

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.