

# AN UNFINISHED JOURNEY: CIVIL RIGHTS *for* PEOPLE WITH DEVELOPMENTAL DISABILITIES *and the* ROLE *of the* FEDERAL COURTS

*This exhibit is cosponsored by the U.S. District Court for the District of Minnesota and its Public Outreach Committee, the Minnesota Governor's Council on Developmental Disabilities, the Minnesota Chapter of the Federal Bar Association, the Minnesota Disability Bar Association, and MSS.*



## GUIDE TO THIS EXHIBIT

As you experience this exhibit, pay attention to three main themes in the story of the civil rights movement for people with developmental disabilities:

- How does the disability rights movement fit in the broader civil rights movement?
- Where does Minnesota's history fit in the nationwide movement?
- What was the role of the federal courts?



Above: A mother and son celebrating after a graduation ceremony. Sherie Wallace, photographer.

Below: Warren E. Burger Federal Building and U.S. Courthouse, St. Paul, MN.

Bottom: Photograph submitted to the court as exhibits in *Welsch v. Likins* and used with permission from the Mid-Minnesota Legal Aid/Minnesota Disability Law Center.





## DEFINING DISABILITIES:

# WHAT IS A DEVELOPMENTAL DISABILITY?

### A WORD ABOUT WORDS

For centuries, words have been used as labels to describe people with developmental disabilities. These words include idiot, imbecile, moron, feeble-minded, subnormal, mentally defective, mentally deficient, mentally incompetent, mentally handicapped, trainable, educable, slow learner, and mentally “R.”

These words may be jarring and will bring up old—and harmful—stereotypes of inferior, incapable, and devalued human beings.

Although you may see these words in this exhibit because of historical context, we have minimized the use of any offensive terminology.

### A DEFINITION

The Americans with Disabilities Act defines a disability as a physical or mental impairment that substantially limits one or more major life activities. About 16–20% of Minnesotans meet that definition. Within that broad definition, individuals with developmental disabilities are those who have three or more functional limitations that occur before age 22 and require lifelong support and services.

**1.58%**  
of Minnesotans  
have developmental  
disabilities.

Below: Self-advocates celebrating at a graduation event.  
Sherie Wallace, photographer.

**“If you got to label  
something, label  
words, label jars,  
label streets, but  
don’t label persons.”**

Valerie Schaaf  
Oregon People First  
1974





AN UNFINISHED JOURNEY

# WAITING FOR RIGHTS

People with developmental disabilities have been waiting for their rights since Minnesota became a state in 1858:  
**WAITING ...**

**116 YEARS** *for the* **RIGHT TO TREATMENT**

1974 federal district court decision in *Welsch v. Likins*

**117 YEARS** *for the* **RIGHT TO EDUCATION**

1975 federal law enacted, and later renamed IDEA

**123 YEARS** *for the* **RIGHT TO LIVE  
IN A NEIGHBORHOOD**

1981 Minnesota Supreme Court decision in *Costley v. Caromin House*

**132 YEARS** *for* **BASIC CIVIL RIGHTS**  
(ADA: *Americans with Disabilities Act*)

1990 ADA enacted

**141 YEARS** *for the* **RIGHT TO MOST  
INTEGRATED SETTING**

1999 U.S. Supreme Court decision in *Olmstead v. L.C., ex rel. Zimring*

**153 YEARS** *for the* **RIGHT TO FREEDOM  
FROM RESTRAINT & SECLUSION**

2011 the federal district court approves the *Jensen Settlement Agreement*

**154 YEARS** *for the* **RIGHT TO VOTE**

2012 federal district court decision in *Minnesota Voters Alliance v. Ritchie*

**... AND ARE STILL WAITING TO BE TREATED  
AS EQUAL CITIZENS IN LIFE AND WORK.**





## INSTITUTIONS

# HOW DID PEOPLE WITH DEVELOPMENTAL DISABILITIES COME TO LIVE IN INSTITUTIONS?

In 19th century America, conditions for people with disabilities were harsh. Many families lacked the resources to provide care for their loved ones with disabilities. People with disabilities, along with others living in poverty, were sometimes put into “poorhouses.” Wealthier parents could keep their children with disabilities at home.

Minnesota established the “Hospital for the Insane” in St. Peter in 1866. Additional state institutions were built, including in Faribault (1879), Rochester (1879), Fergus Falls (1890), and Anoka (1894). The state took custody of people with developmental disabilities and placed them in these newly formed institutions, away from their families and local communities.

**The state institutions started as training schools. But as the populations increased, the commitment to education and training was abandoned. People were treated like prison inmates—or worse.**

Residents were forced to work for free to support the institutions. People worked in segregated “colonies” based on their abilities. Some residents worked as unpaid laborers to care for others within the institution. Others performed hard physical labor on farm colonies or in other places to sustain the large institutional population.



Above: Willmar State Hospital, courtesy of Minnesota Historical Society.

Right: Patients at Fergus Falls State Hospital c. 1900, courtesy of Minnesota Historical Society.

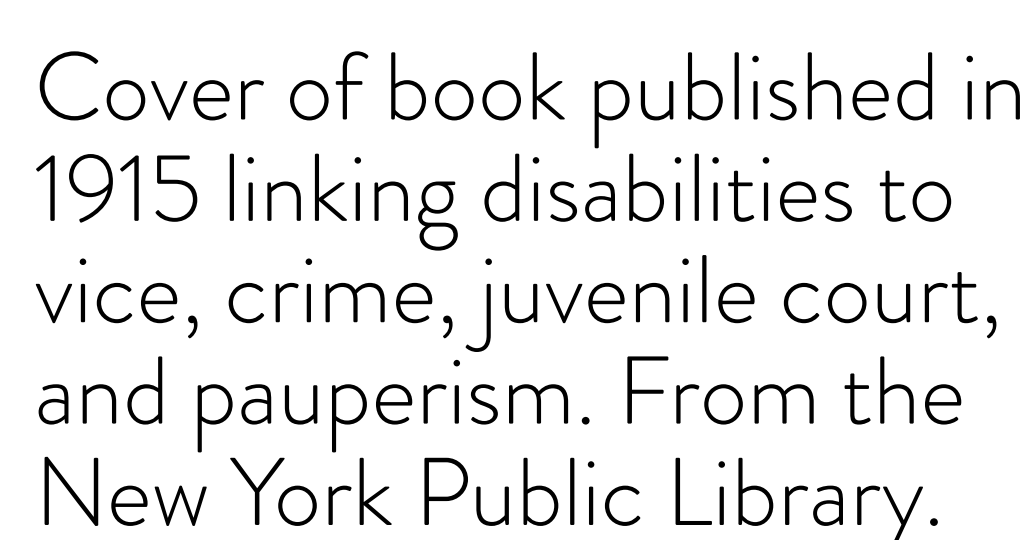
Below: Boys learned in the classroom and the work room at the Gillette State Hospital, 1905, courtesy of Minnesota Historical Society.





# MISINFORMATION AND MISTREATMENT

By the early 1900s, people with disabilities became scapegoats for society's ills. A misinformation movement promoted the "menace of feeble-mindedness," a belief that persons with disabilities were dangerous, immoral, and capable of ruining the gene pool. People with disabilities were sometimes referred to as "defective delinquents." As late as 1920, the U.S. Public Health Service combined "criminals, defectives, and delinquents" into a single category. Newspapers depicted arsonists, murderers, or other violent actors with drawings that suggested the presence of a disability.



Overcrowding worsened in the 20th century. The institutions had insufficient staff. People were often locked in their rooms or housed in dormitories, sometimes restrained in a chair or bed all day. *Star Tribune* reporter Geri Joseph described the conditions she saw in Minnesota's institutions in 1948: "[T]here were just an incredible number of people who were literally tied up. They'd have leather

cuffs ... or some of them would be tied to beds, spread-eagle tied to beds. They had no sheets or pillowcases on these beds.”

6,000

people with developmental disabilities lived in Minnesota's state institutions.

No. App's.		Name and Address.	Grades in	Department,
M.	F.	TOTAL		
3/8	222	0	Epileptic, <sup>51</sup>	Paralytic, <sup>51</sup>
Sex			Now Cause	Remarks, <sup>51</sup>
Nationality, <sup>4</sup>			Frequency of at., <sup>52</sup>	Walk, Yrs. began, <sup>53</sup> 2 yrs.
			Their severity, <sup>52</sup>	Remarks, <sup>53</sup>
			Aura and Sub. sympt's	Dress Alone, <sup>54-56</sup> Yrs.
			Treatment, <sup>55</sup>	Cleanly; day, <sup>64</sup> night, <sup>65</sup>
				Deformed, <sup>58</sup> How, <sup>59</sup>
				Destructive, <sup>61</sup> 96r. How
				Dangerous with Fire, <sup>60</sup> 96r.
				Runs Away, <sup>58</sup> "
			Results, <sup>55</sup>	Sight, <sup>11</sup> Good
			Expect what	Hearing, <sup>11</sup> "
				R. L.

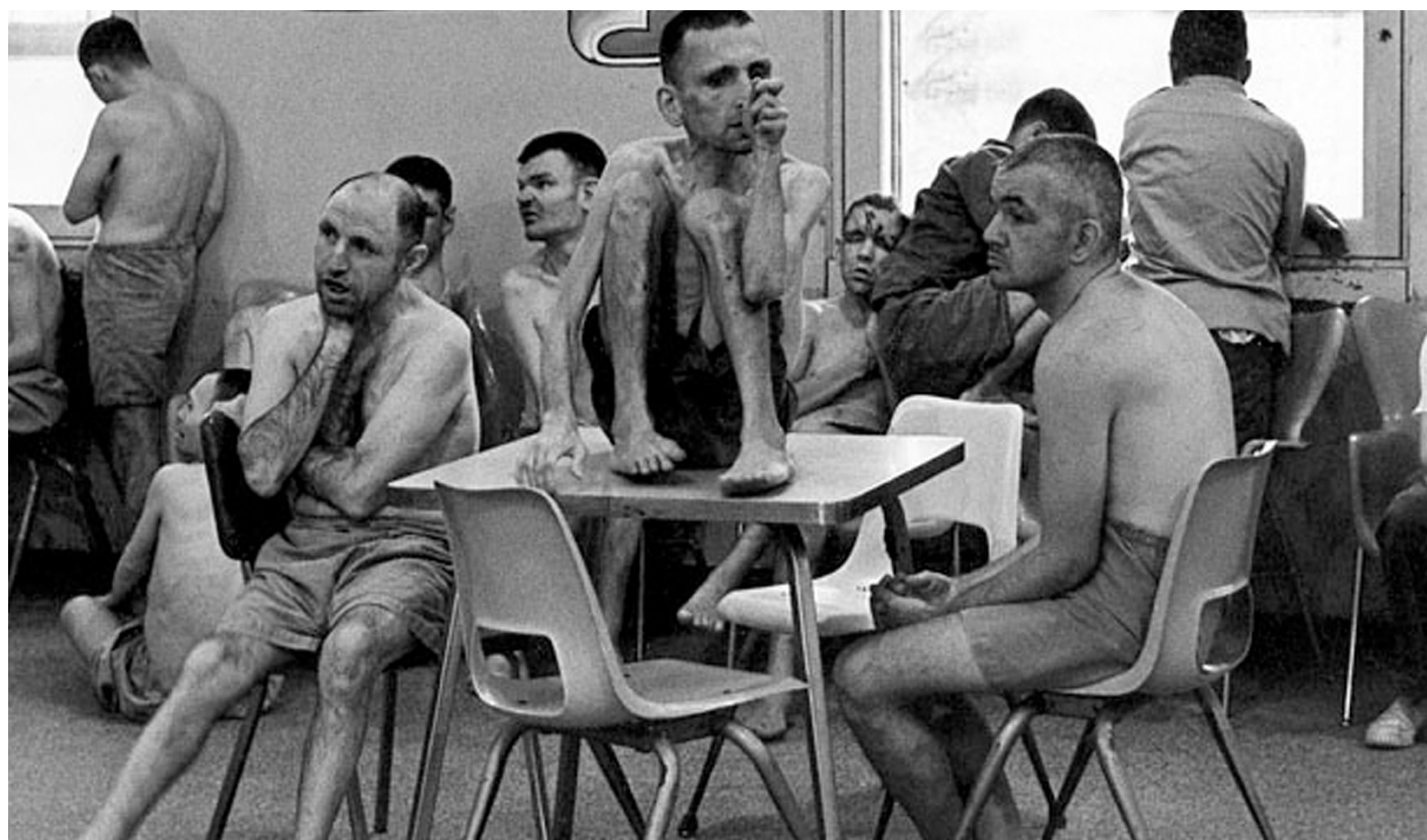
GENERAL DESCRIPTION AND HISTORY.		HEALTH. (Case Book, Page)	
No. of admission;	Male 264 Female 189 Total 453	General, now	Past
Date admitted	October 7 - 1890	Lungs	Heart
Clothing furnished by, <sup>108</sup>	County	Skin	Digest
Bond No.	Certificate No. 241	Height	Weight
Correspondent			

EXPLANATION.	
The numbers refer to answers on "Personal Descriptive Blank."	
Entries in black ink taken from	
"red" personal interview.	



Below: Photograph showing conditions in Willowbrook, published in *Public Hostage Public Ransom: Ending Institutional America*, the World Interdependence Fund, Inc., William Bronston, M.D. Used by permission of the author.





# EUGENICS AND DEHUMANIZATION

The late 1800s and early 1900s saw the rise of the eugenics movement. The National Institutes of Health describes eugenics as “the scientifically erroneous and immoral theory of racial improvement and planned breeding, which gained popularity during the early [1900s.]” Eugenicists believed that involuntary sterilization, segregation, and exclusion would eliminate those deemed unfit.



Carrie Buck and her mother, Emma.

In 1924, Virginia passed a law that allowed the involuntary sterilization of institutionalized people with developmental disabilities. Carrie Buck, a 17-year-old woman who was committed to a state institution, challenged the state’s decision to sterilize her. In 1927, the U.S. Supreme Court denied Ms. Buck’s challenge and upheld Virginia’s Sterilization Act. Justice Oliver Wendell Holmes, who authored the opinion, callously wrote:

“Three generations of imbeciles are enough.”

The passing of a Minnesota bill led to the involuntary sterilization of at least

2,204

people between 1925–1945, 77% of whom were women.

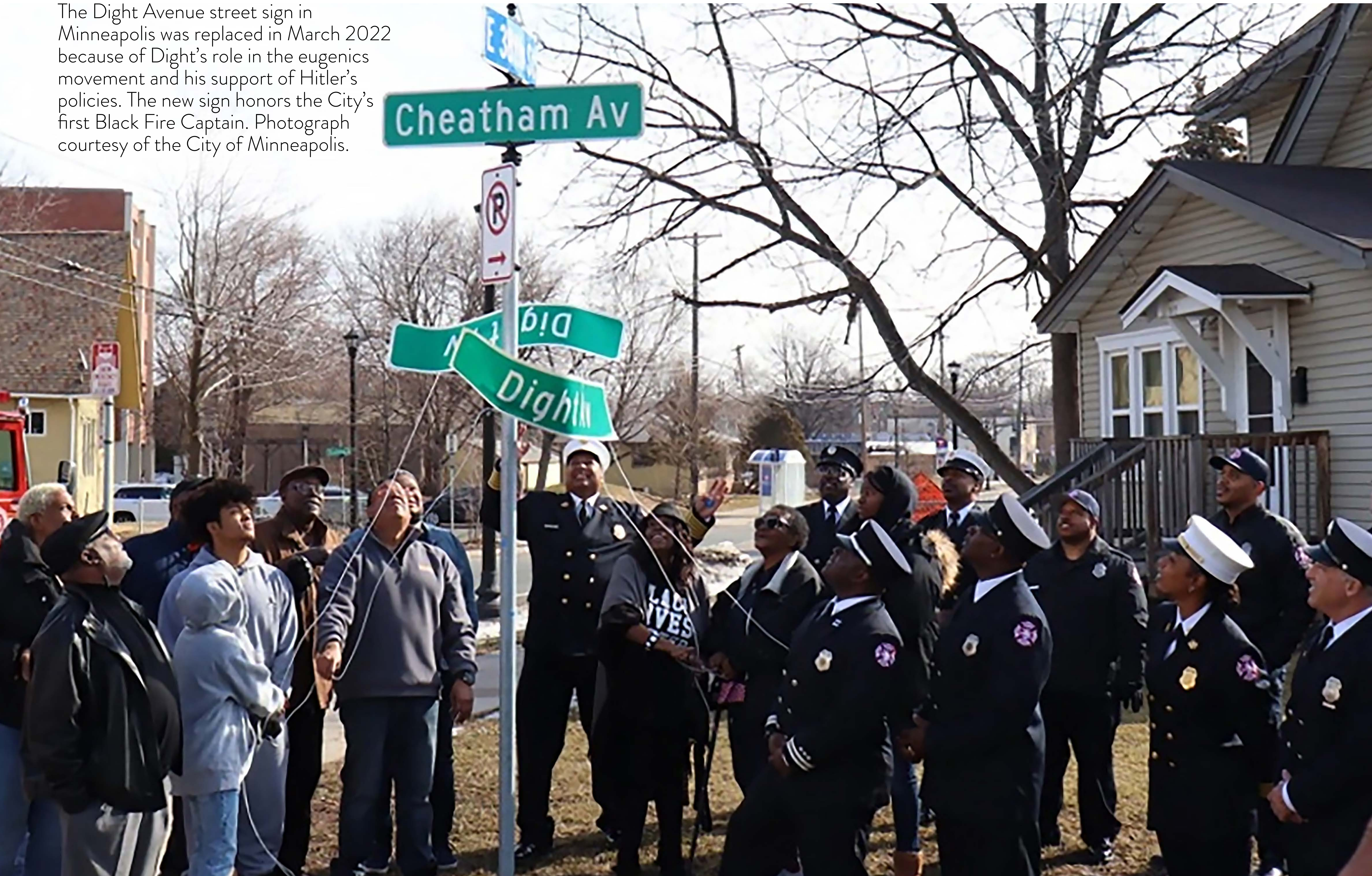


Meanwhile, Charles F. Dight, a doctor in Minneapolis, founded the Minnesota Eugenics Society in 1923. He helped write Minnesota’s bill authorizing the sterilization of people with disabilities.

**Hitler’s Nazi party modeled Germany’s sterilization laws on America’s immoral eugenics theories.**

Dight wrote to Hitler in 1933, praising Hitler’s “plan to stamp out mental inferiority among the German people.” Hitler responded by inviting Dight to Munich. Germany’s laws led to the sterilization of hundreds of thousands of disabled people. During World War II, Hitler’s Nazi government murdered about 200,000 people with disabilities deemed “unworthy of life.” Others with disabilities were subjected to inhumane and unconscionable medical experiments.

The Dight Avenue street sign in Minneapolis was replaced in March 2022 because of Dight’s role in the eugenics movement and his support of Hitler’s policies. The new sign honors the City’s first Black Fire Captain. Photograph courtesy of the City of Minneapolis.





## WILLOWBROOK AND PENNHURST

# ABUSE AND NEGLECT ON NATIONAL TV LEADS TO FEDERAL COURT ACTION

In the late 1960s and early 1970s, the inhumane conditions in institutions were revealed to the American public on national TV. A documentary called “Suffer the Little Children” aired in 1968, exposing conditions in the Pennhurst School in Pennsylvania. In February 1972, ABC news aired Geraldo Rivera’s investigative report on conditions in the Willowbrook State School in New York.



Photographs showing conditions in Willowbrook, published in *Public Hostage* *Public Ransom: Ending Institutional America*, the World Interdependence Fund, Inc., William Bronston, M.D. Used by permission of the author.



In March 1972, parents of Willowbrook residents filed a class action lawsuit in federal court in New York. They alleged that Willowbrook violated their children’s constitutional rights through:

- a failure to treat developmental and medical needs
- confinement in solitary settings
- overcrowded and understaffed facilities with no privacy or safety
- inadequate clothing, meals, and bathroom facilities

The case settled in 1975, when Judge Orrin G. Judd signed the *Willowbrook* Consent Judgment, which set guidelines and requirements for operating the institution, established new standards of care, and called for a ten-year phase down of the population.

In 1974, *Halderman v. Pennhurst* was filed in federal court in Pennsylvania on behalf of former and current residents seeking damages, the closing of Pennhurst, and education, training, and care in the community. In 1977, Judge Raymond J. Broderick found that Pennhurst was overcrowded and that unwarranted forms of restraints were used. He found that residents had three rights under the Constitution: a right to minimally adequate habilitation, a right to be free from harm, and a right to non-discriminatory habilitation, and that each of these rights had been violated.





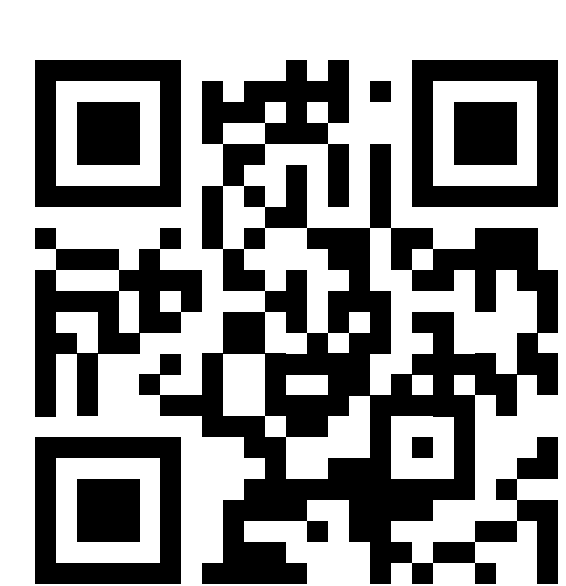
# PARENTS START FIGHTING FOR RIGHTS

By 1950, more than 140,000 people with developmental disabilities lived in state-run institutions in the United States. Overcrowding and living conditions worsened. The parent and self-advocacy movements arose to address these abuses.

In September 1950, ninety parents from 15 states came together in Minneapolis to participate in the first national parent association conference. A newspaper reporter called them “parents with a purpose” who had no money and no formal organization. They were strangers with only one goal—to help their loved ones. Minnesota Governor Luther Youngdahl wholeheartedly supported their aspirations for their children with these words:



**“He has the same rights that children everywhere have. He has the right to happiness, the right to play, the right to companionship, the right to be respected, the right to develop to the fullest extent within his capacity, and the right to love and affection. He has these rights for one simple reason. He is a child.”**



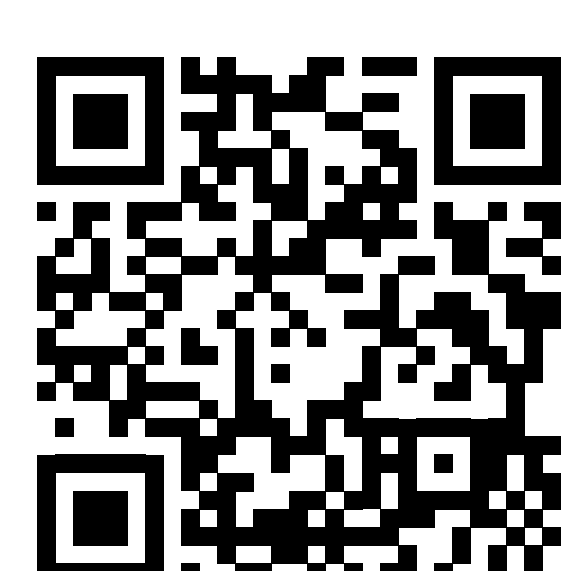
This grassroots effort led to what is now called The Arc, which is the largest national community-based organization advocating for and with people with intellectual and developmental disabilities. Parents and parent associations often served as plaintiffs in early lawsuits about the right to treatment and the right to education. Parents and families continue to work on public policy issues at state and federal levels.





# SELF-ADVOCATES START FIGHTING FOR RIGHTS

Self-advocacy began in the United States in 1974. Today, there are hundreds of self-advocacy groups around the country. The groups are organized by Self Advocates Becoming Empowered (SABE). SABE's mission is "[t]o ensure that people with disabilities are treated as equals and that they are given the same decisions, choices, rights, responsibilities, and chances to speak up to empower themselves; opportunities to make new friends, and to learn from their mistakes."



Minnesota created the Self Advocates Minnesota network (SAM) in 2007 with the support of a grassroots disability rights organization called Advocating Change Together (ACT). More than 50 self-advocate groups around Minnesota are now connected and working together.

Individuals with developmental disabilities and self-advocacy groups have served as plaintiffs in federal lawsuits about deinstitutionalization, the right to employment, the ADA, and the right to the most integrated settings. Self-advocates are also active on public policy issues at state and federal levels.



Left: Self-advocates have actively participated in demonstrations to gain civil rights.

Bottom: In 2012, 600 self-advocates attended the national Self Advocates Becoming Empowered conference held in St. Paul.

Both photos used by permission. © Tom Olin Collection, MSS-294. Ward M. Canaday Center for Special Collections, The University of Toledo Libraries.

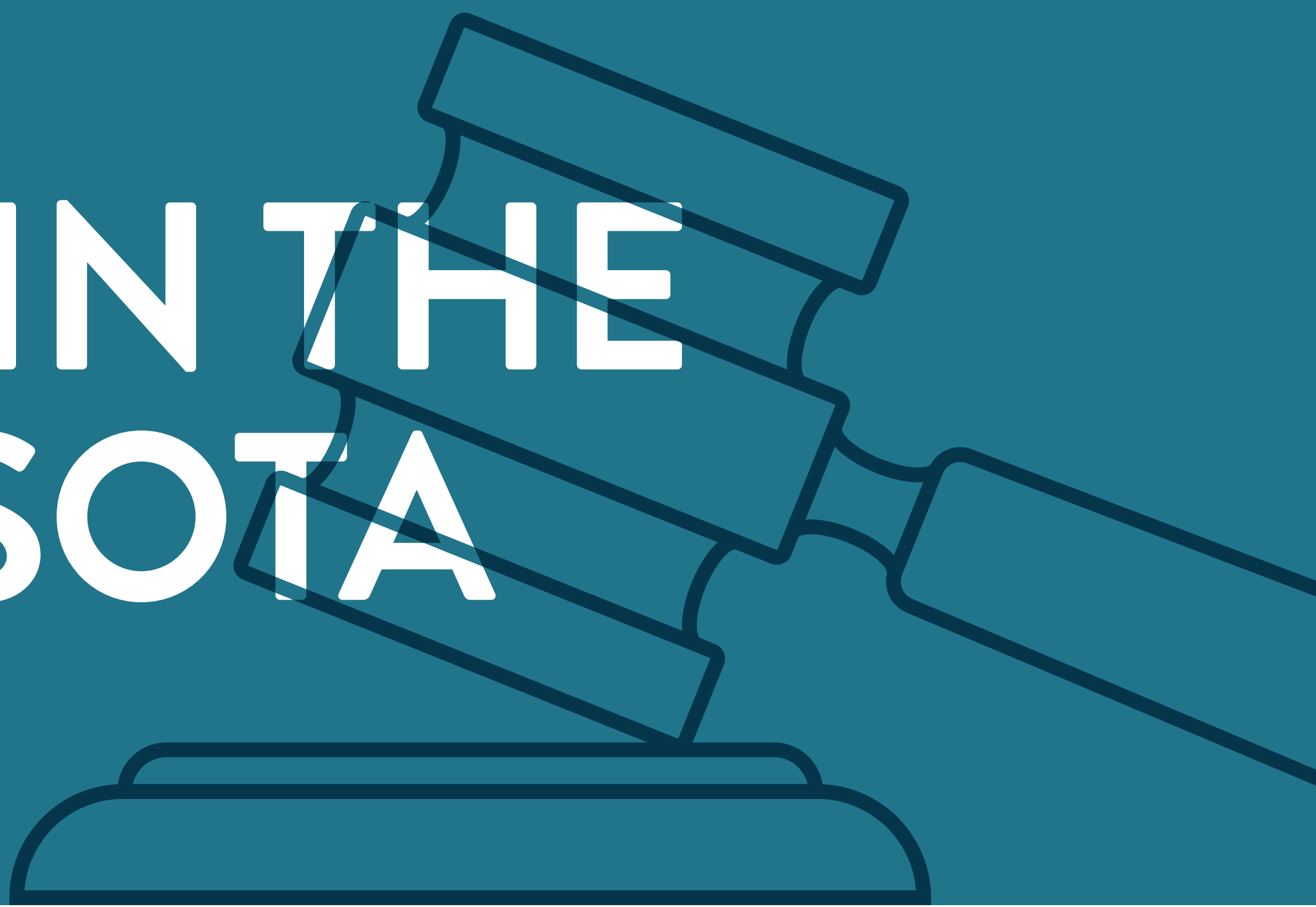
Below: Self-advocate participating in a leadership training program called Partners in Policymaking®. Sherie Wallace, photographer.





WELSCH V. LIKINS

# NATIONAL REFORM IN THE DISTRICT OF MINNESOTA



Richard and Patricia Welsch. Photographer Regene Radniecki, Copyright 1989.

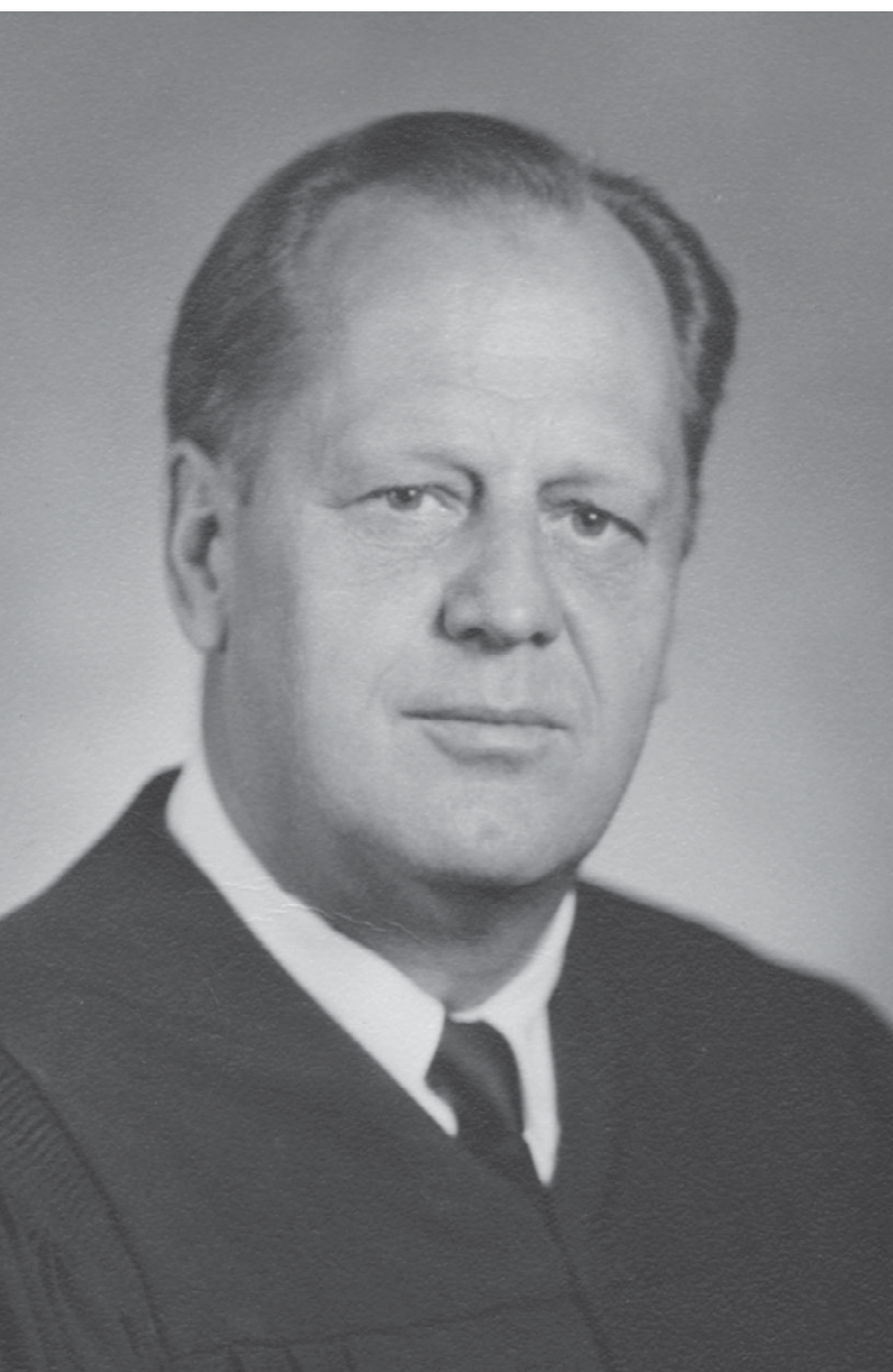


**National reform took center stage in Minnesota in *Welsch*.** In 1972, Richard Welsch (on behalf of his daughter, Patricia) and involuntarily committed residents of Minnesota’s institutions filed a lawsuit in the U.S. District Court for the District of Minnesota, alleging that conditions violated their constitutional rights. Attorneys from The Legal Aid Society of Minneapolis represented the residents.

The twelve-day trial in 1973 exposed the lack of adequate staff, excessive use of medication and restraint, and a deplorable living environment.



Photographs submitted to the court as exhibits in *Welsch v. Likins* and used with permission from the Mid-Minnesota Legal Aid/ Minnesota Disability Law Center.



Judge Earl R. Larson issued an opinion in 1974, finding that anyone committed to an institution must receive minimally adequate treatment designed to give them a realistic opportunity to be cured or to improve their mental condition.

Judge Larson wrote, “Everyone, no matter the degree or severity of mental retardation, is capable of growth and development if given adequate and suitable treatment.”

The *Welsch* lawsuit lasted **17 YEARS.**

Judge Larson’s ruling guided the service system for the next several years, resulting in:

- improved staffing
- reduction in the number of people in institutions
- physical plant improvements
- reduction in restraints and seclusion
- individual habilitation plans for all
- establishment of the Office of Ombudsman for Mental Health and Developmental Disabilities



Another trial in 1980 involved more institutions, leading to a settlement agreement covering a total of eight institutions.

The case was not ultimately dismissed until 1989 after Judge David S. Doty approved the final *Welsch* settlement agreement.

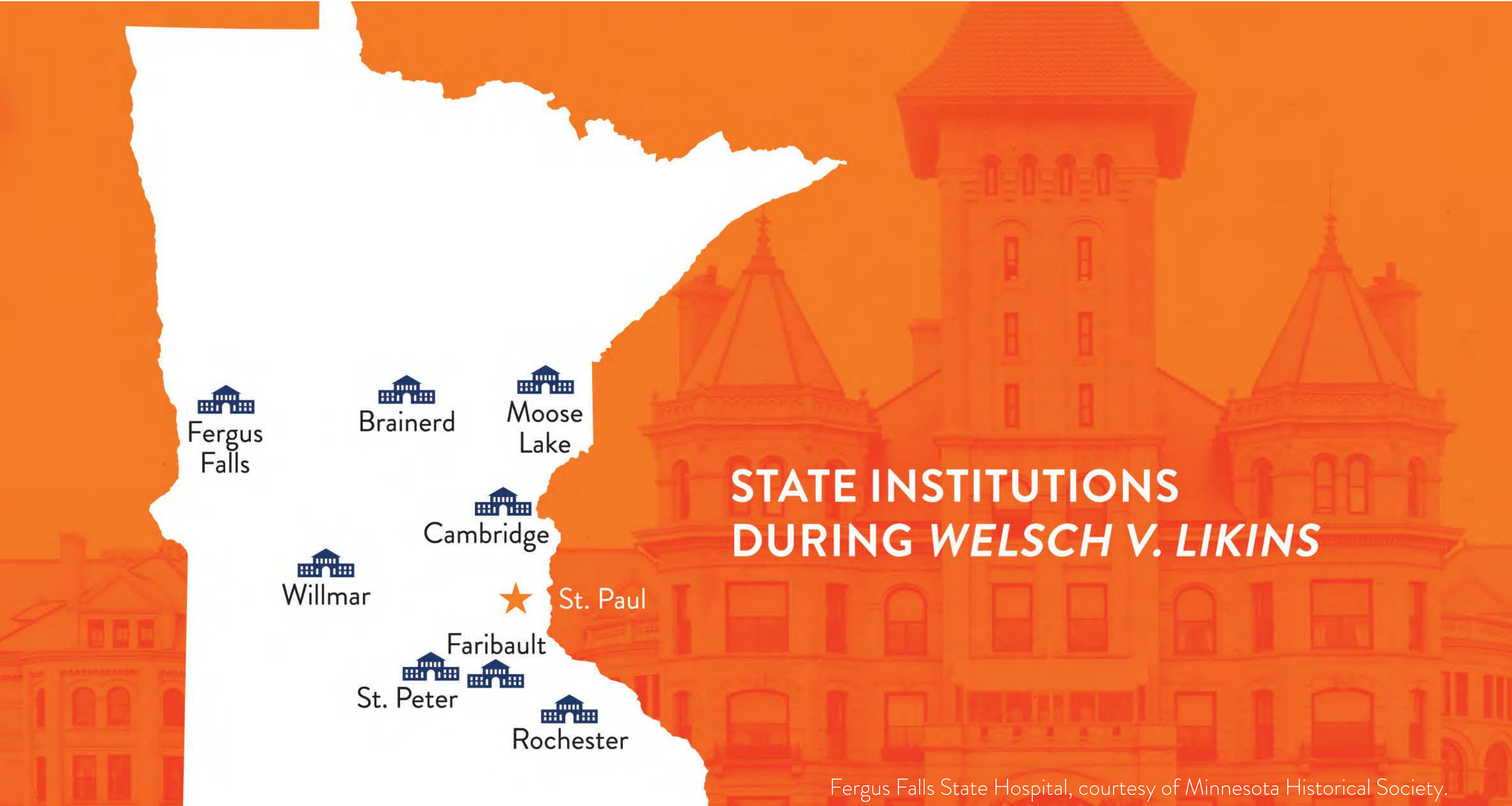
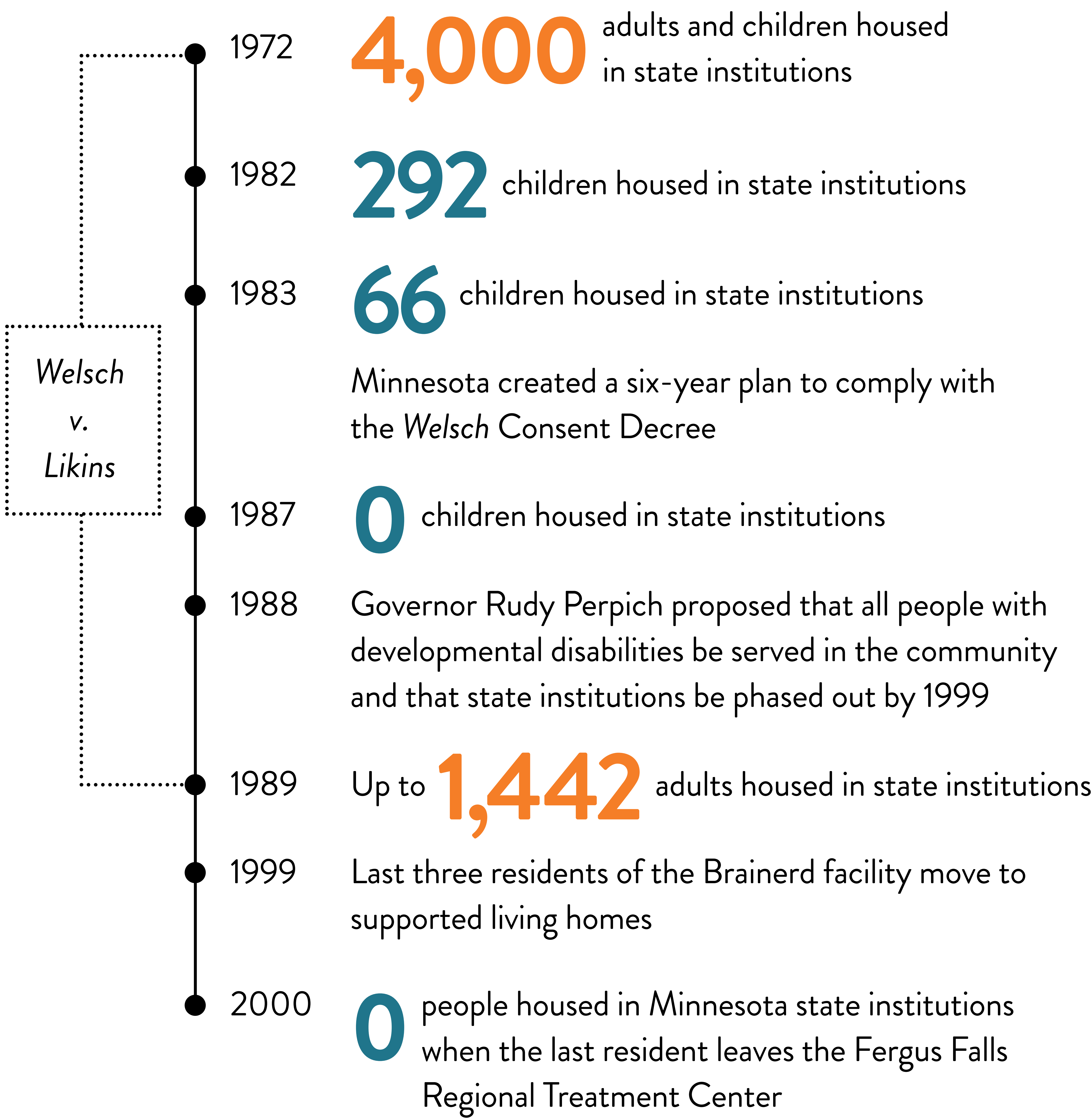


AFTER *WELSCH V. LIKINS*

# CLOSURE OF STATE INSTITUTIONS



Judge Earl R. Larson did not order the state of Minnesota to close its institutions. But the reforms initiated by his decisions demonstrated that alternatives to institutions were economically and morally preferable.



Fergus Falls State Hospital, courtesy of Minnesota Historical Society.



Willmar State Hospital, courtesy of Minnesota Historical Society.



# KEY FEDERAL LAWS



Between 1973 and 1990, Congress enacted three important federal laws protecting the civil rights of people with disabilities. But passing the laws was just the beginning of the fight to secure those rights.

## SECTION 504 OF THE REHABILITATION ACT OF 1973 (“SECTION 504”)

**Section 504 prohibits discrimination on the basis of disability in federally-assisted programs or services such as schools, colleges, and hospitals.**

**BUT:** It took almost four years for the government to put the law into effect. In 1977, disability activists used civil rights movement tactics, organizing demonstrations and sit-ins across the country. This activism finally led to the enforcement of Section 504.

## THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT (“IDEA”) [1975]

**This law guarantees children with disabilities the right to a “free and appropriate public education” in the least restrictive environment.**

**BUT:** In 2017, the U.S. Supreme Court had to clarify that a school must give enough support and services to children with disabilities so that they can make “appropriately ambitious” progress, not “merely more than de minimis” progress. *Endrew F. v. Douglas County School District*.

## THE AMERICANS WITH DISABILITIES ACT (“ADA”) [1990]

**This law prohibits employers from discriminating against people with disabilities. Services and spaces that are open to the public must be accessible to people with disabilities. People with disabilities can’t be excluded from services, programs, or activities of a public entity. This includes access to courts and juries, treatment by law enforcement officials, access to voting, emergency preparedness plans, and even the use of U.S. currency.**

**BUT:** Before the Act passed, protestors with disabilities abandoned wheelchairs and crutches at the bottom of the steps of the U.S. Capitol building, crawling up the steps to dramatize their exclusion. And not until 1999 did the U.S. Supreme Court interpret this to require states to give people with disabilities the right to live, work, and receive services in the “most integrated setting” possible—that is, in the community, instead of institutional settings. *Olmstead v. L.C., ex rel. Zimring*.



Above: During the State Capitol reopening celebration held in August 2017, panel members discussed the impact of the ADA on the lives of people with disabilities. Senator David Durenberger and a self-advocate celebrated with an air fist bump. Tim Lewis, photographer.

Left: Individuals with disabilities crawled up 78 Capitol steps to deliver messages to the House leadership. Used by permission. © Tom Olin Collection, MSS-294. Ward M. Canaday Center for Special Collections, The University of Toledo Libraries.



## OBSTACLES TO COMMUNITY INTEGRATION

# NOT IN MY NEIGHBORHOOD

As institutions began to close, Minnesota saw dramatic expansion of community-based living options for people with developmental disabilities. But people with developmental disabilities faced an ongoing struggle because of irrational prejudice and fear of change.

Like other minority groups, people with developmental disabilities had to fight for the right to live in a neighborhood of their choosing.

**“People would ... say, oh their property values would go down, their children and their women would be at risk.”**

**Toni Lippert, Met Council regional planner**



Zoning laws and restrictive covenants in Minnesota created additional obstacles. In 1980, neighbors tried to stop a group home from opening in their neighborhood in Two Harbors. The neighbors claimed that the proposed group home violated zoning laws because the people in the group home were not a “family” as required in the zoning law. The Minnesota Supreme Court in *Costley v. Caromin House* disagreed and said that the people living in the home operated as a family. The group home was allowed.

In the *City of Cleburne v. Cleburne Living Center*, 1985, the U.S. Supreme Court weighed in. The City of Cleburne, Texas, required the operators of group homes for people with developmental disabilities to get a special use permit. This put the group homes in the same category as prisons. The City argued that neighboring property owners and elderly residents feared the group home and that students at a nearby school might harass the residents.

The U.S. Supreme Court rejected these arguments, stating, “mere negative attitudes, or fear, ... are not permissible bases for treating a [group home] differently from apartment houses.” The Court concluded that the permit requirement rested on “irrational prejudice” and was therefore unconstitutional.





MEDICAID WAIVERS

EXPANDING POSSIBILITIES IN  
COMMUNITY INTEGRATION

Medicaid is a joint federal and state program created in 1965 that helps cover medical costs and services for eligible people with limited funds and resources. Originally, Medicaid funded living services for people with developmental disabilities, but only those living in nursing homes and hospitals. In 1972, Congress expanded Medicaid coverage to include people living in other institutional settings for people with disabilities, such as state-run institutions and private facilities.

**In 1981, Congress revolutionized life for people with disabilities by creating the waiver program. Through the waiver program, states could spend Medicaid funds to help people living in non-institutional settings, such as their own home, a family home, or a small group home. The waiver program became the primary driver to help people move from state institutions into community settings.**

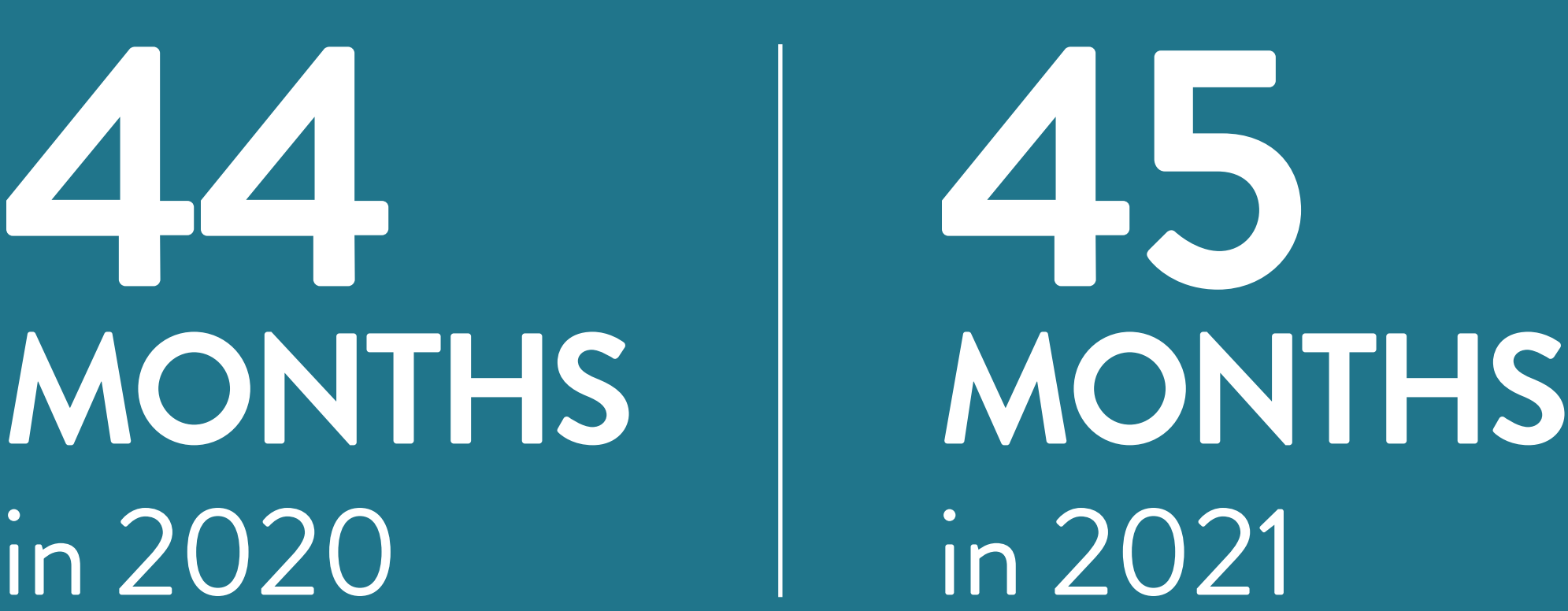
Minnesota’s Department of Human Services applied to take advantage of this waiver program in 1983. But within weeks of the opening of the 1984 State Legislative session, six bills were introduced to block the application. These efforts to stop the movement of people with disabilities out of institutions failed. Minnesota applied for and received a Medicaid waiver from the federal government. Today, Minnesotans who choose to receive support in their home or community can apply for waiver services. Unfortunately, there are still waiting lists to receive waiver program funding. In Minnesota, the waiver waiting list is based on urgency of need.

*Kaiser Family Foundation 2021 Study*

NUMBER OF PEOPLE WAITING FOR WAIVER SERVICES  
IN THE UNITED STATES



AVERAGE WAIT TIME  
IN THE UNITED STATES  
TO RECEIVE SERVICES



67 MONTHS

AVERAGE WAIT TIME IN THE  
UNITED STATES FOR PEOPLE  
WITH INTELLECTUAL  
AND DEVELOPMENTAL  
DISABILITIES TO RECEIVE  
SERVICES



COMMUNITY INTEGRATION: OLMSTEAD V. L.C., EX REL. ZIMRING

# THE U.S. SUPREME COURT GETS SERIOUS

In 1999, the U.S. Supreme Court held that “unjustified isolation of individuals with disabilities” through “undue institutionalization” was discrimination based on disability in violation of the ADA. The landmark decision, known as *Olmstead*, became the disability rights movement’s *Brown v. Board of Education*.

The story of this case began with Lois Curtis and Elaine Wilson.



Lois Curtis, left, and Elaine Wilson, right, in front of the U.S. Supreme Court building on the day of the *Olmstead* hearing. Used by permission. © Tom Olin Collection, MSS-294. Ward M. Canaday Center for Special Collections, The University of Toledo Libraries.

Ms. Curtis and Ms. Wilson were women with developmental disabilities who were admitted to the state-run Georgia Regional Hospital and then confined to a psychiatric unit. After treatment, their medical providers said they were ready to move to a community-based program. But they remained confined for years. A lawsuit was filed in 1995 in the federal district court in Georgia against Tommy Olmstead, the Commissioner of the Georgia Department of Human Resources. Ms. Curtis and Ms. Wilson argued that their unnecessary confinement violated their rights.

The U.S. Supreme Court agreed. Justice Ruth Bader Ginsburg announced the decision, which held that the ADA requires a state to offer its services and programs in the “most integrated setting appropriate”—a setting that “enables individuals with disabilities to interact with non-disabled persons to the fullest extent possible.”

The *Olmstead* decision opened the door for people with disabilities and their families to demand a full range of community services as alternatives to services provided in institutional settings.



Minnesota's  
*Olmstead*  
Plan





## THE *JENSEN* LAWSUIT & SETTLEMENT

# RESTRAINT IS NOT A SUBSTITUTE FOR TREATMENT



Above: Photograph showing conditions in Willowbrook, published in *Public Hostage Public Ransom: Ending Institutional America*, the World Interdependence Fund, Inc., William Bronston, M.D. Used by permission of the author.

Right: Photograph courtesy of the Minnesota Historical Society.

The use of restraint and seclusion in institutional settings dates back centuries.

In 1949, Minnesota Governor Luther Youngdahl celebrated the end of the use of physical restraints in Minnesota institutions by burning straitjackets, cuffs, straps and canvas mittens at a ceremony on the campus of Anoka State Hospital.

Youngdahl declared, “We have liberated the patients from barbarous devices and the approach which those devices symbolized ... By this action, we say to the patient that we understand them—that they need have no fears—that those around them are friends.”

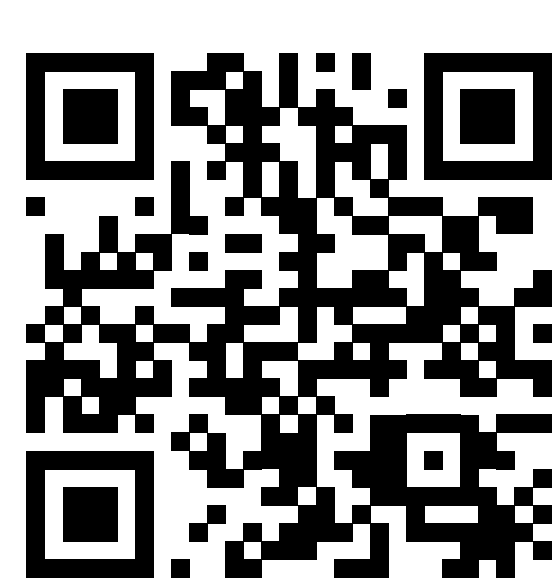
## Youngdahl’s optimism was premature ...

In 2008, the Minnesota Office of the Ombudsman for Mental Health and Developmental Disabilities issued a report about a residential program for people with developmental disabilities called the Minnesota Extended Treatment Options (METO). The report found that residents were routinely restrained face-down and placed in metal handcuffs and leg hobbles, even when the residents did not show aggressive behavior. Residents were often secluded for long periods and deprived of visits from family.



James and Lorie Jensen (on behalf of their son), along with the families of three other residents, filed a class action lawsuit in the U.S. District Court, District of Minnesota in 2009, alleging that the use of mechanical restraints and seclusion violated the residents’ rights. Before trial, the parties agreed to settle the case. In December 2011, U.S. District Court Judge Donovan

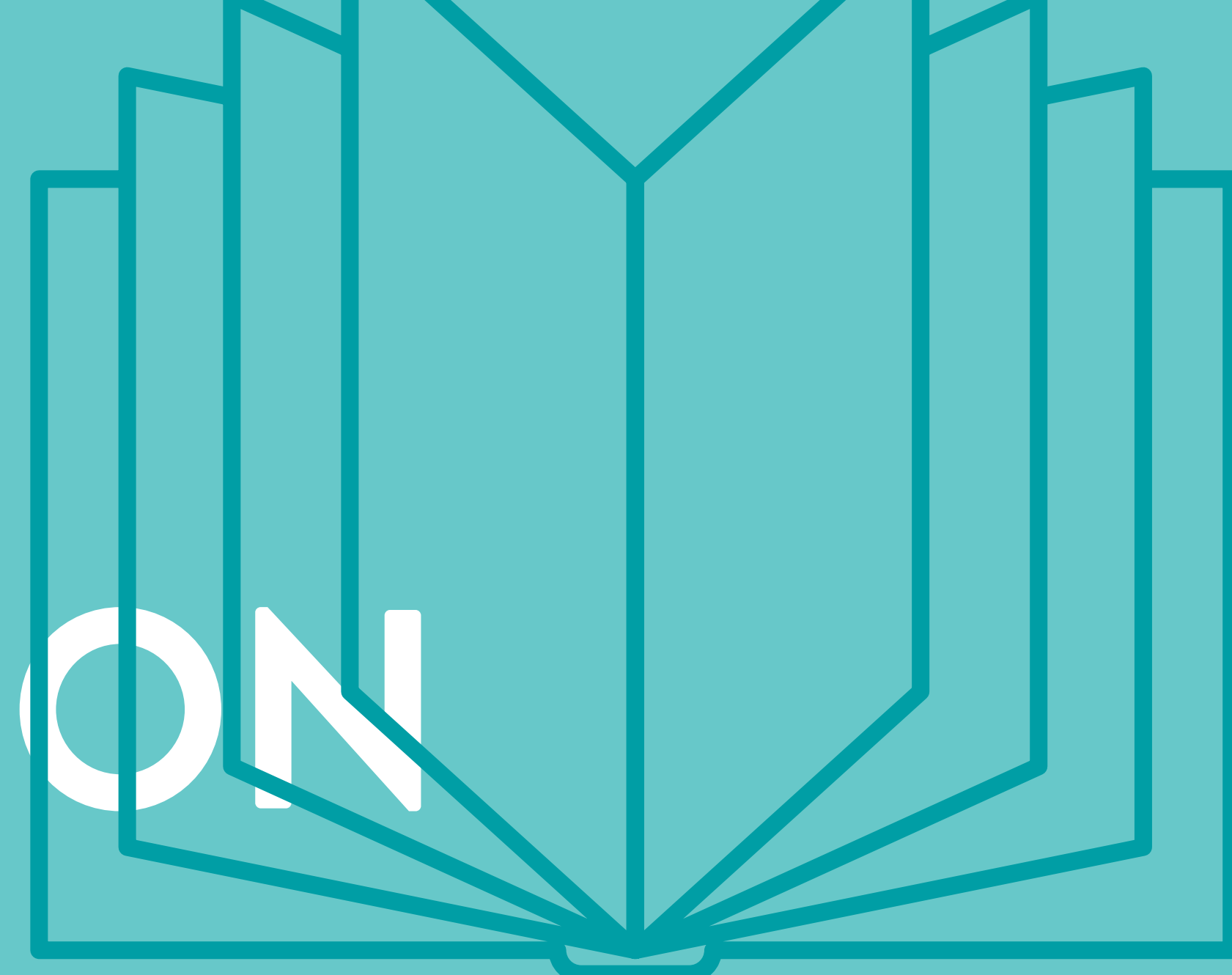
W. Frank approved the *Jensen* Settlement Agreement, which covered more than 300 residents. The agreement prohibited the use of mechanical, manual, prone, and chemical restraints, as well as seclusion and the use of other painful techniques.



As part of the *Jensen* Settlement Agreement, the State also agreed to develop and implement an Olmstead Plan, which had not yet been adopted in Minnesota (12 years after the *Olmstead* decision). After rejecting several versions, Judge Frank approved the Plan in September 2015 (4 years after the *Jensen* Settlement Agreement). On October 24, 2020, the Court’s jurisdiction over the case and Plan ended, but the work and implementation of the Plan continues.



# RIGHT TO EDUCATION



In *Brown v. Board of Education*, the U.S. Supreme Court held in 1954 that separate education for African American children was not an equal education, setting an important precedent for an integrated public education for all. It would take nearly 20 years for this precedent to be applied to children with disabilities nationwide.

Relying on *Brown*, in 1971 the Pennsylvania Association for Retarded Children (P.A.R.C.) filed a class action lawsuit, *P.A.R.C. v. Commonwealth of Pennsylvania*, on behalf of children who had been denied access to public education. The federal court struck down local laws that excluded children with disabilities from schools and held that children with disabilities have the right to a public education.

Congress followed the court's lead in 1975 with the Education for All Handicapped Children Act (later renamed IDEA), which provided for a free appropriate public education in the least restrictive environment and individualized education programs for children with disabilities.

## IMPLEMENTING *BROWN* IN MINNESOTA

Minnesota made some early progress in ensuring that some students with disabilities received a public education. In 1956, a task force created by the Minnesota State Legislature made recommendations that were passed by the 1957 Legislature to require public schools to provide services to “educable” children with many types of disabilities. But this education was provided in segregated settings.



Reflecting on these developments, Minnesota Governor Elmer L. Andersen observed:

“[W]e live in a country that’s dedicated to the idea that every child, every person has potential. Every person is equal. Every person is due the respect and confidence of others. And given the tools they can accomplish a great deal, and history is full of stories of those with disabilities that have overcome them in wonderful ways and had great impact for good on civilization ... It took the federal government until ’71 to get anything like a special education program going, where Minnesota was in the vanguard of the states in 1957.”

In 1972, after the *P.A.R.C.* decision, the Minnesota State Legislature expanded the right to education to all children with disabilities. The 1975 federal law finally desegregated that education for children with disabilities.





# RIGHT TO FREEDOM FROM INVOLUNTARY SERVITUDE

The Thirteenth Amendment, prohibiting slavery and outlawing involuntary servitude, was passed in 1865. “Involuntary servitude” means a person is forced to work with little or no control over working conditions. This work might be paid or unpaid. For centuries, the exploitation of people with developmental disabilities in institutions amounted to involuntary servitude.

Not until the 1960s and 1970s were cases filed in federal court seeking to extend Thirteenth Amendment protections to people with disabilities and to enforce the Fair Labor Standards Act, a federal law requiring minimum wage and overtime compensation.

Minnesota studied the issue in 1964 and concluded that the state would have to hire 900 employees to replace the free labor provided by the patients. In response to this study and potential lawsuits, the state stopped using free patient labor. But it did not increase institutional staffing to provide needed employment, educational, or habilitative programming to patients during the day. This led to further dehumanization that continued until the institutions closed.

## RIGHT TO EMPLOYMENT

People with disabilities who want to work and are capable of working have routinely been excluded from employment opportunities. In 1990, Congress found “overprotective rules and policies” and “exclusionary qualification standards and criteria” unfairly discriminate and deprive people with disabilities of “equality of opportunity, full participation ... and economic self-sufficiency.” It responded by enacting the ADA, which prohibits employers from discriminating on the basis of disability. However, unemployment rates for people with developmental and other disabilities remain high.

At Henry’s Turkey Service, 32 men with developmental disabilities were paid

**41¢**  
**PER HOUR.**



Unfortunately, people with developmental disabilities are still subjected to involuntary servitude or other abusive employment practices. In 2013, an Iowa jury awarded \$240 million to 32 men with developmental disabilities who were subjected to severe discrimination and abuse by Henry’s Turkey Service in Iowa. They had to eviscerate dead turkeys in a meat-processing plant for 41 cents an hour. The 32 men were locked up at night in a rat- and cockroach-infested building that had been converted to a bunkhouse.

Below: Young people with developmental disabilities assembling popcorn boxes at a local sheltered workshop in 1954, courtesy of the Minnesota Historical Society.  
Right: Employee of Kraus-Anderson company. Sherie Wallace, photographer.





# RIGHT TO VOTE



The Constitution gives each state the power to restrict the right to vote if the qualifications are not discriminatory and do not violate the Constitution or federal law.

The Fifteenth and Nineteenth Amendments to the Constitution prohibit a state from denying a U.S. citizen the right to vote on account of “race, color, or previous condition of servitude” or sex, but not disability.

The right to vote generally is recognized as a “liberty interest” protected under the Fourteenth Amendment.

So, a state can only take that right away if it does not violate the due process or equal protection clauses of the Fourteenth Amendment.



Most states have provisions that deny the right to vote to people with mental incapacities. Under Minnesota’s Constitution, “people under guardianship” and people who are “insane or not mentally competent” are not allowed to vote. However, Minnesota’s laws on voting and guardianship provide that people under guardianship retain the right to vote unless that vote is specifically revoked in the guardianship proceeding, or the person is judged legally incompetent.



In 2013, the Eighth Circuit affirmed a 2012 decision by U.S. District Court Judge Donovan W. Frank holding that Minnesota’s constitutional prohibition against voting based on guardianship status applies only when there has been a specific judicial finding of incapacity to vote. *Minnesota Voters Alliance v. Ritchie*. Although the language in Minnesota’s Constitution would seem to prohibit individuals “under guardianship” from voting, state law clarifies that “persons under guardianship are presumed to retain the right to vote unless otherwise ordered by a court.”

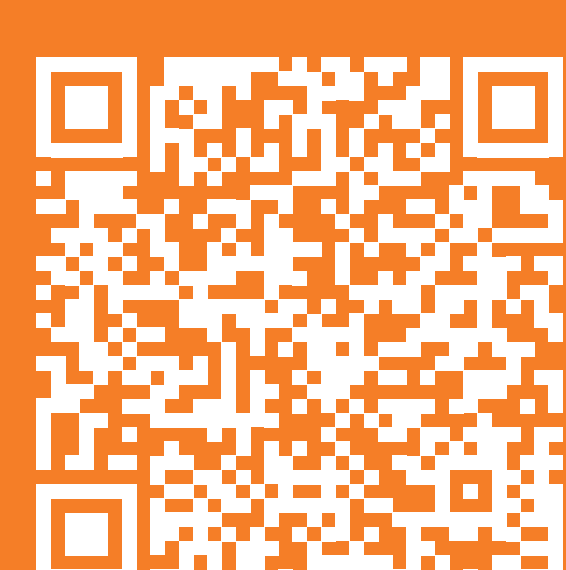




MURPHY V. HARPSTEAD

# BEYOND GROUP HOMES

Group homes were—and still are—a vast improvement over the institutions of the past. But for some, group homes became another form of segregation. In 2016, plaintiffs living in group homes in Minnesota filed a lawsuit in the U.S. District Court for the District of Minnesota claiming that the state’s placement policies over-relied on group homes. The plaintiffs, who were represented by Legal Aid’s Disability Law Center, wanted system-wide reform to give people with disabilities more choice about where they lived consistent with *Olmstead* and the Constitution.



In 2019, Judge Donovan W. Frank ruled that the state’s policy violated the Constitution. The parties agreed to a settlement in 2022, requiring the state to take concrete steps to improve access and opportunities to people who wished to move out of a group home. Judge Frank’s 2023 order approving the settlement agreement ended with these words:

**“People with disabilities confront stigma and discrimination on a regular basis. It is a shameful part of our country’s past and present. While many issues remain that are separate from this litigation, the Court is hopeful that this Agreement will create positive change ... Ultimately, we will all be judged by how we treat the most vulnerable members of our society.”**



Above: One of the named plaintiffs in the *Murphy* lawsuit.

Left: Roommates living together in 1987. Ann Marsden, photographer.





# IN CLOSING



This exhibit honors the memory of Barnett “Bud” Rosenfield (1965-2023). Bud served people with disabilities for almost 25 years as an attorney with the Minnesota Disability Law Center, and in the role of Ombudsman for Mental Health and Developmental Disabilities from December 2021 until his untimely passing in July 2023. His vision for this exhibit provided its structure, spirit, and heart.

## LEARN MORE

**Justice & Democracy  
Centers of Minnesota**

[justicedemocracycentersmn.org](http://justicedemocracycentersmn.org)

**Governor’s Council on  
Developmental Disabilities:**  
[mn.gov/mnddc](http://mn.gov/mnddc)

**Disability Justice  
Resource Center**  
[disabilityjustice.org](http://disabilityjustice.org)

**Minnesota Historical Society**  
[mnhs.org](http://mnhs.org)

**MSS and its Fresh Eye Gallery**  
[mssmn.org](http://mssmn.org)  
[fresheye-gallery.com](http://fresheye-gallery.com)

**Cow Tipping Press**  
[cowntippingpress.org](http://cowntippingpress.org)

**The Arc Minnesota**  
[arcminnesota.org](http://arcminnesota.org)

**Advocating Change Together (SAM)**  
[selfadvocacy.org](http://selfadvocacy.org)

**Mid-Minnesota Legal Aid/Minnesota  
Disability Law Center**  
[mylegalaid.org/our-work/disability-law](http://mylegalaid.org/our-work/disability-law)

**Office of Ombudsman for Mental Health  
and Developmental Disabilities**  
[mn.gov/omhdd](http://mn.gov/omhdd)

**Department of Justice Civil Rights  
Division – Disability Rights Section**  
[justice.gov/crt/disability-rights-section](http://justice.gov/crt/disability-rights-section)

**Minnesota Department of Human Rights**  
[mn.gov/mdhr/yourrights/who-is-protected/disability/](http://mn.gov/mdhr/yourrights/who-is-protected/disability/)

# THANK YOU

## EXHIBIT SPONSORS

**United States District Court for  
the District of Minnesota and  
its Public Outreach Committee**

**Minnesota Governor’s Council  
on Developmental Disabilities**

**Minnesota Chapter of the  
Federal Bar Association**

**Minnesota Disability Bar  
Association**

**MSS and its Fresh Eye Gallery**

The District Court’s Public Outreach Committee is grateful to the multimember planning subcommittee, which included judges, court staff, and diverse members of the legal and disability community. Each subcommittee member generously offered time, talent, and their unique perspectives to help develop all aspects of the Unfinished Journey program.

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