

HEALTH AND SAFETY CODE CHAPTER 592. RIGHTS OF PERSONS WITH MENTAL
RETARDATION

HEALTH AND SAFETY CODE

TITLE 7. MENTAL HEALTH AND MENTAL RETARDATION

SUBTITLE D. PERSONS WITH MENTAL RETARDATION ACT

CHAPTER 592. RIGHTS OF PERSONS WITH MENTAL RETARDATION

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 592.001. PURPOSE. The purpose of this chapter is to recognize and protect the individual dignity and worth of each person with mental retardation.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 592.002. RULES. The board by rule shall ensure the implementation of the rights guaranteed in this chapter.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

SUBCHAPTER B. BASIC BILL OF RIGHTS

Sec. 592.011. RIGHTS GUARANTEED. (a) Each person with mental retardation in this state has the rights, benefits, and privileges guaranteed by the constitution and laws of the United States and this state.

(b) The rights specifically listed in this subtitle are in addition to all other rights that persons with mental retardation have and are not exclusive or intended to limit the rights guaranteed by the constitution and laws of the United States and this state.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 592.012. PROTECTION FROM EXPLOITATION AND ABUSE. Each person with mental retardation has the right to protection from exploitation and abuse because of the person's mental retardation.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 592.013. LEAST RESTRICTIVE LIVING ENVIRONMENT. Each person with mental retardation has the right to live in the least restrictive setting appropriate to the person's individual needs

and abilities and in a variety of living situations, including living:

- (1) alone;
- (2) in a group home;
- (3) with a family; or
- (4) in a supervised, protective environment.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 592.014. EDUCATION. Each person with mental retardation has the right to receive publicly supported educational services, including those services provided under the Education Code, that are appropriate to the person's individual needs regardless of the person's:

- (1) chronological age;
- (2) degree of retardation;
- (3) accompanying disabilities or handicaps; or
- (4) admission or commitment to mental retardation

services.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 592.015. EMPLOYMENT. An employer, employment agency, or labor organization may not deny a person equal opportunities in employment because of the person's mental retardation, unless:

- (1) the person's mental retardation significantly impairs the person's ability to perform the duties and tasks of the position for which the person has applied; or

- (2) the denial is based on a bona fide occupational qualification reasonably necessary to the normal operation of the particular business or enterprise.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 592.016. HOUSING. An owner, lessee, sublessee, assignee, or managing agent or other person having the right to sell, rent, or lease real property, or an agent or employee of any of these, may not refuse to sell, rent, or lease to any person or group of persons solely because the person is a person with mental retardation or a group that includes one or more persons with mental

retardation.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 592.017. TREATMENT AND SERVICES. Each person with mental retardation has the right to receive for mental retardation adequate treatment and habilitative services that:

(1) are suited to the person's individual needs;

(2) maximize the person's capabilities;

(3) enhance the person's ability to cope with the person's environment; and

(4) are administered skillfully, safely, and humanely with full respect for the dignity and personal integrity of the person.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 592.018. DETERMINATION OF MENTAL RETARDATION. A person thought to be a person with mental retardation has the right promptly to receive a determination of mental retardation using diagnostic techniques that are adapted to that person's cultural background, language, and ethnic origin to determine if the person is in need of mental retardation services as provided by Subchapter A, Chapter 593.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Amended by Acts 1993, 73rd Leg., ch. 60, Sec. 2, eff. Sept. 1, 1993.

Sec. 592.019. ADMINISTRATIVE HEARING. A person who files an application for a determination of mental retardation has the right to request and promptly receive an administrative hearing under Subchapter A, Chapter 593, to contest the findings of the determination of mental retardation.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Amended by Acts 1993, 73rd Leg., ch. 60, Sec. 2, eff. Sept. 1, 1993.

Sec. 592.020. INDEPENDENT DETERMINATION OF MENTAL RETARDATION. A person for whom a determination of mental retardation is performed or a person who files an application for a determination of mental retardation under Section 593.004 and who

questions the validity or results of the determination of mental retardation has the right to an additional, independent determination of mental retardation performed at the person's own expense.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Amended by Acts 1993, 73rd Leg., ch. 60, Sec. 2, eff. Sept. 1, 1993.

Sec. 592.021. ADDITIONAL RIGHTS. Each person with mental retardation has the right to:

- (1) presumption of competency;
- (2) due process in guardianship proceedings; and
- (3) fair compensation for the person's labor for the economic benefit of another, regardless of any direct or incidental therapeutic value to the person.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

SUBCHAPTER C. RIGHTS OF CLIENTS

Sec. 592.031. RIGHTS IN GENERAL. (a) Each client has the same rights as other citizens of the United States and this state unless the client's rights have been lawfully restricted.

(b) Each client has the rights listed in this subchapter in addition to the rights guaranteed by Subchapter B.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 592.032. LEAST RESTRICTIVE ALTERNATIVE. Each client has the right to live in the least restrictive habilitation setting and to be treated and served in the least intrusive manner appropriate to the client's individual needs.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 592.033. INDIVIDUALIZED PLAN. (a) Each client has the right to a written, individualized habilitation plan developed by appropriate specialists.

(b) The client, and the parent of a client who is a minor or the guardian of the person, shall participate in the development of the plan.

(c) The plan shall be implemented as soon as possible but

not later than the 30th day after the date on which the client is admitted or committed to mental retardation services.

(d) The content of an individualized habilitation plan is as required by the department.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Amended by Acts 1993, 73rd Leg., ch. 60, Sec. 3, eff. Sept. 1, 1993.

Sec. 592.034. REVIEW AND REEVALUATION. (a) Each client has the right to have the individualized habilitation plan reviewed at least:

(1) once a year if the client is in a residential care facility; or

(2) quarterly if the client has been admitted for other services.

(b) The purpose of the review is to:

(1) measure progress;

(2) modify objectives and programs if necessary; and

(3) provide guidance and remediation techniques.

(c) Each client has the right to a periodic reassessment.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Amended by Acts 1993, 73rd Leg., ch. 60, Sec. 4, eff. Sept. 1, 1993.

Sec. 592.035. PARTICIPATION IN PLANNING. (a) Each client, and parent of a client who is a minor or the guardian of the person, have the right to:

(1) participate in planning the client's treatment and habilitation; and

(2) be informed in writing at reasonable intervals of the client's progress.

(b) If possible, the client, parent, or guardian of the person shall be given the opportunity to choose from several appropriate alternative services available to the client from a service provider.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 592.036. WITHDRAWAL FROM VOLUNTARY SERVICES.

(a) Except as provided by Section 593.030, a client, the parent if

the client is a minor, or a guardian of the person may withdraw the client from mental retardation services.

(b) This section does not apply to a person who was committed to a residential care facility as provided by Subchapter C, Chapter 593.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 592.037. FREEDOM FROM MISTREATMENT. Each client has the right not to be mistreated, neglected, or abused by a service provider.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 592.038. FREEDOM FROM UNNECESSARY MEDICATION.

(a) Each client has the right to not receive unnecessary or excessive medication.

(b) Medication may not be used:

- (1) as punishment;
- (2) for the convenience of the staff;
- (3) as a substitute for a habilitation program; or
- (4) in quantities that interfere with the client's

habilitation program.

(c) Medication for each client may be authorized only by prescription of a physician and a physician shall closely supervise its use.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 592.039. GRIEVANCES. A client, or a person acting on behalf of a person with mental retardation or a group of persons with mental retardation, has the right to submit complaints or grievances regarding the infringement of the rights of a person with mental retardation or the delivery of mental retardation services against a person, group of persons, organization, or business to the appropriate public responsibility committee for investigation and appropriate action.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 592.040. INFORMATION ABOUT RIGHTS. (a) On admission

for mental retardation services, each client, and the parent if the client is a minor or the guardian of the person of the client, shall be given written notice of the rights guaranteed by this subtitle. The notice shall be in plain and simple language.

(b) Each client shall be orally informed of these rights in plain and simple language.

(c) Notice given solely to the parent or guardian of the person is sufficient if the client is manifestly unable to comprehend the rights.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

SUBCHAPTER D. RIGHTS OF RESIDENTS

Sec. 592.051. GENERAL RIGHTS OF RESIDENTS. Each resident has the right to:

- (1) a normal residential environment;
- (2) a humane physical environment;
- (3) communication and visits; and
- (4) possess personal property.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 592.052. MEDICAL AND DENTAL CARE AND TREATMENT. Each resident has the right to prompt, adequate, and necessary medical and dental care and treatment for physical and mental ailments and to prevent an illness or disability.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 592.053. STANDARDS OF CARE. Medical and dental care and treatment shall be performed under the appropriate supervision of a licensed physician or dentist and shall be consistent with accepted standards of medical and dental practice in the community.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 592.054. DUTIES OF SUPERINTENDENT OR DIRECTOR.

(a) Except as limited by this subtitle, the superintendent or director shall provide without further consent necessary care and treatment to each court-committed resident and make available necessary care and treatment to each voluntary resident.

(b) Notwithstanding Subsection (a), consent is required for all surgical procedures.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.

Sec. 592.055. UNUSUAL OR HAZARDOUS TREATMENT. This subtitle does not permit the department to perform unusual or hazardous treatment procedures, experimental research, organ transplantation, or nontherapeutic surgery for experimental research.

Added by Acts 1991, 72nd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1991.