

CHOICE Includes ALL Residential Care Settings For People with Intellectual and Developmental Disabilities and Autism

On a daily basis, the I/DD and autism communities face hurdles and daunting care decisions. Federal rules and laws can expand resources and ease the frustration of limited care options – or exacerbate these difficult factors. When focusing on the most appropriate residential settings for these individuals, rules and laws should recognize the various considerations:

- Physical health needs and related medical services
- Mental health needs and related medical services
- Proximity to guardians, family and caregivers
- Ability to safely engage with others
- Individual choice

The Supreme Court's decision in *Olmstead* protects the beneficiary's right to choose where to live and receive services – including in the least restrictive and most integrated settings available in a state. The Court's decision also makes clear that for some individuals, a Home- and Community-Based Services setting may not be appropriate for or a variety of reasons - including complex medical care requirements and aggression towards others. Recognizing the reality that a *complete continuum* of quality residential setting must be supported, is not discrimination. It is respecting the individual's abilities and caring for their needs.

H.R. 2708/S. 1193, The LaTonya Reeves Freedom Act, would legislate to remove choice from residential care setting decisions. It legislates based on the assumption that all I/DD individuals are capable of choice and can have their needs met via residential settings under the HCBS.

- Section 2(2): Eliminates choice for those who conclude that intermediate care facilities (ICFs) provide the care and setting that is most appropriate for their numerous needs.
- Section 2(4): Establishes enforcement to *require* individuals transition out of ICFs
- Section 3(a)(3)(A)(iii): The broad language of "right to privacy" neither protects the most vulnerable nor recognizes that their critical medical needs require 24/7 monitoring
- Section 6(b)(10)(B): Again eliminates an individual's (or their guardian's) ability to choose an ICF as the most appropriate residential setting – even if all other settings are unable to meet their physical or mental health needs.

A segment of the I/DD population is medically fragile and requires around-the-clock oversight by trained clinicians and caregivers. It is a fact that many adults in this community never exceed the developmental level of infants or young children. Legislation impacting their care must reflect these medical and behavioral realities in order to ensure their safety, comfort, and quality of life.

VOR urges you to oppose H.R.2708 / S.1193 in its current form. The legislation prioritizes those in the I/DD community who are more mentally and physically capable and discriminates against those with higher levels of care needs – putting them at risk for unacceptable care outcomes.

As Congress addresses the numerous and varied needs of the I/DD community, VOR is a resource for ensuring that legislation protects the rights of all of these individuals. Please reach out to our Executive Director, Hugo Dwyer, at hdwyer@vor.net to arrange a time to further discuss this important topic.