a process to fund necessary  
14 home modifications so that individuals with  
15 LTSS disabilities can live independently; and

16 (E) ensure, and assure the Attorney Gen-  
17 eral and the Administrator, that funds and pro-  
18 grams implemented or overseen by the public  
19 entity or in the public entity's jurisdiction are  
20 targeted toward affordable, accessible, inte-  
21 grated housing for individuals with an LTSS  
22 disability who have the lowest income levels in  
23 the jurisdiction as a priority over any other de-  
24 velopment until capacity barriers for such hous-

1           ing are removed or unmet needs for such hous-  
2           ing have been met.

3           (7) DESIGNATION OF RESPONSIBLE EM-  
4           PLOYEE.—The regulations issued under this section  
5           shall require each public entity and LTSS insurance  
6           provider to designate at least one employee to co-  
7           ordinate the entity’s or provider’s efforts to comply  
8           with and carry out the entity or provider’s respon-  
9           sibilities under this Act, including the investigation  
10          of any complaint communicated to the entity or pro-  
11          vider that alleges a violation of this Act. Each public  
12          entity and LTSS insurance provider shall make  
13          available to all interested individuals the name, of-  
14          fice address, and telephone number of the employee  
15          designated pursuant to this paragraph.

16          (8) GRIEVANCE PROCEDURES.—The regulations  
17          issued under this section shall require public entities  
18          and LTSS insurance providers to adopt and publish  
19          grievance procedures providing for prompt and equi-  
20          table resolution of complaints alleging a violation of  
21          this Act.

22          (9) PROVISION OF SERVICE BY OTHERS.—The  
23          regulations issued under this section shall require  
24          each public entity submitting a self-evaluation under  
25          paragraph (5) to identify, as part of the transition

1 plan described in paragraph (10), any other entity  
2 that is, or acts as, an agent, subcontractor, or other  
3 instrumentality of the public entity with regards to  
4 a service, support, policy, or practice described in  
5 such plan or self-evaluation.

6 (10) TRANSITION PLANS.—The regulations  
7 issued under this section shall require each public  
8 entity, not later than 42 months after the date of  
9 enactment of this Act, to submit to the Adminis-  
10 trator and, on approval by the Administrator, begin  
11 implementing a transition plan for carrying out this  
12 Act that establishes the achievement of the require-  
13 ments of this Act, as soon as practicable, but in no  
14 event later than 12 years after the date of enact-  
15 ment of this Act. The transition plan shall—

16 (A) establish measurable objectives to ad-  
17 dress the barriers to community living identified  
18 in the self-evaluation under paragraph (5);

19 (B) establish specific annual targets for  
20 the transition of individuals with LTSS disabil-  
21 ities, and shifts in funding, from institutional  
22 settings to integrated community-based services  
23 and supports, and related programs;

24 (C) describe specific efforts to support in-  
25 dividuals with LTSS disabilities to avoid un-

1 wanted institutionalization through the provi-  
2 sion of LTSS;

3 (D) describe the manner in which the pub-  
4 lic entity has obtained or plans to obtain nec-  
5 essary funding and resources needed for imple-  
6 mentation of the plan (regardless of whether  
7 the entity began carrying out the objectives of  
8 this Act prior to the date of enactment of this  
9 Act); and

10 (E) describe the steps taken to ensure that  
11 the transition plan addresses the needs of com-  
12 munities of color and lesbian, gay, bisexual, and  
13 transgender, and other underrepresented indi-  
14 viduals.

15 (11) ANNUAL REPORTING.—

16 (A) IN GENERAL.—The regulations issued  
17 under this section shall establish annual report-  
18 ing requirements for each public entity covered  
19 by this section.

20 (B) PROGRESS ON OBJECTIVES, TARGETS,  
21 AND EFFORTS.—The regulations issued under  
22 this section shall require each public entity that  
23 has submitted a transition plan, to make pub-  
24 licly available on the entity's website an annual  
25 report on the progress the public entity has



1           made during the previous year in meeting the  
2           measurable objectives, specific annual targets,  
3           and specific efforts described in paragraph (10).

4       (c) REVIEW OF TRANSITION PLANS.—

5           (1) GENERAL RULE.—The Administrator shall  
6           review a transition plan submitted in accordance  
7           with subsection (b)(10), not later than 90 days after  
8           receiving the plan, for the purpose of determining  
9           whether such plan meets the requirements of this  
10          Act, including the regulations issued under this sec-  
11          tion.

12          (2) DISAPPROVAL.—If the Administrator deter-  
13          mines that a transition plan reviewed under this  
14          subsection fails to meet the requirements of this Act,  
15          the Administrator shall disapprove the transition  
16          plan and notify the public entity that submitted the  
17          transition plan of, and the reasons for, such dis-  
18          approval.

19          (3) MODIFICATION OF DISAPPROVED PLAN.—  
20          Not later than 90 days after the date of disapproval  
21          of a transition plan under this subsection, the public  
22          entity that submitted the transition plan shall mod-  
23          ify the transition plan to meet the requirements of  
24          this section and shall submit the modified plan to  
25          the Administrator. Not later than 90 days after re-

1       ceiving the modified plan, the Administrator shall  
2       review the plan and, on approval by the Adminis-  
3       trator, the public entity shall begin implementing the  
4       plan.

5       (d) **RULE OF CONSTRUCTION.**—Nothing in sub-  
6       section (b)(10) or (c) or any other provision of this Act  
7       shall be construed to limit the rights, protections, or re-  
8       quirements of any other Federal law, relating to integra-  
9       tion of individuals with disabilities into the community and  
10      enabling those individuals to live in the most integrated  
11      setting.

12      **SEC. 7. EXEMPTIONS FOR RELIGIOUS ORGANIZATIONS.**

13       This Act shall not prohibit a religious organization,  
14      association, or society from giving preference in providing  
15      community-based long-term services and supports to indi-  
16      viduals of a particular religion connected with the beliefs  
17      of such organization, association, or society.

18      **SEC. 8. ENFORCEMENT.**

19       (a) **CIVIL ACTION.**—

20           (1) **IN GENERAL.**—A civil action for preventive  
21      relief, including an application for a permanent or  
22      temporary injunction, restraining order, or other  
23      order, may be instituted by an individual described  
24      in paragraph (2) in an appropriate Federal district  
25      court.

1 (2) AGGRIEVED INDIVIDUAL.—

2 (A) IN GENERAL.—The remedies and pro-  
3 cedures set forth in this section are the rem-  
4 edies and procedures this Act provides to any  
5 individual who is being subjected to a violation  
6 of this Act, or who has reasonable grounds for  
7 believing that such individual is about to be  
8 subjected to such a violation.

9 (B) STANDING.—An individual with a dis-  
10 ability shall have standing to institute a civil ac-  
11 tion under this subsection if the individual  
12 makes a prima facie showing that the indi-  
13 vidual—

14 (i) is an individual with an LTSS dis-  
15 ability; and

16 (ii) is being subjected to, or about to  
17 be subjected to, such a violation (including  
18 a violation of section 4(b)(11)).

19 (3) APPOINTMENT OF ATTORNEY; NO FEES,  
20 COSTS, OR SECURITY.—Upon application by the  
21 complainant described in paragraph (2) and in such  
22 circumstances as the court may determine to be just,  
23 the court may appoint an attorney for the complain-  
24 ant and may authorize the commencement of such

1 civil action without the payment of fees, costs, or se-  
2 curity.

3 (4) FUTILE GESTURE NOT REQUIRED.—Noth-  
4 ing in this section shall require an individual with an  
5 LTSS disability to engage in a futile gesture if such  
6 person has actual notice that a public entity or  
7 LTSS insurance provider does not intend to comply  
8 with the provisions of this Act.

9 (b) DAMAGES AND INJUNCTIVE RELIEF.—If the  
10 court finds that a violation of this Act has occurred or  
11 is about to occur, the court may award to the complain-  
12 ant—

13 (1) actual and punitive damages;

14 (2) immediate injunctive relief to prevent insti-  
15 tutionalization;

16 (3) as the court determines to be appropriate,  
17 any permanent or temporary injunction (including  
18 an order to immediately provide or maintain commu-  
19 nity-based long-term services or supports for an in-  
20 dividual to prevent institutionalization or further in-  
21 stitutionalization), temporary restraining order, or  
22 other order (including an order enjoining the defend-  
23 ant from engaging in a practice that violates this  
24 Act or ordering such affirmative action as may be  
25 appropriate); and

1           (4) in an appropriate case, injunctive relief to  
2           require the modification of a policy, practice, or pro-  
3           cedure, or the provision of an alternative method of  
4           providing LTSS, to the extent required by this Act.

5           (c) ATTORNEY’S FEES; LIABILITY OF UNITED  
6 STATES FOR COSTS.—In any action commenced pursuant  
7 to this Act, the court, in its discretion, may allow the party  
8 bringing a claim or counterclaim under this Act, other  
9 than the United States, a reasonable attorney’s fee as part  
10 of the costs, and the United States shall be liable for costs  
11 to the same extent as a private person.

12          (d) ENFORCEMENT BY ATTORNEY GENERAL.—

13           (1) DENIAL OF RIGHTS.—

14           (A) DUTY TO INVESTIGATE.—The Attor-  
15           ney General shall investigate alleged violations  
16           of this Act, and shall undertake periodic reviews  
17           of the compliance of public entities and LTSS  
18           insurance providers under this Act.

19           (B) POTENTIAL VIOLATION.—The Attor-  
20           ney General may commence a civil action in any  
21           appropriate Federal district court if the Attor-  
22           ney General has reasonable cause to believe  
23           that—

24           (i) any public entity or LTSS insur-  
25           ance provider, including a group of public

1 entities or LTSS insurance providers, is  
2 engaged in a pattern or practice of viola-  
3 tions of this Act; or

4 (ii) any individual, including a group,  
5 has been subjected to a violation of this  
6 Act and the violation raises an issue of  
7 general public importance.

8 (2) AUTHORITY OF COURT.—In a civil action  
9 under paragraph (1)(B), the court—

10 (A) may grant any equitable relief that  
11 such court considers to be appropriate, includ-  
12 ing, to the extent required by this Act—

13 (i) granting temporary, preliminary,  
14 or permanent relief; and

15 (ii) requiring the modification of a  
16 policy, practice, or procedure, or the provi-  
17 sion of an alternative method of providing  
18 LTSS;

19 (B) may award such other relief as the  
20 court considers to be appropriate, including  
21 damages to individuals described in subsection  
22 (a)(2), when requested by the Attorney General;  
23 and

1 (C) may, to vindicate the public interest,  
2 assess a civil penalty against the public entity  
3 or LTSS insurance provider in an amount—

4 (i) not exceeding \$100,000 for a first  
5 violation; and

6 (ii) not exceeding \$200,000 for any  
7 subsequent violation.

8 (3) SINGLE VIOLATION.—For purposes of para-  
9 graph (2)(C), in determining whether a first or sub-  
10 sequent violation has occurred, a determination in a  
11 single action, by judgment or settlement, that the  
12 public entity or LTSS insurance provider has en-  
13 gaged in more than one violation of this Act shall be  
14 counted as a single violation.

15 **SEC. 9. TECHNICAL ASSISTANCE.**

16 (a) IN GENERAL.—The Administrator shall provide  
17 technical assistance to public entities for purposes of cre-  
18 ating and implementing transition plans in accordance  
19 with section 6(b)(10).

20 (b) APPROPRIATIONS.—In addition to amounts other-  
21 wise available, there is appropriated to the Administrator  
22 for fiscal year 2022, out of any money in the Treasury  
23 not otherwise appropriated, \$10,000,000, to remain avail-  
24 able until expended, to carry out this section.

1 **SEC. 10. CONSTRUCTION.**

2 For purposes of construing this Act—

3 (1) section 4(b)(11) shall be construed in a  
4 manner that takes into account its similarities with  
5 section 302(b)(2)(A)(ii) of the Americans with Dis-  
6 abilities Act of 1990 (42 U.S.C. 12182(b)(2)(A)(ii));

7 (2) the first sentence of section 6(b)(5)(A) shall  
8 be construed in a manner that takes into account its  
9 similarities with section 35.105(a) of title 28, Code  
10 of Federal Regulations (as in effect on the day be-  
11 fore the date of enactment of this Act);

12 (3) section 7 shall be construed in a manner  
13 that takes into account its similarities with section  
14 807(a) of the Civil Rights Act of 1968 (42 U.S.C.  
15 3607(a));

16 (4) section 8(a)(2) shall be construed in a man-  
17 ner that takes into account its similarities with sec-  
18 tion 308(a)(1) of the Americans with Disabilities  
19 Act of 1990 (42 U.S.C. 12188(a)(1)); and

20 (5) section 8(d)(1)(B) shall be construed in a  
21 manner that takes into account its similarities with  
22 section 308(b)(1)(B) of the Americans with Disabil-  
23 ities Act of 1990 (42 U.S.C. 12188(b)(1)(B)).

○