

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 44

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO THE SECURE TREATMENT FACILITY ACT; AMENDING TITLE 66, IDAHO
2 CODE, BY THE ADDITION OF A NEW CHAPTER 14, TITLE 66, IDAHO CODE, TO PRO-
3 VIDE A SHORT TITLE, TO PROVIDE AUTHORITY, TO DEFINE TERMS, TO PROVIDE
4 CRITERIA TO QUALIFY FOR ADMISSION IN A CERTAIN FACILITY, TO PROVIDE FOR
5 ADMISSION TO AND DISCHARGE FROM THE FACILITY, TO ESTABLISH RIGHTS OF
6 THOSE ADMITTED TO THE FACILITY AND TO PROVIDE FOR CERTAIN TREATMENT.
7

8 Be It Enacted by the Legislature of the State of Idaho:

9 SECTION 1. That Title 66, Idaho Code, be, and the same is hereby amended
10 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
11 ter 14, Title 66, Idaho Code, and to read as follows:

12 CHAPTER 14
13 SECURE TREATMENT FACILITY ACT

14 66-1401. SHORT TITLE. This chapter shall be known and may be cited as
15 the "Secure Treatment Facility Act."

16 66-1402. AUTHORITY. (1) The department of health and welfare shall
17 have the power to establish, operate and maintain a secure treatment facil-
18 ity for persons with an intellectual or developmental disability who pose a
19 substantial threat to the safety of others. These individuals may also have
20 co-occurring mental illness requiring diagnostic services and treatment in
21 a secure facility. The facility shall be identifiably separate from other
22 facilities managed by the department of health and welfare for persons with
23 an intellectual or a developmental disability. The provisions of this chap-
24 ter shall be liberally construed to accomplish these purposes.

25 (2) The director of the department of health and welfare or the direc-
26 tor's designee shall have the authority to make rules for the governance of
27 the facility and program consistent with this chapter.

28 (3) The final decision regarding the admission or discharge of patients
29 to the facility shall rest with the director or the director's designee.

30 (4) The department of health and welfare division of licensing and cer-
31 tification will develop a license and survey process for the facility.

32 66-1403. DEFINITIONS. As used in this chapter:

33 (1) "Administrator" means the administrator of the secure treatment
34 facility.

35 (2) "Adult" means an individual eighteen (18) years of age or older.

36 (3) "Department" means the Idaho department of health and welfare.

37 (4) "Developmental disability" means a developmental disability as de-
38 fined in section 66-402, Idaho Code, or an intellectual disability as de-
39 fined in section 73-114, Idaho Code.

- 1 (5) "Director" means the director of the department.
- 2 (6) "Facility" or "secure treatment facility" means the facility to be
3 operated by the department to fulfill the purposes of this chapter. The fa-
4 cility shall, at a minimum, include:
- 5 (a) Locked, fenced and enclosed grounds accessible only to patients,
6 staff and authorized individuals;
- 7 (b) Locked residential units;
- 8 (c) Bedroom and building exit alarms;
- 9 (d) Monitoring cameras in all common areas;
- 10 (e) Modified interiors to reduce risk of suicide; and
- 11 (f) Restricted access to items that could be used as weapons.
- 12 (7) "Patient" means an individual admitted by the director or the di-
13 rector's designee to the secure treatment facility.
- 14 (8) "Proposed patient" means an individual subject to judicial pro-
15 ceedings authorized by the provisions of this chapter who is being consid-
16 ered for admission into the secure treatment facility.
- 17 (9) "Respondent" means an individual subject to judicial proceedings
18 authorized by the provisions of this chapter.
- 19 (10) "Substantial threat to the safety of others" means the presenta-
20 tion, by a respondent, of a substantial risk to physically harm other per-
21 sons, as manifested by evidence of violent behavior.

- 22 66-1404. CRITERIA FOR ADMISSION. To be admitted to the facility, a
23 proposed patient must:
- 24 (1) Have a developmental disability as determined by the department;
- 25 (2) Be an adult;
- 26 (3) Meet one (1) of the following grounds:
- 27 (a) The respondent is being criminally adjudicated and is undergoing
28 evaluation for competency to stand trial in conformance with chapter 2,
29 title 18, Idaho Code;
- 30 (b) The respondent is being criminally adjudicated and is committed to
31 the department for treatment to restore competency in conformance with
32 chapter 2, title 18, Idaho Code; or
- 33 (c) The respondent is civilly committed to the custody of the depart-
34 ment in conformance with chapter 4, title 66, Idaho Code; and
- 35 (4) Be found, by a court, to present a substantial threat to the safety
36 of others if not evaluated or treated in a secure facility, and be subject
37 of an order from such court that the respondent may be confined to a secure
38 treatment facility. Such a judicial finding and order constitute continuing
39 authorization for the director or the director's designee to admit a respon-
40 dent to the facility.

- 41 66-1405. ADMISSION AND DISCHARGE. (1) Admission. Admission shall
42 be determined by the director or the director's designee. In considering
43 whether a proposed patient should be admitted to the facility, the director
44 or the director's designee may consider any relevant factor including, but
45 not limited to, the following:
- 46 (a) Whether less restrictive alternatives, including services pro-
47 vided in community residential facilities or other community settings

1 that would offer an opportunity for improvement of the condition, have
2 been judged to be inappropriate;

3 (b) Whether admission of the proposed patient would cause overcrowding
4 of the facility; and

5 (c) Whether the facility is unable to provide appropriate care or
6 treatment for the proposed patient.

7 (2) Transportation. Upon admission, the patient shall be transported
8 to the facility in conformance with chapter 2, title 18, Idaho Code, or chap-
9 ter 4, title 66, Idaho Code.

10 (3) Redisposition and notice.

11 (a) After admission to the facility, the director or the director's
12 designee may redisposition the patient to a less restrictive facility.
13 If the patient was committed to the department under title 18, Idaho
14 Code, notice of change of disposition shall be filed with the committing
15 court. If the patient was committed to the department under title 66,
16 Idaho Code, notice of change in disposition shall be given in accordance
17 with section 66-407, Idaho Code.

18 (b) If the director or the director's designee has dispositioned a pa-
19 tient to a less restrictive facility and later admits the patient to the
20 secure treatment facility, the patient may appeal the admission to the
21 committing court within thirty (30) days' notice of the change in dispo-
22 sition. The court shall consider:

23 (i) Whether the patient continues to present a substantial threat
24 to the safety of others if not evaluated or treated in a secure fa-
25 cility; and

26 (ii) Whether its order that the patient may be confined to a secure
27 treatment facility continues to be appropriate.

28 (4) Discharge. If the patient no longer meets the program criteria as
29 provided in this chapter, the director or the director's designee shall dis-
30 charge the patient from the facility. The director or the director's de-
31 signee may discharge the patient from the commitment as allowed by law or
32 redisposition the patient to a less restrictive setting. If the patient is
33 discharged from commitment, notice shall be given as allowed by law autho-
34 rizing the commitment.

35 66-1406. RIGHTS OF PATIENTS. (1) All patients shall be accorded those
36 civil rights provided by chapter 4, title 66, Idaho Code, with the exception
37 of:

38 (a) Those aspects that are limited by order of the court;

39 (b) Paragraphs (c), (d), (e) and (i) of section 66-412(3), Idaho Code,
40 as designated by the facility treatment team in a treatment plan devel-
41 oped in accordance with section 66-413, Idaho Code; and

42 (c) The use of mechanical restraints during the transportation to or
43 from any facility, which use must be in compliance with section 66-345,
44 Idaho Code.

45 (2) The patients shall be entitled to be diagnosed, cared for and
46 treated in a manner consistent with their legal rights and in a manner no
47 more restrictive than necessary for their protection and the protection of
48 others for a period no longer than reasonably necessary for diagnosis, care,
49 treatment and protection.

1 66-1407. TREATMENT. (1) The director or the director's designee shall
2 have the power to develop appropriate standards and rules for treatment of
3 patients. It shall be the responsibility of the director or the director's
4 designee to implement those standards.

5 (2) The relative risks and benefits of specific modes of treatment
6 contained in such plans shall be explained to each patient or the spouse,
7 guardian, adult next-of-kin or friend of the patient, to the extent allow-
8 able by law.

9 (3) Treatment may be given over the objections of a patient or the pa-
10 tient's spouse, guardian, adult next-of-kin or friend when allowable under
11 applicable law.

12 (4) If treatment is given over an objection, a statement explaining the
13 reasons for doing so shall be entered into the patient's treatment record.
14 A copy of that statement shall also be sent to the court that committed the
15 respondent.