

As Introduced

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H. B. No. 337

Representatives Sweeney, Manning

**Cosponsors: Representatives Brennan, Denson, Lightbody, Miller, A., Miller, J.,
Weinstein, Carruthers, Hillyer, Klopfenstein, Ray, White**

A BILL

To amend sections 5123.01 and 5126.01 of the 1
Revised Code to recognize Prader-Willi syndrome 2
as a developmental disability. 3

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 5123.01 and 5126.01 of the 4
Revised Code be amended to read as follows: 5

Sec. 5123.01. As used in this chapter: 6

(A) "Chief medical officer" means the licensed physician 7
appointed by the managing officer of an institution for persons 8
with intellectual disabilities with the approval of the director 9
of developmental disabilities to provide medical treatment for 10
residents of the institution. 11

(B) "Chief program director" means a person with special 12
training and experience in the diagnosis and management of 13
persons with developmental disabilities, certified according to 14
division (C) of this section in at least one of the designated 15
fields, and appointed by the managing officer of an institution 16
for persons with intellectual disabilities with the approval of 17

the director to provide habilitation and care for residents of 18
the institution. 19

(C) "Comprehensive evaluation" means a study, including a 20
sequence of observations and examinations, of a person leading 21
to conclusions and recommendations formulated jointly, with 22
dissenting opinions if any, by a group of persons with special 23
training and experience in the diagnosis and management of 24
persons with developmental disabilities, which group shall 25
include individuals who are professionally qualified in the 26
fields of medicine, psychology, and social work, together with 27
such other specialists as the individual case may require. 28

(D) "Education" means the process of formal training and 29
instruction to facilitate the intellectual and emotional 30
development of residents. 31

(E) "Habilitation" means the process by which the staff of 32
the institution assists the resident in acquiring and 33
maintaining those life skills that enable the resident to cope 34
more effectively with the demands of the resident's own person 35
and of the resident's environment and in raising the level of 36
the resident's physical, mental, social, and vocational 37
efficiency. Habilitation includes but is not limited to programs 38
of formal, structured education and training. 39

(F) "Health officer" means any public health physician, 40
public health nurse, or other person authorized or designated by 41
a city or general health district. 42

(G) "Home and community-based services" means medicaid- 43
funded home and community-based services specified in division 44
(A) (1) of section 5166.20 of the Revised Code provided under the 45
medicaid waiver components the department of developmental 46

disabilities administers pursuant to section 5166.21 of the 47
Revised Code. Except as provided in section 5123.0412 of the 48
Revised Code, home and community-based services provided under 49
the medicaid waiver component known as the transitions 50
developmental disabilities waiver are to be considered to be 51
home and community-based services for the purposes of this 52
chapter, and Chapters 5124. and 5126. of the Revised Code, only 53
to the extent, if any, provided by the contract required by 54
section 5166.21 of the Revised Code regarding the waiver. 55

(H) "ICF/IID" and "ICF/IID services" have the same 56
meanings as in section 5124.01 of the Revised Code. 57

(I) "Indigent person" means a person who is unable, 58
without substantial financial hardship, to provide for the 59
payment of an attorney and for other necessary expenses of legal 60
representation, including expert testimony. 61

(J) "Institution" means a public or private facility, or a 62
part of a public or private facility, that is licensed by the 63
appropriate state department and is equipped to provide 64
residential habilitation, care, and treatment for persons with 65
intellectual disabilities. 66

(K) "Licensed physician" means a person who holds a valid 67
license issued under Chapter 4731. of the Revised Code 68
authorizing the person to practice medicine and surgery or 69
osteopathic medicine and surgery, or a medical officer of the 70
government of the United States while in the performance of the 71
officer's official duties. 72

(L) "Managing officer" means a person who is appointed by 73
the director of developmental disabilities to be in executive 74
control of an institution under the jurisdiction of the 75

department of developmental disabilities. 76

(M) "Medicaid case management services" means case 77
management services provided to an individual with a 78
developmental disability that the state medicaid plan requires. 79

(N) "Intellectual disability" means a disability 80
characterized by having significantly subaverage general 81
intellectual functioning existing concurrently with deficiencies 82
in adaptive behavior, manifested during the developmental 83
period. 84

(O) "Person with an intellectual disability subject to 85
institutionalization by court order" means a person eighteen 86
years of age or older with at least a moderate level of 87
intellectual disability and in relation to whom, because of the 88
person's disability, either of the following conditions exists: 89

(1) The person represents a very substantial risk of 90
physical impairment or injury to self as manifested by evidence 91
that the person is unable to provide for and is not providing 92
for the person's most basic physical needs and that provision 93
for those needs is not available in the community; 94

(2) The person needs and is susceptible to significant 95
habilitation in an institution. 96

(P) "Moderate level of intellectual disability" means the 97
condition in which a person, following a comprehensive 98
evaluation, is found to have at least moderate deficits in 99
overall intellectual functioning, as indicated by a full-scale 100
intelligence quotient test score of fifty-five or below, and at 101
least moderate deficits in adaptive behavior, as determined in 102
accordance with the criteria established in the fifth edition of 103
the diagnostic and statistical manual of mental disorders 104

published by the American psychiatric association. 105

(Q) "Developmental disability" means a severe, chronic 106
disability that is characterized by all of the following: 107

(1) It is attributable to a mental or physical impairment 108
or a combination of mental and physical impairments, including 109
Prader-Willi syndrome, other than a mental or physical 110
impairment solely caused by mental illness, as defined in 111
division (A) of section 5122.01 of the Revised Code. 112

(2) It is manifested before age twenty-two. 113

(3) It is likely to continue indefinitely. 114

(4) It results in one of the following: 115

(a) In the case of a person under three years of age, at 116
least one developmental delay, as defined in rules adopted under 117
section 5123.011 of the Revised Code, or a diagnosed physical or 118
mental condition that has a high probability of resulting in a 119
developmental delay, as defined in those rules; 120

(b) In the case of a person at least three years of age 121
but under six years of age, at least two developmental delays, 122
as defined in rules adopted under section 5123.011 of the 123
Revised Code; 124

(c) In the case of a person six years of age or older, a 125
substantial functional limitation in at least three of the 126
following areas of major life activity, as appropriate for the 127
person's age: self-care, receptive and expressive language, 128
learning, mobility, self-direction, capacity for independent 129
living, and, if the person is at least sixteen years of age, 130
capacity for economic self-sufficiency. 131

(5) It causes the person to need a combination and 132

sequence of special, interdisciplinary, or other type of care, 133
treatment, or provision of services for an extended period of 134
time that is individually planned and coordinated for the 135
person. 136

"Developmental disability" includes intellectual 137
disability. 138

(R) "State institution" means an institution that is tax- 139
supported and under the jurisdiction of the department of 140
developmental disabilities. 141

(S) "Residence" and "legal residence" have the same 142
meaning as "legal settlement," which is acquired by residing in 143
Ohio for a period of one year without receiving general 144
assistance prior to July 17, 1995, under former Chapter 5113. of 145
the Revised Code, without receiving financial assistance prior 146
to December 31, 2017, under former Chapter 5115. of the Revised 147
Code, or assistance from a private agency that maintains records 148
of assistance given. A person having a legal settlement in the 149
state shall be considered as having legal settlement in the 150
assistance area in which the person resides. No adult person 151
coming into this state and having a spouse or minor children 152
residing in another state shall obtain a legal settlement in 153
this state as long as the spouse or minor children are receiving 154
public assistance, care, or support at the expense of the other 155
state or its subdivisions. For the purpose of determining the 156
legal settlement of a person who is living in a public or 157
private institution or in a home subject to licensing by the 158
department of job and family services, the department of mental 159
health and addiction services, or the department of 160
developmental disabilities, the residence of the person shall be 161
considered as though the person were residing in the county in 162

which the person was living prior to the person's entrance into 163
the institution or home. Settlement once acquired shall continue 164
until a person has been continuously absent from Ohio for a 165
period of one year or has acquired a legal residence in another 166
state. A woman who marries a man with legal settlement in any 167
county immediately acquires the settlement of her husband. The 168
legal settlement of a minor is that of the parents, surviving 169
parent, sole parent, parent who is designated the residential 170
parent and legal custodian by a court, other adult having 171
permanent custody awarded by a court, or guardian of the person 172
of the minor, provided that: 173

(1) A minor female who marries shall be considered to have 174
the legal settlement of her husband and, in the case of death of 175
her husband or divorce, she shall not thereby lose her legal 176
settlement obtained by the marriage. 177

(2) A minor male who marries, establishes a home, and who 178
has resided in this state for one year without receiving general 179
assistance prior to July 17, 1995, under former Chapter 5113. of 180
the Revised Code or assistance from a private agency that 181
maintains records of assistance given shall be considered to 182
have obtained a legal settlement in this state. 183

(3) The legal settlement of a child under eighteen years 184
of age who is in the care or custody of a public or private 185
child caring agency shall not change if the legal settlement of 186
the parent changes until after the child has been in the home of 187
the parent for a period of one year. 188

No person, adult or minor, may establish a legal 189
settlement in this state for the purpose of gaining admission to 190
any state institution. 191

(T) (1) "Resident" means, subject to division (T) (2) of 192
this section, a person who is admitted either voluntarily or 193
involuntarily to an institution or other facility pursuant to 194
section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised 195
Code subsequent to a finding of not guilty by reason of insanity 196
or incompetence to stand trial or under this chapter who is 197
under observation or receiving habilitation and care in an 198
institution. 199

(2) "Resident" does not include a person admitted to an 200
institution or other facility under section 2945.39, 2945.40, 201
2945.401, or 2945.402 of the Revised Code to the extent that the 202
reference in this chapter to resident, or the context in which 203
the reference occurs, is in conflict with any provision of 204
sections 2945.37 to 2945.402 of the Revised Code. 205

(U) "Respondent" means the person whose detention, 206
commitment, or continued commitment is being sought in any 207
proceeding under this chapter. 208

(V) "Working day" and "court day" mean Monday, Tuesday, 209
Wednesday, Thursday, and Friday, except when such day is a legal 210
holiday. 211

(W) "Prosecutor" means the prosecuting attorney, village 212
solicitor, city director of law, or similar chief legal officer 213
who prosecuted a criminal case in which a person was found not 214
guilty by reason of insanity, who would have had the authority 215
to prosecute a criminal case against a person if the person had 216
not been found incompetent to stand trial, or who prosecuted a 217
case in which a person was found guilty. 218

(X) "Court" means the probate division of the court of 219
common pleas. 220

(Y) "Supported living" and "residential services" have the 221
same meanings as in section 5126.01 of the Revised Code. 222

(Z) "Prader-Willi syndrome" means a genetic disorder, 223
confirmed through methylation analysis or other blood test, that 224
is characterized by hypotonia, abnormally small hands and feet, 225
hypogonadism, dysphasia, sleep disturbances, and difficulty with 226
thermoregulation. 227

Sec. 5126.01. As used in this chapter: 228

(A) As used in this division, "adult" means an individual 229
who is eighteen years of age or over and not enrolled in a 230
program or service under Chapter 3323. of the Revised Code and 231
an individual sixteen or seventeen years of age who is eligible 232
for adult services under rules adopted by the director of 233
developmental disabilities pursuant to Chapter 119. of the 234
Revised Code. 235

(1) "Adult services" means services provided to an adult 236
outside the home, except when they are provided within the home 237
according to an individual's assessed needs and identified in an 238
individual service plan, that support learning and assistance in 239
the area of self-care, sensory and motor development, 240
socialization, daily living skills, communication, community 241
living, social skills, or vocational skills. 242

(2) "Adult services" includes all of the following: 243

(a) Adult day habilitation services; 244

(b) Employment services; 245

(c) Educational experiences and training obtained through 246
entities and activities that are not expressly intended for 247
individuals with developmental disabilities, including trade 248

schools, vocational or technical schools, adult education, job 249
exploration and sampling, unpaid work experience in the 250
community, volunteer activities, and spectator sports. 251

(B)(1) "Adult day habilitation services" means adult 252
services that do the following: 253

(a) Provide access to and participation in typical 254
activities and functions of community life that are desired and 255
chosen by the general population, including such activities and 256
functions as opportunities to experience and participate in 257
community exploration, companionship with friends and peers, 258
leisure activities, hobbies, maintaining family contacts, 259
community events, and activities where individuals without 260
disabilities are involved; 261

(b) Provide supports or a combination of training and 262
supports that afford an individual a wide variety of 263
opportunities to facilitate and build relationships and social 264
supports in the community. 265

(2) "Adult day habilitation services" includes all of the 266
following: 267

(a) Personal care services needed to ensure an 268
individual's ability to experience and participate in vocational 269
services, educational services, community activities, and any 270
other adult day habilitation services; 271

(b) Skilled services provided while receiving adult day 272
habilitation services, including such skilled services as 273
behavior management intervention, occupational therapy, speech 274
and language therapy, physical therapy, and nursing services; 275

(c) Training and education in self-determination designed 276
to help the individual do one or more of the following: develop 277

self-advocacy skills, exercise the individual's civil rights, 278
acquire skills that enable the individual to exercise control 279
and responsibility over the services received, and acquire 280
skills that enable the individual to become more independent, 281
integrated, or productive in the community; 282

(d) Recreational and leisure activities identified in the 283
individual's service plan as therapeutic in nature or assistive 284
in developing or maintaining social supports; 285

(e) Transportation necessary to access adult day 286
habilitation services; 287

(f) Habilitation management, as described in section 288
5126.14 of the Revised Code. 289

(3) "Adult day habilitation services" does not include 290
activities that are components of the provision of residential 291
services, family support services, or supported living services. 292

(C) "Appointing authority" means the following: 293

(1) In the case of a member of a county board of 294
developmental disabilities appointed by, or to be appointed by, 295
a board of county commissioners, the board of county 296
commissioners; 297

(2) In the case of a member of a county board appointed 298
by, or to be appointed by, a senior probate judge, the senior 299
probate judge. 300

(D) "Community employment," "competitive employment," and 301
"integrated setting" have the same meanings as in section 302
5123.022 of the Revised Code. 303

(E) "Supported employment services" means vocational 304
assessment, job training and coaching, job development and 305

placement, worksite accessibility, and other services related to 306
employment outside a sheltered workshop. "Supported employment 307
services" includes both of the following: 308

(1) Job training resulting in the attainment of community 309
employment, supported work in a typical work environment, or 310
self-employment; 311

(2) Support for ongoing community employment, supported 312
work at community-based sites, or self-employment. 313

(F) "Developmental disability" means a severe, chronic 314
disability that is characterized by all of the following: 315

(1) It is attributable to a mental or physical impairment 316
or a combination of mental and physical impairments, including 317
Prader-Willi syndrome, other than a mental or physical 318
impairment solely caused by mental illness as defined in 319
division (A) of section 5122.01 of the Revised Code; 320

(2) It is manifested before age twenty-two; 321

(3) It is likely to continue indefinitely; 322

(4) It results in one of the following: 323

(a) In the case of a person under age three, at least one 324
developmental delay, as defined in rules adopted under section 325
5123.011 of the Revised Code, or a diagnosed physical or mental 326
condition that has a high probability of resulting in a 327
developmental delay, as defined in those rules; 328

(b) In the case of a person at least age three but under 329
age six, at least two developmental delays, as defined in rules 330
adopted under section 5123.011 of the Revised Code; 331

(c) In the case of a person age six or older, a 332

substantial functional limitation in at least three of the 333
following areas of major life activity, as appropriate for the 334
person's age: self-care, receptive and expressive language, 335
learning, mobility, self-direction, capacity for independent 336
living, and, if the person is at least age sixteen, capacity for 337
economic self-sufficiency. 338

(5) It causes the person to need a combination and 339
sequence of special, interdisciplinary, or other type of care, 340
treatment, or provision of services for an extended period of 341
time that is individually planned and coordinated for the 342
person. 343

"Developmental disability" includes intellectual 344
disability. 345

(G) "Early childhood services" means a planned program of 346
habilitation designed to meet the needs of individuals with 347
developmental disabilities who have not attained compulsory 348
school age. 349

(H) "Employment services" means prevocational services or 350
supported employment services. 351

(I) (1) "Environmental modifications" means the physical 352
adaptations to an individual's home, specified in the 353
individual's service plan, that are necessary to ensure the 354
individual's health, safety, and welfare or that enable the 355
individual to function with greater independence in the home, 356
and without which the individual would require 357
institutionalization. 358

(2) "Environmental modifications" includes such 359
adaptations as installation of ramps and grab-bars, widening of 360
doorways, modification of bathroom facilities, and installation 361

of specialized electric and plumbing systems necessary to 362
accommodate the individual's medical equipment and supplies. 363

(3) "Environmental modifications" does not include 364
physical adaptations or improvements to the home that are of 365
general utility or not of direct medical or remedial benefit to 366
the individual, including such adaptations or improvements as 367
carpeting, roof repair, and central air conditioning. 368

(J) "Family support services" means the services provided 369
under a family support services program operated under section 370
5126.11 of the Revised Code. 371

(K) "Habilitation" means the process by which the staff of 372
the facility or agency assists an individual with a 373
developmental disability in acquiring and maintaining those life 374
skills that enable the individual to cope more effectively with 375
the demands of the individual's own person and environment, and 376
in raising the level of the individual's personal, physical, 377
mental, social, and vocational efficiency. Habilitation 378
includes, but is not limited to, programs of formal, structured 379
education and training. 380

(L) "Home and community-based services" has the same 381
meaning as in section 5123.01 of the Revised Code. 382

(M) "ICF/IID" and "ICF/IID services" have the same 383
meanings as in section 5124.01 of the Revised Code. 384

(N) "Immediate family" means parents, grandparents, 385
brothers, sisters, spouses, sons, daughters, aunts, uncles, 386
mothers-in-law, fathers-in-law, brothers-in-law, sisters-in-law, 387
sons-in-law, and daughters-in-law. 388

(O) "Intellectual disability" means a mental impairment 389
manifested during the developmental period characterized by 390

significantly subaverage general intellectual functioning 391
existing concurrently with deficiencies in the effectiveness or 392
degree with which an individual meets the standards of personal 393
independence and social responsibility expected of the 394
individual's age and cultural group. 395

(P) "Medicaid case management services" means case 396
management services provided to an individual with a 397
developmental disability that the state medicaid plan requires. 398

(Q) "Prader-Willi syndrome" has the same meaning as in 399
section 5123.01 of the Revised Code. 400

(R) "Prevocational services" means services that provide 401
learning and work experiences, including volunteer work 402
experiences, from which an individual can develop general 403
strengths and skills that are not specific to a particular task 404
or job but contribute to employability in community employment, 405
supported work at community-based sites, or self-employment. 406

~~(R)~~ (S) "Residential services" means services to 407
individuals with developmental disabilities to provide housing, 408
food, clothing, habilitation, staff support, and related support 409
services necessary for the health, safety, and welfare of the 410
individuals and the advancement of their quality of life. 411
"Residential services" includes program management, as described 412
in section 5126.14 of the Revised Code. 413

~~(S)~~ (T) "Resources" means available capital and other 414
assets, including moneys received from the federal, state, and 415
local governments, private grants, and donations; appropriately 416
qualified personnel; and appropriate capital facilities and 417
equipment. 418

~~(T)~~ (U) "Senior probate judge" means the current probate 419

judge of a county who has served as probate judge of that county 420
longer than any of the other current probate judges of that 421
county. If a county has only one probate judge, "senior probate 422
judge" means that probate judge. 423

~~(U)~~ (V) "Service and support administration" means the 424
duties performed by a service and support administrator pursuant 425
to section 5126.15 of the Revised Code. 426

~~(V)(1)~~ (W)(1) "Specialized medical, adaptive, and 427
assistive equipment, supplies, and supports" means equipment, 428
supplies, and supports that enable an individual to increase the 429
ability to perform activities of daily living or to perceive, 430
control, or communicate within the environment. 431

(2) "Specialized medical, adaptive, and assistive 432
equipment, supplies, and supports" includes the following: 433

(a) Eating utensils, adaptive feeding dishes, plate 434
guards, mylatex straps, hand splints, reaches, feeder seats, 435
adjustable pointer sticks, interpreter services, 436
telecommunication devices for the deaf, computerized 437
communications boards, other communication devices, support 438
animals, veterinary care for support animals, adaptive beds, 439
supine boards, prone boards, wedges, sand bags, sidelayers, 440
bolsters, adaptive electrical switches, hand-held shower heads, 441
air conditioners, humidifiers, emergency response systems, 442
folding shopping carts, vehicle lifts, vehicle hand controls, 443
other adaptations of vehicles for accessibility, and repair of 444
the equipment received. 445

(b) Nondisposable items not covered by medicaid that are 446
intended to assist an individual in activities of daily living 447
or instrumental activities of daily living. 448

~~(W)~~ (X) "Supportive home services" means a range of 449
services to families of individuals with developmental 450
disabilities to develop and maintain increased acceptance and 451
understanding of such persons, increased ability of family 452
members to teach the person, better coordination between school 453
and home, skills in performing specific therapeutic and 454
management techniques, and ability to cope with specific 455
situations. 456

~~(X) (1)~~ (Y) (1) "Supported living" means services provided 457
for as long as twenty-four hours a day to an individual with a 458
developmental disability through any public or private 459
resources, including moneys from the individual, that enhance 460
the individual's reputation in community life and advance the 461
individual's quality of life by doing the following: 462

(a) Providing the support necessary to enable an 463
individual to live in a residence of the individual's choice, 464
with any number of individuals who are not disabled, or with not 465
more than three individuals with developmental disabilities 466
unless the individuals are related by blood or marriage; 467

(b) Encouraging the individual's participation in the 468
community; 469

(c) Promoting the individual's rights and autonomy; 470

(d) Assisting the individual in acquiring, retaining, and 471
improving the skills and competence necessary to live 472
successfully in the individual's residence. 473

(2) "Supported living" includes the provision of all of 474
the following: 475

(a) Housing, food, clothing, habilitation, staff support, 476
professional services, and any related support services 477

necessary to ensure the health, safety, and welfare of the 478
individual receiving the services; 479

(b) A combination of lifelong or extended-duration 480
supervision, training, and other services essential to daily 481
living, including assessment and evaluation and assistance with 482
the cost of training materials, transportation, fees, and 483
supplies; 484

(c) Personal care services and homemaker services; 485

(d) Household maintenance that does not include 486
modifications to the physical structure of the residence; 487

(e) Respite care services; 488

(f) Program management, as described in section 5126.14 of 489
the Revised Code. 490

Section 2. That existing sections 5123.01 and 5126.01 of 491
the Revised Code are hereby repealed. 492