



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB1005

by Rep. Robert W. Pritchard

SYNOPSIS AS INTRODUCED:

405 ILCS 5/2-108
405 ILCS 5/2-109

from Ch. 91 1/2, par. 2-108
from Ch. 91 1/2, par. 2-109

Amends the Mental Health and Developmental Disabilities Code. Provides that restraints or seclusion may be employed upon a recipient with the written order of a clinical professional counselor. Effective immediately.

LRB098 05627 RLC 35665 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning health.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Mental Health and Developmental
5 Disabilities Code is amended by changing Sections 2-108 and
6 2-109 as follows:

7 (405 ILCS 5/2-108) (from Ch. 91 1/2, par. 2-108)

8 Sec. 2-108. Use of restraint. Restraint may be used only as
9 a therapeutic measure to prevent a recipient from causing
10 physical harm to himself or physical abuse to others. Restraint
11 may only be applied by a person who has been trained in the
12 application of the particular type of restraint to be utilized.
13 In no event shall restraint be utilized to punish or discipline
14 a recipient, nor is restraint to be used as a convenience for
15 the staff.

16 (a) Except as provided in this Section, restraint shall be
17 employed only upon the written order of a physician, clinical
18 psychologist, clinical social worker, clinical professional
19 counselor, or registered nurse with supervisory
20 responsibilities. No restraint shall be ordered unless the
21 physician, clinical psychologist, clinical social worker,
22 clinical professional counselor, or registered nurse with
23 supervisory responsibilities, after personally observing and

1 examining the recipient, is clinically satisfied that the use
2 of restraint is justified to prevent the recipient from causing
3 physical harm to himself or others. In no event may restraint
4 continue for longer than 2 hours unless within that time period
5 a nurse with supervisory responsibilities or a physician
6 confirms, in writing, following a personal examination of the
7 recipient, that the restraint does not pose an undue risk to
8 the recipient's health in light of the recipient's physical or
9 medical condition. The order shall state the events leading up
10 to the need for restraint and the purposes for which restraint
11 is employed. The order shall also state the length of time
12 restraint is to be employed and the clinical justification for
13 that length of time. No order for restraint shall be valid for
14 more than 16 hours. If further restraint is required, a new
15 order must be issued pursuant to the requirements provided in
16 this Section.

17 (b) In the event there is an emergency requiring the
18 immediate use of restraint, it may be ordered temporarily by a
19 qualified person only where a physician, clinical
20 psychologist, clinical social worker, clinical professional
21 counselor, or registered nurse with supervisory
22 responsibilities is not immediately available. In that event,
23 an order by a nurse, clinical psychologist, clinical social
24 worker, clinical professional counselor, or physician shall be
25 obtained pursuant to the requirements of this Section as
26 quickly as possible, and the recipient shall be examined by a

1 physician or supervisory nurse within 2 hours after the initial
2 employment of the emergency restraint. Whoever orders
3 restraint in emergency situations shall document its necessity
4 and place that documentation in the recipient's record.

5 (c) The person who orders restraint shall inform the
6 facility director or his designee in writing of the use of
7 restraint within 24 hours.

8 (d) The facility director shall review all restraint orders
9 daily and shall inquire into the reasons for the orders for
10 restraint by any person who routinely orders them.

11 (e) Restraint may be employed during all or part of one 24
12 hour period, the period commencing with the initial application
13 of the restraint. However, once restraint has been employed
14 during one 24 hour period, it shall not be used again on the
15 same recipient during the next 48 hours without the prior
16 written authorization of the facility director.

17 (f) Restraint shall be employed in a humane and therapeutic
18 manner and the person being restrained shall be observed by a
19 qualified person as often as is clinically appropriate but in
20 no event less than once every 15 minutes. The qualified person
21 shall maintain a record of the observations. Specifically,
22 unless there is an immediate danger that the recipient will
23 physically harm himself or others, restraint shall be loosely
24 applied to permit freedom of movement. Further, the recipient
25 shall be permitted to have regular meals and toilet privileges
26 free from the restraint, except when freedom of action may

1 result in physical harm to the recipient or others.

2 (g) Every facility that employs restraint shall provide
3 training in the safe and humane application of each type of
4 restraint employed. The facility shall not authorize the use of
5 any type of restraint by an employee who has not received
6 training in the safe and humane application of that type of
7 restraint. Each facility in which restraint is used shall
8 maintain records detailing which employees have been trained
9 and are authorized to apply restraint, the date of the training
10 and the type of restraint that the employee was trained to use.

11 (h) Whenever restraint is imposed upon any recipient whose
12 primary mode of communication is sign language, the recipient
13 shall be permitted to have his hands free from restraint for
14 brief periods each hour, except when freedom may result in
15 physical harm to the recipient or others.

16 (i) A recipient who is restrained may only be secluded at
17 the same time pursuant to an explicit written authorization as
18 provided in Section 2-109 of this Code. Whenever a recipient is
19 restrained, a member of the facility staff shall remain with
20 the recipient at all times unless the recipient has been
21 secluded. A recipient who is restrained and secluded shall be
22 observed by a qualified person as often as is clinically
23 appropriate but in no event less than every 15 minutes.

24 (j) Whenever restraint is used, the recipient shall be
25 advised of his right, pursuant to Sections 2-200 and 2-201 of
26 this Code, to have any person of his choosing, including the

1 Guardianship and Advocacy Commission or the agency designated
2 pursuant to the Protection and Advocacy for Developmentally
3 Disabled Persons Act notified of the restraint. A recipient who
4 is under guardianship may request that any person of his
5 choosing be notified of the restraint whether or not the
6 guardian approves of the notice. Whenever the Guardianship and
7 Advocacy Commission is notified that a recipient has been
8 restrained, it shall contact that recipient to determine the
9 circumstances of the restraint and whether further action is
10 warranted.

11 (Source: P.A. 92-651, eff. 7-11-02.)

12 (405 ILCS 5/2-109) (from Ch. 91 1/2, par. 2-109)

13 Sec. 2-109. Seclusion. Seclusion may be used only as a
14 therapeutic measure to prevent a recipient from causing
15 physical harm to himself or physical abuse to others. In no
16 event shall seclusion be utilized to punish or discipline a
17 recipient, nor is seclusion to be used as a convenience for the
18 staff.

19 (a) Seclusion shall be employed only upon the written order
20 of a physician, clinical psychologist, clinical social worker,
21 clinical professional counselor, or registered nurse with
22 supervisory responsibilities. No seclusion shall be ordered
23 unless the physician, clinical psychologist, clinical social
24 worker, clinical professional counselor, or registered nurse
25 with supervisory responsibilities, after personally observing

1 and examining the recipient, is clinically satisfied that the
2 use of seclusion is justified to prevent the recipient from
3 causing physical harm to himself or others. In no event may
4 seclusion continue for longer than 2 hours unless within that
5 time period a nurse with supervisory responsibilities or a
6 physician confirms in writing, following a personal
7 examination of the recipient, that the seclusion does not pose
8 an undue risk to the recipient's health in light of the
9 recipient's physical or medical condition. The order shall
10 state the events leading up to the need for seclusion and the
11 purposes for which seclusion is employed. The order shall also
12 state the length of time seclusion is to be employed and the
13 clinical justification for the length of time. No order for
14 seclusion shall be valid for more than 16 hours. If further
15 seclusion is required, a new order must be issued pursuant to
16 the requirements provided in this Section.

17 (b) The person who orders seclusion shall inform the
18 facility director or his designee in writing of the use of
19 seclusion within 24 hours.

20 (c) The facility director shall review all seclusion orders
21 daily and shall inquire into the reasons for the orders for
22 seclusion by any person who routinely orders them.

23 (d) Seclusion may be employed during all or part of one 16
24 hour period, that period commencing with the initial
25 application of the seclusion. However, once seclusion has been
26 employed during one 16 hour period, it shall not be used again

1 on the same recipient during the next 48 hours without the
2 prior written authorization of the facility director.

3 (e) The person who ordered the seclusion shall assign a
4 qualified person to observe the recipient at all times. A
5 recipient who is restrained and secluded shall be observed by a
6 qualified person as often as is clinically appropriate but in
7 no event less than once every 15 minutes.

8 (f) Safety precautions shall be followed to prevent
9 injuries to the recipient in the seclusion room. Seclusion
10 rooms shall be adequately lighted, heated, and furnished. If a
11 door is locked, someone with a key shall be in constant
12 attendance nearby.

13 (g) Whenever seclusion is used, the recipient shall be
14 advised of his right, pursuant to Sections 2-200 and 2-201 of
15 this Code, to have any person of his choosing, including the
16 Guardianship and Advocacy Commission notified of the
17 seclusion. A person who is under guardianship may request that
18 any person of his choosing be notified of the seclusion whether
19 or not the guardian approves of the notice. Whenever the
20 Guardianship and Advocacy Commission is notified that a
21 recipient has been secluded, it shall contact that recipient to
22 determine the circumstances of the seclusion and whether
23 further action is warranted.

24 (Source: P.A. 86-1013; 86-1402; 87-124; 87-530; 87-895.)

25 Section 99. Effective date. This Act takes effect upon
26 becoming law.