

119TH CONGRESS
2D SESSION

S. _____

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

IN THE SENATE OF THE UNITED STATES

Mr. BENNET (for himself, Mr. WHITEHOUSE, Mr. HEINRICH, Mr. MARKEY, Ms. BALDWIN, Ms. HIRONO, Mr. HICKENLOOPER, Mr. MERKLEY, Mr. LUJÁN, Mr. WYDEN, Mr. KAINE, Mr. REED, and Ms. WARREN) introduced the following bill; which was read twice and referred to the Committee on _____

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Latonya Reeves Free-
5 dom Act of 2026”.

6 **SEC. 2. PURPOSES.**

7 The purposes of this Act are—

1 (1) to clarify and strengthen the integration
2 mandate of the Americans with Disabilities Act of
3 1990, held by the Supreme Court in *Olmstead v.*
4 *L.C.*, 527 U.S. 581 (1999) in a manner that acceler-
5 ates and improves State compliance;

6 (2) to affirm that every individual who is eligi-
7 ble for long-term services and supports has a feder-
8 ally protected right to be integrated into that indi-
9 vidual's community and receive community-based
10 long-term services and supports;

11 (3) to ensure that States and LTSS insurance
12 providers provide long-term services and supports to
13 individuals with disabilities in a manner that allows
14 individuals with disabilities to live in the most inte-
15 grated setting, including the individual's own home;

16 (4) to ensure that individuals with disabilities
17 have maximum control over the services and sup-
18 ports that allow them to live in the community;

19 (5) to ensure that long-term services and sup-
20 ports are provided in a manner that allows individ-
21 uals with disabilities to lead an independent life;

22 (6) to establish a comprehensive planning re-
23 quirement that includes enforceable, measurable ob-
24 jectives that are designed to transition individuals
25 with all types of disabilities at all ages out of institu-

1 tions and into the most integrated setting, if they
2 choose that transition; and

3 (7) to identify and address disparities in the
4 provision of community-based long-term services and
5 supports.

6 **SEC. 3. DEFINITIONS AND RULE.**

7 (a) DEFINITIONS.—In this Act:

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

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

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

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

18 (3) COMMUNITY-BASED; SERVICES OR SUP-
19 PORTS.—The term “community-based”, when used
20 in reference to services or supports, means services
21 or supports that are provided to an individual with
22 an LTSS disability to enable that individual to live
23 in the community and lead an independent life, and
24 that are delivered in whichever setting the individual

1 with an LTSS disability has chosen out of the fol-
2 lowing settings with the following qualities:

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

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

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

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

1 (ii) that the individual has selected as
2 a meaningful choice from among nonresi-
3 dential setting options, including nondis-
4 ability-specific settings;

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

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

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

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

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

1 (ii) that is leased to the individual
2 with an LTSS disability under an indi-
3 vidual lease, that has lockable access and
4 egress, and that includes living, sleeping,
5 bathing, and cooking areas over which an
6 individual with an LTSS disability or the
7 individual's family member has domain
8 and control; or

9 (iii) that is a group or shared resi-
10 dence—

11 (I) in which no more than 4 un-
12 related individuals with an LTSS dis-
13 ability reside;

14 (II) for which each individual
15 with an LTSS disability living at the
16 residence owns, rents, or occupies the
17 residence under a legally enforceable
18 agreement under which the individual
19 has, at a minimum, the same respon-
20 sibilities and protections as tenants
21 have under applicable landlord-tenant
22 law;

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

1 (aa) has privacy in the indi-
2 vidual's sleeping unit, including a
3 lockable entrance door controlled
4 by the individual;

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

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

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

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

1 (IV) that is physically accessible
2 to the individual with an LTSS dis-
3 ability living at the residence.

4 (4) COMMUNITY-BASED; SETTING.—The term
5 “community-based”, when used in reference to a set-
6 ting, means a setting described in subparagraph (A)
7 or (B) of paragraph (3).

8 (5) DWELLING.—The term “dwelling” has the
9 meaning given the term in section 802 of the Fair
10 Housing Act (42 U.S.C. 3602).

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

16 (A) administration of medication;

17 (B) assistance with use, operation, and
18 maintenance of a ventilator; and

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

21 (7) INDIVIDUAL WITH A DISABILITY.—The term
22 “individual with a disability” means an individual
23 who is a person with a disability, as defined in sec-
24 tion 3 of the Americans with Disabilities Act of
25 1990 (42 U.S.C. 12102).

1 (8) INDIVIDUAL WITH AN LTSS DISABILITY.—

2 The term “individual with an LTSS disability”
3 means an individual with a disability who—

4 (A) in order to live in the community and
5 lead an independent life requires assistance in
6 accomplishing—

7 (i) activities of daily living;

8 (ii) instrumental activities of daily liv-
9 ing;

10 (iii) health-related tasks; or

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

14 (B)(i) is currently in an institutional place-
15 ment; or

16 (ii) is at risk of institutionalization if the
17 individual does not receive community-based
18 long-term services and supports.

19 (9) INSTITUTION; INSTITUTIONALIZATION.—

20 (A) INSTITUTION.—The term “institution”
21 means—

22 (i) a skilled nursing facility (as de-
23 fined in section 1819(a) of the Social Secu-
24 rity Act (42 U.S.C. 1395i–3(a)));

1 (ii) a nursing facility (as defined in
2 section 1919(a) of such Act (42 U.S.C.
3 1396r(a)));

4 (iii) a long-term care hospital (as de-
5 scribed in section 1886(d)(1)(B)(iv) of
6 such Act (42 U.S.C.
7 1395ww(d)(1)(B)(iv)));

8 (iv) a facility described in section
9 1905(d) of such Act (42 U.S.C. 1396d(d));

10 (v) an institution which is a psy-
11 chiatric hospital (as defined in section
12 1861(f) of such Act (42 U.S.C. 1395x(f)))
13 or that provides in-patient psychiatric serv-
14 ices in a residential setting specified by the
15 Secretary;

16 (vi) an institution described in section
17 1905(i) of such Act (42 U.S.C. 1396d(i));
18 and

19 (vii) any congregate setting that is not
20 community-based or that has the effect of
21 isolating individuals with disabilities from
22 the community.

23 (B) INSTITUTIONALIZATION.—The term
24 “institutionalization”, used with respect to an
25 individual with an LTSS disability, refers to the

1 individual living or receiving services or sup-
2 ports in a setting that is not community-based.

3 (10) INSTRUMENTAL ACTIVITIES OF DAILY LIV-
4 ING.—The term “instrumental activities of daily liv-
5 ing” means one or more activities related to living
6 independently in the community, including activities
7 related to—

8 (A) nutrition, such as preparing meals or
9 special diets, monitoring to prevent choking or
10 aspiration, or assisting with special utensils;

11 (B) household chores and environmental
12 maintenance tasks;

13 (C) communication and interpersonal
14 skills, such as—

15 (i) using the telephone or other com-
16 munications devices;

17 (ii) forming and maintaining inter-
18 personal relationships; or

19 (iii) securing opportunities to partici-
20 pate in group support or peer-to-peer sup-
21 port arrangements;

22 (D) travel and community participation,
23 such as shopping, arranging appointments, or
24 moving around the community;

1 (E) care of others, such as raising chil-
2 dren, taking care of pets, or selecting care-
3 givers; or

4 (F) management of personal property and
5 personal safety, such as—

6 (i) taking medication;

7 (ii) handling or managing money; or

8 (iii) responding to emergent situations
9 or unscheduled needs requiring an imme-
10 diate response.

11 (11) LONG-TERM SERVICE OR SUPPORT.—

12 (A) IN GENERAL.—The terms “long-term
13 service or support” and “LTSS” mean assist-
14 ance, equipment, technology, or other support,
15 provided to an individual with a disability in ac-
16 complishing, acquiring the means or ability to
17 accomplish, maintaining, or enhancing—

18 (i) activities of daily living;

19 (ii) instrumental activities of daily liv-
20 ing;

21 (iii) health-related tasks; or

22 (iv) other functions, tasks, or activi-
23 ties related to an activity or task described
24 in clause (i), (ii), or (iii).

1 (B) ASSISTANCE.—In subparagraph (A),
2 the term “assistance” includes support provided
3 to an individual by another person due to con-
4 fusion, dementia, behavioral symptoms, or cog-
5 nitive, intellectual, mental, or emotional disabil-
6 ities, including support to—

7 (i) help the individual identify and set
8 goals, communicate needs, overcome fears,
9 and manage transitions;

10 (ii) help the individual with executive
11 functioning, decision making, self-expres-
12 sion, and problemsolving;

13 (iii) provide reassurance to the indi-
14 vidual; and

15 (iv) help the individual with orienta-
16 tion, memory, and other activities related
17 to independent living.

18 (12) LTSS INSURANCE PROVIDER.—The term
19 “LTSS insurance provider” means a public or pri-
20 vate entity that—

21 (A) provides funds for long-term services
22 and supports; and

23 (B) is engaged in commerce or in an in-
24 dustry or activity affecting commerce.

25 (13) PUBLIC ENTITY.—

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

3 (i) provides or funds institutional
4 placements for individuals with LTSS dis-
5 abilities; and

6 (ii) is—

7 (I) a State or local government;

8 or

9 (II) any department, agency, en-
10 tity administering a special purpose
11 district, or other instrumentality, of a
12 State or local government.

13 (B) INTERSTATE COMMERCE.—For pur-
14 poses of subparagraph (A), a public entity shall
15 be considered to be a person engaged in com-
16 merce or in an industry or activity affecting
17 commerce.

18 (b) RULE OF CONSTRUCTION.—Nothing in sub-
19 section (a) or any other provision of this section shall be
20 construed to preclude an individual with a disability from
21 receiving community-based services and supports in an in-
22 tegrated community setting such as a grocery store, retail
23 establishment, restaurant, bank, park, concert venue, the-
24 ater, or workplace.

1 **SEC. 4. DISCRIMINATION.**

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

9 (b) SPECIFIC PROHIBITIONS.—For purposes of this
10 Act, discrimination by a public entity or LTSS insurance
11 provider includes—

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

18 (2) the imposition or application of a policy or
19 other mechanism, such as a service or cost cap, that
20 prevent or tends to prevent an individual with an
21 LTSS disability, or any class of individuals with
22 LTSS disabilities, from receiving a community-based
23 long-term service or support;

24 (3) a failure to provide a specific community-
25 based long-term service or support or a type of com-
26 munity-based long-term service or support needed

1 for an individual with an LTSS disability, or any
2 class of individuals with LTSS disabilities;

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

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

17 (6) a failure to establish an adequate rate or
18 other payment structure that is necessary to ensure
19 the availability of a workforce sufficient to support
20 an individual with an LTSS disability in living in
21 the community and leading an independent life;

22 (7) a failure to provide community-based serv-
23 ices and supports, on an intermittent, short-term, or
24 emergent basis, that assist an individual with an

1 LTSS disability to live in the community and lead
2 an independent life;

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

10 (9) a failure to implement a formal procedure
11 and a mechanism to ensure that—

12 (A) individuals with LTSS disabilities are
13 offered the alternative of community-based
14 long-term services and supports prior to institu-
15 tionalization; and

16 (B) if selected by an individual with an
17 LTSS disability, the community-based long-
18 term services and supports described in sub-
19 paragraph (A) are provided;

20 (10) a failure to ensure that each institutional-
21 ized individual with an LTSS disability is regularly
22 notified of the alternative of community-based long-
23 term services and supports and that those commu-
24 nity-based long-term services and supports are pro-

1 vided if the individual with an LTSS disability se-
2 lects such services and supports;

3 (11) a failure to make a reasonable modifica-
4 tion in a policy, practice, or procedure, when such
5 modification is necessary to allow an individual with
6 an LTSS disability to receive a community-based
7 long-term service or support; and

8 (12) a failure to ensure that an individual with
9 an LTSS disability has access to affordable, acces-
10 sible, and integrated housing, that allows the indi-
11 vidual to live in the community and lead an inde-
12 pendent life, including access to an option to live in
13 housing where the receipt of LTSS is not tied to
14 tenancy.

15 (c) CONSTRUCTION.—Nothing in this section—

16 (1) shall be construed—

17 (A) to prevent a public entity or LTSS in-
18 surance provider from providing community-
19 based long-term services and supports at a level
20 that is greater than the level that is required by
21 this section;

22 (B) to limit the rights of an individual with
23 a disability under any provision of law other
24 than this section;

1 (C) to require that an individual with an
2 LTSS disability live or receive services or sup-
3 ports in a more integrated setting if the indi-
4 vidual chooses a less integrated setting; or

5 (D) to establish a right for an individual
6 with an LTSS disability to remain in a specific
7 institution;

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

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

17 **SEC. 5. ADMINISTRATION.**

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

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

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

1 (A) review, and approve or disapprove,
2 transition plans submitted by public entities,
3 under section 6(b)(10);

4 (B) establish a task force to identify socio-
5 demographic, geographic, and other factors that
6 are barriers that prevent individuals with LTSS
7 disabilities from receiving community-based
8 long-term services and supports or from being
9 able to choose alternatives in the community to
10 institutionalization and identify other dispari-
11 ties in the availability and provision of commu-
12 nity-based long-term services and supports,
13 which task force shall be responsible for—

14 (i) overseeing studies regarding the
15 nature and extent of those barriers and
16 disparities and the impact that those bar-
17 riers and disparities have on the institu-
18 tionalization of individuals with LTSS dis-
19 abilities; and

20 (ii) submitting to Congress not later
21 than 2 years after the date of enactment
22 of this Act a report on the nature and ex-
23 tent of those barriers and disparities, in-
24 cluding a description of legislative or execu-

1 utive action to address the barriers and
2 disparities; and

3 (C) refer information on violations of this
4 Act to the Attorney General for investigation
5 and enforcement action under this Act.

6 (b) COOPERATION OF EXECUTIVE DEPARTMENTS
7 AND AGENCIES.—Each Federal agency and, in particular,
8 each Federal agency covered by Executive Order 13217
9 (66 Fed. Reg. 33155; relating to community-based alter-
10 natives for individuals with disabilities), shall carry out
11 programs and activities relating to the institutionalization
12 of individuals with LTSS disabilities and the provision of
13 community-based long-term services and supports for indi-
14 viduals with LTSS disabilities in accordance with this Act
15 and shall cooperate with the Attorney General and the Ad-
16 ministrator to further the purposes of this Act.

17 **SEC. 6. REGULATIONS.**

18 (a) ISSUANCE OF REGULATIONS.—Not later than 2
19 years after the date of enactment of this Act, the Attorney
20 General shall issue, in accordance with section 553 of title
21 5, United States Code, final regulations to carry out this
22 Act, which shall include the regulations described in sub-
23 section (b).

24 (b) REQUIRED CONTENTS OF REGULATIONS.—

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

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

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

21 (i) activities of daily living;

22 (ii) instrumental activities of daily liv-
23 ing;

24 (iii) health-related tasks; or

1 (iv) other functions, tasks, or activi-
2 ties related to an activity or task described
3 in clause (i), (ii), or (iii);

4 (B) coordinates, conducts, performs, pro-
5 vides, or funds discharge planning from acute
6 and rehabilitation facilities, and other institu-
7 tions, to promote individuals with LTSS disabil-
8 ities living in the most integrated setting chosen
9 by the individuals;

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

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

19 (E) ensures that individuals with all types
20 of LTSS disabilities are able to live in the com-
21 munity and lead an independent life, including
22 ensuring that the individuals have maximum
23 control over the services and supports that the
24 individuals receive, choose the setting in which
25 the individuals receive those services and sup-

1 ports, and exercise control and direction over
2 their own lives.

3 (3) PUBLIC PARTICIPATION.—

4 (A) IN GENERAL.—The regulations issued
5 under this section shall require each public enti-
6 ty and LTSS insurance provider to carry out a
7 public participation process that involves hold-
8 ing a public hearing, providing an opportunity
9 for public comment, and consulting with indi-
10 viduals with LTSS disabilities, in preparing the
11 public entity or LTSS insurance provider’s self-
12 evaluation under paragraph (5) and transition
13 plan under paragraph (10).

14 (B) PROCESS.—In carrying out a public
15 participation process under subparagraph (A), a
16 public entity or LTSS insurance provider shall
17 ensure that the process meets the requirements
18 of subparagraphs (A) and (C) of section
19 1115(d)(2) of the Social Security Act (42
20 U.S.C. 1315(d)(2)), except that—

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

23 (ii) the reference to an application
24 shall be considered to be a reference to the
25 self-evaluation or plan involved.

1 (4) ADDITIONAL SERVICES AND SUPPORTS.—

2 The regulations issued under this section shall es-
3 tablish circumstances under which a public entity or
4 LTSS insurance provider shall provide community-
5 based long-term services and supports under this
6 section beyond the level of community-based long-
7 term services and supports which would otherwise be
8 required under this subsection.

9 (5) SELF-EVALUATION.—

10 (A) IN GENERAL.—The regulations issued
11 under this section shall require each public enti-
12 ty and each LTSS insurance provider, not later
13 than 36 months after the date of enactment of
14 this Act, to evaluate current services, policies,
15 and practices, and the effects thereof, that do
16 not or may not meet the requirements of this
17 Act and, to the extent modification of any such
18 services, policies, and practices is required to
19 meet the requirements of this Act, make the
20 necessary modifications. The self-evaluation
21 shall include—

22 (i) collection of baseline information,
23 including the numbers of individuals with
24 LTSS disabilities in various institutional
25 and community-based settings served by

1 the public entity or LTSS insurance pro-
2 vider, including demographic data that—

3 (I) specifies whether the individ-
4 uals are women, veterans, or members
5 of a racial and ethnic minority group,
6 as defined in section 1707 of the Pub-
7 lic Health Service Act (42 U.S.C.
8 300u-6); and

9 (II) is disaggregated by race in a
10 manner that captures all the racial
11 groups specified in the American
12 Community Survey conducted by the
13 Bureau of the Census;

14 (ii) a review of community capacity, in
15 communities served by the public entity or
16 LTSS insurance provider, in providing
17 community-based long-term services and
18 supports;

19 (iii) an assessment of the availability
20 of accessible, affordable transportation and
21 whether transportation barriers prevent in-
22 dividuals served by the public entity or
23 LTSS insurance provider from receiving
24 long-term services and supports in the
25 community;

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

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

1 (vi) a review of all agents, subcontractors,
2 tors, or other instrumentalities funded by
3 the public entity or LTSS insurance pro-
4 vider to authorize or provide LTSS, to en-
5 sure that the agents, subcontractors, or
6 other instrumentalities comply with this
7 Act.

8 (B) ADDITIONAL REQUIREMENTS.—Public
9 entities and LTSS insurance providers shall—

10 (i) provide the self-evaluation de-
11 scribed in subparagraph (A) to the Attor-
12 ney General;

13 (ii) make the self-evaluation described
14 in subparagraph (A) available on the pub-
15 lic internet of the entity or provider; and

16 (iii) keep the self-evaluation described
17 in subparagraph (A) on file, and may be
18 required to produce such self-evaluation in
19 the event of a review, investigation, or ac-
20 tion described in section 8.

21 (6) HOUSING.—The regulations issued under
22 this section shall require a public entity, and require
23 an LTSS insurance provider, who funds or provides
24 housing and housing services to review and improve
25 community capacity in providing affordable, acces-

1 sible, and integrated housing, including conducting
2 an evaluation of available units, unmet need, and
3 other identifiable barriers to the provision of that
4 housing. In carrying out that improvement, the pub-
5 lic entity or LTSS insurance provider shall—

6 (A) ensure, and assure the Attorney Gen-
7 eral and the Administrator that there is, suffi-
8 cient availability of affordable, accessible, and
9 integrated housing in a setting that is not a dis-
10 ability-specific residential setting or a setting
11 where services are tied to tenancy, in order to
12 provide individuals with LTSS disabilities a
13 meaningful choice in their housing;

14 (B) in order to address the need for af-
15 fordable, accessible, and integrated housing, es-
16 tablish relationships with State and local hous-
17 ing agencies, including housing authorities;

18 (C) establish, where needed, necessary
19 preferences and set-asides in housing programs
20 for individuals with LTSS disabilities who are
21 transitioning from or avoiding institutional
22 placement;

23 (D) establish a process to fund necessary
24 home modifications so that individuals with
25 LTSS disabilities can live independently; and

1 (E) ensure, and assure the Attorney Gen-
2 eral and the Administrator, that funds and pro-
3 grams implemented or overseen by the public
4 entity or LTSS insurance provider are targeted
5 toward affordable, accessible, integrated hous-
6 ing for individuals with an LTSS disability who
7 have the lowest income levels as a priority over
8 any other development until capacity barriers
9 for such housing are removed or unmet needs
10 for such housing have been met.

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

24 (8) GRIEVANCE PROCEDURES.—The regulations
25 issued under this section shall require public entities

1 and LTSS insurance providers to adopt and publish
2 grievance procedures providing for prompt and equi-
3 table resolution of complaints alleging a violation of
4 this Act.

5 (9) PROVISION OF SERVICE BY OTHERS.—The
6 regulations issued under this section shall require
7 each public entity submitting a self-evaluation under
8 paragraph (5) to identify, as part of the transition
9 plan described in paragraph (10), any other entity
10 that is, or acts as, an agent, subcontractor, or other
11 instrumentality of the public entity with regards to
12 a service, support, policy, or practice described in
13 such plan or self-evaluation.

14 (10) TRANSITION PLANS.—The regulations
15 issued under this section shall require each public
16 entity, and each LTSS insurance provider, that is
17 not able to demonstrate full compliance with this Act
18 through its self-evaluation, not later than 54 months
19 after the date of enactment of this Act. The regula-
20 tions shall require that public entity or LTSS insur-
21 ance provider to submit to the Administrator and,
22 on approval by the Administrator, begin imple-
23 menting a transition plan for carrying out this Act
24 that establishes the achievement of the requirements
25 of this Act, as soon as practicable, but in no event

1 later than 12 years after the date of enactment of
2 this Act. The transition plan shall—

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

6 (B) establish specific annual targets for
7 the transition of individuals with LTSS disabil-
8 ities, and shifts in funding, from institutional
9 settings to integrated community-based services
10 and supports, and related programs;

11 (C) describe specific efforts to support in-
12 dividuals with LTSS disabilities to avoid un-
13 wanted institutionalization through the provi-
14 sion of LTSS;

15 (D) describe the manner in which the pub-
16 lic entity or LTSS insurance provider has ob-
17 tained or plans to obtain necessary funding and
18 resources needed for implementation of the plan
19 (regardless of whether the entity or provider
20 began carrying out the objectives of this Act
21 prior to the date of enactment of this Act); and

22 (E) describe the steps taken to ensure that
23 the transition plan addresses the needs of indi-
24 viduals from all socio-demographic and geo-
25 graphic backgrounds.

1 (11) ANNUAL REPORTING.—

2 (A) IN GENERAL.—The regulations issued
3 under this section shall establish annual report-
4 ing requirements for each public entity or
5 LTSS insurance provider covered by this sec-
6 tion.

7 (B) PROGRESS ON OBJECTIVES, TARGETS,
8 AND EFFORTS.—The regulations issued under
9 this section shall require each public entity or
10 LTSS insurance provider that has submitted a
11 transition plan, to make publicly available on
12 the entity's website an annual report on the
13 progress the public entity or LTSS insurance
14 provider has made during the previous year in
15 meeting the measurable objectives, specific an-
16 nual targets, and specific efforts described in
17 paragraph (10).

18 (c) REVIEW OF TRANSITION PLANS.—

19 (1) GENERAL RULE.—The Administrator shall
20 review a transition plan submitted in accordance
21 with subsection (b)(10), not later than 90 days after
22 receiving the plan, for the purpose of determining
23 whether such plan meets the requirements of this
24 Act, including the regulations issued under this sec-
25 tion.

1 (2) DISAPPROVAL.—If the Administrator deter-
2 mines that a transition plan reviewed under this
3 subsection fails to meet the requirements of this Act,
4 the Administrator shall disapprove the transition
5 plan and notify the public entity or LTSS insurance
6 provider that submitted the transition plan of, and
7 the reasons for, such disapproval.

8 (3) MODIFICATION OF DISAPPROVED PLAN.—
9 Not later than 90 days after the date of disapproval
10 of a transition plan under this subsection, the public
11 entity or LTSS insurance provider that submitted
12 the transition plan shall modify the transition plan
13 to meet the requirements of this section and shall
14 submit the modified plan to the Administrator. Not
15 later than 90 days after receiving the modified plan,
16 the Administrator shall review the plan and, on ap-
17 proval by the Administrator, the public entity or
18 LTSS insurance provider shall begin implementing
19 the plan.

20 (d) RULE OF CONSTRUCTION.—Nothing in sub-
21 section (b)(10) or (c) or any other provision of this Act
22 shall be construed to limit the rights, protections, or re-
23 quirements of any other Federal law, relating to integra-
24 tion of individuals with disabilities into the community and

1 enabling those individuals to live in the most integrated
2 setting.

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

4 This Act shall not prohibit a religious organization,
5 association, or society from giving preference in providing
6 community-based long-term services and supports to indi-
7 viduals of a particular religion connected with the beliefs
8 of such organization, association, or society.

9 **SEC. 8. ENFORCEMENT.**

10 (a) CIVIL ACTION.—

11 (1) IN GENERAL.—A civil action for preventive
12 relief, including an application for a permanent or
13 temporary injunction, restraining order, or other
14 order, may be instituted by an individual described
15 in paragraph (2) in an appropriate district court of
16 the United States not earlier than 2 years after the
17 date of enactment of this Act.

18 (2) AGGRIEVED INDIVIDUAL.—

19 (A) IN GENERAL.—This Act provides the
20 remedies and procedures set forth in this sec-
21 tion to any individual who is being subjected to
22 a violation of this Act, or who has reasonable
23 grounds for believing that such individual is
24 about to be subjected to such a violation.

1 (B) STANDING.—An individual with a dis-
2 ability (including an individual acting on their
3 behalf) shall have standing to institute a civil
4 action under this subsection if the individual
5 makes a prima facie showing that the individual
6 with a disability—

7 (i) is an individual with an LTSS dis-
8 ability; and

9 (ii) is being subjected to, or has the
10 reasonable grounds described in subpara-
11 graph (A) concerning, such a violation (in-
12 cluding a violation of section 4(b)(11)).

13 (3) APPOINTMENT OF ATTORNEY; NO FEES,
14 COSTS, OR SECURITY.—Upon application by the
15 plaintiff described in paragraph (2) and in such cir-
16 cumstances as the court may determine to be just,
17 the court may appoint an attorney for the plaintiff
18 and may authorize the commencement of such civil
19 action without the payment of fees, costs, or secu-
20 rity.

21 (4) FUTILE GESTURE NOT REQUIRED.—Noth-
22 ing in this section shall require an individual with an
23 LTSS disability to engage in a futile gesture if such
24 person has actual notice that a public entity or

1 LTSS insurance provider does not intend to comply
2 with the provisions of this Act.

3 (b) DAMAGES AND INJUNCTIVE RELIEF.—If the
4 court finds that a violation of this Act has occurred or
5 is about to occur, the court may award to the plaintiff—

6 (1) actual and punitive damages;

7 (2) immediate injunctive relief to prevent insti-
8 tutionalization;

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

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

23 (c) ATTORNEY'S FEES; LIABILITY OF UNITED
24 STATES FOR COSTS.—In any action commenced pursuant
25 to this Act, the court, in its discretion, may allow the party

1 bringing a claim or counterclaim under this Act, other
2 than the United States, a reasonable attorney's fee as part
3 of the costs, and the United States shall be liable for costs
4 to the same extent as a private person.

5 (d) ENFORCEMENT BY ATTORNEY GENERAL.—

6 (1) DENIAL OF RIGHTS.—

7 (A) DUTY TO INVESTIGATE.—The Attor-
8 ney General shall investigate alleged violations
9 of this Act, and shall undertake periodic reviews
10 of the compliance of public entities and LTSS
11 insurance providers under this Act.

12 (B) POTENTIAL VIOLATION.—The Attor-
13 ney General may commence a civil action in any
14 appropriate Federal district court if the Attor-
15 ney General has reasonable cause to believe
16 that—

17 (i) any public entity or LTSS insur-
18 ance provider, including a group of public
19 entities or LTSS insurance providers, is
20 engaged in a pattern or practice of viola-
21 tions of this Act; or

22 (ii) any individual, including a group,
23 has been subjected to a violation of this
24 Act and the violation raises an issue of
25 general public importance.

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

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

6 (i) granting temporary, preliminary,
7 or permanent relief; and

8 (ii) requiring the modification of a
9 policy, practice, or procedure, or the provi-
10 sion of an alternative method of providing
11 LTSS;

12 (B) may award such other relief as the
13 court considers to be appropriate, including
14 damages to individuals described in subsection
15 (a)(2), when requested by the Attorney General;
16 and

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

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

22 (ii) not exceeding \$200,000 for any
23 subsequent violation.

24 (3) SINGLE VIOLATION.—For purposes of para-
25 graph (2)(C), in determining whether a first or sub-

1 sequent violation has occurred, a determination in a
2 single action, by judgment or settlement, that the
3 public entity or LTSS insurance provider has en-
4 gaged in more than one violation of this Act shall be
5 counted as a single violation.

6 **SEC. 9. CONSTRUCTION.**

7 For purposes of construing this Act—

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

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

17 (3) section 7 shall be construed in a manner
18 that takes into account its similarities with section
19 807(a) of the Civil Rights Act of 1968 (42 U.S.C.
20 3607(a));

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

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