

HOUSE BILL 1089

By Casada

AN ACT to amend Tennessee Code Annotated, Title 1; Title 4; Title 7; Title 8; Title 11; Title 13; Title 15; Title 16; Title 20; Title 27; Title 28; Title 29; Title 30; Title 32; Title 34; Title 36; Title 37; Title 39; Title 49; Title 50; Title 54; Title 55; Title 56; Title 62; Title 66; Title 67; Title 68; Title 69; Title 70 and Title 71, relative to individuals with disabilities.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 1-3-105, is amended by deleting subdivisions (15) and (18) in their entireties and by appropriately redesignating the remaining subdivisions.

SECTION 2. Tennessee Code Annotated, Section 4-12-111(b), is amended by deleting "handicapped," and by adding "have a disability," after the word "may" and before the word "be".

SECTION 3. Tennessee Code Annotated, Section 4-20-107, is amended in subdivisions (1) and (5) by deleting "disabled, handicapped" wherever it appears and by substituting instead "people with a disability".

SECTION 4. Tennessee Code Annotated, Section 7-31-114(a), is amended by deleting "physically handicapped persons" and by substituting instead "persons with disabilities".

SECTION 5. Tennessee Code Annotated, Section 8-30-326(a), is amended by deleting "handicap" and by substituting instead "disability".

SECTION 6. Tennessee Code Annotated, Section 11-3-202(1)(D), is amended by deleting "handicap" and by substituting instead "disability".

SECTION 7. Tennessee Code Annotated, Section 13-23-202, is amended by deleting "developmentally or physically handicapped" and by substituting instead "have a disability".

SECTION 8. Tennessee Code Annotated, Section 13-24-101(a), is amended by deleting “mentally retarded, mentally handicapped or physically handicapped” and by substituting instead “persons with disabilities”.

SECTION 9. Tennessee Code Annotated, Section 13-24-101(b), is amended by deleting “mentally handicapped” and by substituting instead “person with a disability” and is further amended by deleting “are mentally ill” and by substituting instead “have a mental illness”.

SECTION 10. Tennessee Code Annotated, Section 13-24-102, is amended by deleting “mentally retarded, mentally handicapped or physically handicapped persons” wherever it appears and by substituting instead “persons with disabilities” and is further amended by deleting “houseparents” and by substituting instead “support staff”.

SECTION 11. Tennessee Code Annotated, Section 13-24-104, is amended by deleting “handicapped persons” and by substituting instead “persons with disabilities”.

SECTION 12. Tennessee Code Annotated, Section 16-10-212, is amended by deleting “of unsound mind” and by substituting instead “adjudicated incompetent”.

SECTION 13. Tennessee Code Annotated, Section 16-11-108, is amended by deleting “the persons and estates of idiots, lunatics, and other persons of unsound mind” and by substituting instead “persons adjudicated incompetent and their estates”.

SECTION 14. Tennessee Code Annotated, Section 16-16-107, is amended by deleting subsection (a)(1)(G) in its entirety and by substituting instead

(a)

(1)

(G) The appointment and removal of guardians for minors and conservators for persons adjudicated incompetent, and all controversies as to the right of guardianship and conservatorship, and the settlement of guardian and conservator accounts.

SECTION 15. Tennessee Code Annotated, Section 20-12-128, is amended by deleting “guardian or guardian ad litem” wherever it appears and by substituting instead “guardian, guardian ad litem or conservator” and is further amended by deleting “idiot, lunatic, person of unsound mind” wherever it appears and by substituting instead “person adjudicated incompetent”.

SECTION 16. Tennessee Code Annotated, Section 27-6-106, is amended by deleting “persons of unsound mind” and by substituting instead “persons adjudicated incompetent” and by deleting “disability removed” and by substituting instead “legal rights are restored”.

SECTION 17. Tennessee Code Annotated, Section 28-1-106, is amended by deleting “of unsound mind” and by substituting instead “adjudicated incompetent” and is further amended by deleting the first reference to “the removal of such disability” and by substituting instead “legal rights are restored” and by deleting the second reference to “removal of such disability” and by substituting instead “restoration of legal rights”.

SECTION 18. Tennessee Code Annotated, Section 28-2-110(b), is amended by deleting “of unsound mind” and by substituting instead “adjudicated incompetent” and is further amended by deleting “the removal of such disability” and by substituting instead “legal rights are restored”.

SECTION 19. Tennessee Code Annotated, Section 29-5-101(1), is amended by deleting “of unsound mind” and by substituting instead “adjudicated incompetent”.

SECTION 20. Tennessee Code Annotated, Section 29-13-108(b), is amended by deleting “handicap” and by substituting instead “disability”.

SECTION 21. Tennessee Code Annotated, Section 29-14-105, is amended by deleting “guardian” and by substituting instead “guardian, conservator,” and is further amended by deleting “lunatic” and by substituting instead “person adjudicated incompetent”.

SECTION 22. Tennessee Code Annotated, Section 30-2-702(b)(1), is amended by deleting “lunatics” and by substituting instead “persons adjudicated incompetent” and is further amended by deleting “guardian” and by substituting instead “guardian or conservator”.

SECTION 23. Tennessee Code Annotated, Section 30-2-702(b)(2), is amended by deleting “guardian” and by substituting instead “guardian or conservator” and is further amended by deleting “lunatic” and by substituting instead “person adjudicated incompetent”.

SECTION 24. Tennessee Code Annotated, Section 32-4-108, is amended by deleting “of unsound mind” and by substituting instead “adjudicated incompetent”.

SECTION 25. Tennessee Code Annotated, Section 34-5-111(d), is amended by deleting “guardian” wherever it appears and by substituting instead “guardian or conservator” and is further amended by deleting “of unsound mind” and by substituting instead “adjudicated incompetent”.

SECTION 26. Tennessee Code Annotated, Section 34-5-118(a), is amended by deleting “of unsound mind” and by substituting instead “incompetent”; by deleting “confinement” and by substituting instead “placement”; by deleting “mental diseases” wherever it appears and by substituting instead “mental illness”; by deleting “safekeeping” and by substituting instead “care”; by deleting “parole”; and by deleting “restraint” and by substituting instead “commitment”.

SECTION 27. Tennessee Code Annotated, Section 36-1-201(III)(3), is amended by deleting “mental or physical handicaps” and by substituting instead “disabilities”.

SECTION 28. Tennessee Code Annotated, Section 36-1-201(III)(3)(B), is amended by deleting “physical, mental, or emotional handicaps” and by substituting instead “disabilities”.

SECTION 29. Tennessee Code Annotated, Section 36-3-109, is amended by deleting the language “, insane or an imbecile”.

SECTION 30. Tennessee Code Annotated, Section 37-5-106(a)(13), is amended by deleting “physical handicap, mental or emotional condition,” and by substituting instead “a disability”.

SECTION 31. Tennessee Code Annotated, Section 39-13-204(i)(14), is amended by deleting “significant handicap or” and is further amended by deleting “such handicap or disability” and by substituting instead “such disability”.

SECTION 32. Tennessee Code Annotated, Section 39-16-301(a)(4), is amended by deleting “a handicap or”.

SECTION 33. Tennessee Code Annotated, Section 49-3-302, is amended by deleting subsection (19) in its entirety and by substituting instead

(19) “Weighted identified and served student with a disability” means one (1) identified and served student with a disability multiplied by the cost differential for special education.

SECTION 34. Tennessee Code Annotated, Section 49-3-306(g)(2), is amended by deleting “handicapped students” wherever it appears and by substituting instead “students with a disability”.

SECTION 35. Tennessee Code Annotated, Section 49-3-309(b), is amended by deleting “physically handicapped students” and by substituting instead “students with a physical disability”.

SECTION 36. Tennessee Code Annotated, Section 49-10-701(5), is amended by deleting “special classes for exceptional children in the areas of the crippled, defective speech and hearing, partially seeing and psychologically exceptional” and by substituting instead “services for children with disabilities and gifted children”.

SECTION 37. Tennessee Code Annotated, Section 49-11-602(3)(A), is amended by deleting “Eligible handicapped individual” and by substituting instead “Eligible individual with a

disability” and is further amended by deleting “handicapped person” and by substituting instead “person with a disability”.

SECTION 38. Tennessee Code Annotated, Section 49-11-602(3)(B), is amended by deleting “eligible handicapped individual” and by substituting instead “eligible individual with a disability”.

SECTION 39. Tennessee Code Annotated, Section 49-11-602(6), is amended by deleting “Handicapped individual” and by substituting instead “Individual with a disability” and is further amended by deleting “is under a physical or mental disability” and by substituting instead “has a disability” and by deleting “handicap” and by substituting instead “barrier”.

SECTION 40. Tennessee Code Annotated, Section 49-11-602(9), is amended by deleting “handicap” wherever it appears and by substituting instead “barrier”.

SECTION 41. Tennessee Code Annotated, Section 49-11-607(a), is amended by deleting “handicapped individuals” and by substituting instead “individuals with disabilities”.

SECTION 42. Tennessee Code Annotated, Section 49-11-607(b)(2), is amended by deleting “severely handicapped individuals” and by substituting instead “individuals with severe disabilities”.

SECTION 43. Tennessee Code Annotated, Section 49-11-607(e), is amended by deleting “handicapped individuals” wherever it appears and by substituting instead “individuals with disabilities”.

SECTION 44. Tennessee Code Annotated, Section 49-11-610, is amended by deleting “handicapped individual” and by substituting instead “individual with a disability”.

SECTION 45. Tennessee Code Annotated, Section 49-11-707(b)(1)(D), is amended by deleting “the more severely handicapped” and by substituting instead “individuals with more severe disabilities”.

SECTION 46. Tennessee Code Annotated, Section 49-11-707(b)(1)(E), is amended by deleting “handicapped persons” and by substituting instead “persons with disabilities”.

SECTION 47. Tennessee Code Annotated, Section 49-11-707(b)(2), is amended by deleting “the developmentally disabled and other handicapped students” and by substituting instead “students with disabilities”.

SECTION 48. Tennessee Code Annotated, Section 49-11-709(b), is amended by deleting “the handicapped” and by substituting instead “persons with disabilities”.

SECTION 49. Tennessee Code Annotated, Section 49-11-709(c)(1), is amended by deleting “people with intellectual disability and to other severely handicapped Tennesseans” and by substituting instead “Tennesseans with intellectual and other severe disabilities”.

SECTION 50. Tennessee Code Annotated, Section 49-11-709(c)(2), is amended by deleting “with intellectual disability and other severely handicapped people” and by substituting instead “with intellectual and other severe disabilities”.

SECTION 51. Tennessee Code Annotated, Section 49-11-802, is amended by deleting “handicapped people” and by substituting instead “people with disabilities” and is further amended by deleting “where both resident and nonresident handicapped persons and nonhandicapped persons not in residence may be provided evaluation and testing, counseling and guidance, and vocational training” and by substituting instead “where both resident and nonresident persons with disabilities and persons without disabilities not in residence may be provided evaluation and testing, counseling and guidance, and vocational training”.

SECTION 52. Tennessee Code Annotated, Section 49-11-804(b), is amended by deleting “handicapped people” and by substituting instead “people with disabilities”.

SECTION 53. Tennessee Code Annotated, Section 50-6-207(4)(A)(iv), is amended by deleting “an inmate” and by substituting instead “a resident” and is further amended by deleting “guardian” and by substituting instead “guardian or conservator” and by deleting “non compos

mentis” and by substituting instead “adjudicated incompetent” and by deleting “ward’s” and by substituting instead “employee’s”.

SECTION 54. Tennessee Code Annotated, Section 50-9-108(a), is amended by deleting “handicap or” and is further amended by deleting “handicap and”.

SECTION 55. Tennessee Code Annotated, Section 54-12-133, is amended by deleting “a non compos mentis” and by substituting instead “adjudicated incompetent” and is further amended by deleting “guardian” wherever it appears and by substituting instead “guardian or conservator”.

SECTION 56. Tennessee Code Annotated, Section 54-12-421, is amended by deleting “of unsound mind” and by substituting instead “adjudicated incompetent” and is further amended by deleting “removal of the disabilities” and by substituting instead “restoration of competency”.

SECTION 57. Tennessee Code Annotated, Section 55-8-160(a)(15), is amended by deleting the first sentence in its entirety and by substituting instead “In a parking space clearly identified by an official sign as being reserved for persons with physical disabilities, unless, however, the person driving the vehicle has a physical disability or is parking the vehicle for the benefit of a person with a physical disability”.

SECTION 58. Tennessee Code Annotated, Section 55-8-186, is amended by deleting “the handicapped” and by substituting instead “persons with disabilities”.

SECTION 59. Tennessee Code Annotated, Section 55-9-216(a), is amended by deleting “the handicapped” and by substituting instead “persons with disabilities”.

SECTION 60. Tennessee Code Annotated, Section 55-9-603(d)(1), is amended by deleting “handicapped individuals” and by substituting instead “individuals with disabilities”.

SECTION 61. Tennessee Code Annotated, Section 55-9-603(h)(1), is amended by deleting “physically disabling condition whose physical disability would prevent” and by

substituting instead “physical disability which prevents” and is further amended by deleting “handicap” and by substituting instead “disability”.

SECTION 62. Tennessee Code Annotated, Section 55-21-106, is amended in subsections (a), (b), (d) and (f) by deleting the language "physically disabled person" wherever it appears and by substituting instead "person with a physical disability", and is further amended in subsection (c) by deleting the language "physically disabled persons" and by substituting instead "persons with physical disabilities".

SECTION 63. Tennessee Code Annotated, Section 55-21-110, is amended in subdivision (a) and (b)(1) by deleting the language "disabled persons" and by substituting instead "persons with disabilities".

SECTION 64. Tennessee Code Annotated, Section 55-50-323(a)(6)(B), is amended by deleting “mentally retarded or physically handicapped person” and by substituting instead “person with an intellectual or physical disability” and is further amended by deleting “mentally retarded person” and by substituting instead “person with an intellectual disability” and by deleting “retardation or physical handicap” wherever it appears and by substituting instead “intellectual or physical disability”.

SECTION 65. Tennessee Code Annotated, Section 55-50-323(c)(2)(J)(ii), is amended by deleting “mentally retarded or physically handicapped person” and by substituting instead “person with an intellectual or physical disability” and is further amended by deleting “mentally retarded person” and by substituting instead “person with an intellectual disability” and by deleting “retardation or physical handicap” wherever it appears and by substituting instead “intellectual or physical disability”.

SECTION 66. Tennessee Code Annotated, Section 56-7-2302(b)(1)(A) and (2)(A), are amended by deleting “mental retardation or physical handicap” wherever it appears and by substituting instead “intellectual or physical disability”.

SECTION 67. Tennessee Code Annotated, Section 56-7-2302(b)(3), is amended by deleting “handicapped dependents” wherever it occurs and by substituting instead “dependents with disabilities” and is further amended by deleting “are handicapped” and by substituting instead “have a disability”.

SECTION 68. Tennessee Code Annotated, Section 56-51-117(a), is amended by deleting “handicap” and by substituting instead “disability”.

SECTION 69. Tennessee Code Annotated, Section 56-51-117(d), is amended by deleting “handicapped children” and by substituting instead “children with a disability” and is further amended by deleting “mental or physical handicap” and by substituting instead “mental or physical disability”.

SECTION 70. Tennessee Code Annotated, Section 62-13-304(a)(2), is amended by deleting “handicap” and by substituting instead “disability”.

SECTION 71. Tennessee Code Annotated, Section 66-7-110, is amended by deleting “physically disabled person” wherever it occurs and by substituting instead “person with a physical disability” and is further amended by deleting “handicap accessibility” and by substituting instead “accessibility for persons with a physical disability”.

SECTION 72. Tennessee Code Annotated, Section 66-11-128(a), is amended by deleting “of unsound mind” and by substituting instead “adjudicated incompetent” and is further amended by deleting “disability” and by substituting instead “lack of legal capacity” and by deleting “guardian or trustee” and by substituting instead “guardian , conservator or trustee”.

SECTION 73. Tennessee Code Annotated, Section 66-28-518(c), is amended by deleting “handicapped areas” and by substituting instead “accessible parking areas for persons with disabilities”.

SECTION 74. Tennessee Code Annotated, Section 67-3-401(g)(1) and (2), are amended by deleting “elderly and handicapped persons” wherever it occurs and by substituting instead “persons who are elderly or have a disability”.

SECTION 75. Tennessee Code Annotated, Section 67-5-207(a)(1), is amended by deleting “or handicapped” wherever it occurs.

SECTION 76. Tennessee Code Annotated, Section 67-5-207(d), is amended by deleting “elderly, disabled, or handicapped persons” and by substituting instead “persons who are elderly or have a disability”.

SECTION 77. Tennessee Code Annotated, Section 68-11-201, is amended in subdivision (3) by deleting the language "elderly or disabled adults" and by substituting instead "adults who are elderly or have a disability" and is further amended by deleting subdivision (4) in its entirety and by substituting instead the following:

(4) "Adult care home provider" means a person twenty-one (21) years of age or older who owns and operates an adult care home and meets all education, training and experience requirements prescribed in this part and in regulations promulgated by the board pursuant to § 68-11-209. An adult care home provider may serve up to five (5) adults who are elderly or have a disability and who are unrelated to the adult care home provider by blood or marriage. An adult care home provider may choose to serve one (1) or more adult members of their own family if those adult members are elderly or have a disability, in which case, the adult care home provider shall be required to serve at least two (2) additional adults who are elderly or have a disability if those additional adults are unrelated to the adult care home provider by blood or marriage, for a total of no more than five (5) residents in the adult care home who are elderly or have a disability. An adult care home provider shall live in the adult care home or employ a resident manager to live in the residence;

SECTION 78. Tennessee Code Annotated, Section 68-11-1602(13), is amended by deleting “is suffering from” and by substituting instead “has” and is further amended by deleting “crippled, convalescent, or infirm, or mentally retarded” and by substituting instead “convalescent, infirm, or has an intellectual or physical disability”.

SECTION 79. Tennessee Code Annotated, Section 68-12-101(a), is amended by deleting “physically handicapped and crippled children” and by substituting instead “children with physical disabilities”.

SECTION 80. Tennessee Code Annotated, Section 68-12-102, is amended by deleting “physically handicapped or crippled child” and by substituting instead “child with a physical disability” and is further amended by deleting “chronically handicapped” and by substituting instead “to have a physical disability” and by deleting “of physical infirmity”.

SECTION 81. Tennessee Code Annotated, Section 68-12-103, is amended by deleting “physically handicapped or crippled children” and by substituting instead “children with a physical disability” and is further amended by deleting “these physically handicapped children” and by substituting instead “these children” and by deleting “handicapped children to overcome the defects” and by substituting instead “children to minimize the effects of the disability”.

SECTION 82. Tennessee Code Annotated, Section 68-12-104, is amended by deleting “physically handicapped or crippled children” and by substituting instead “children with a physical disability”.

SECTION 83. Tennessee Code Annotated, Section 68-12-105, is amended by deleting “crippled”.

SECTION 84. Tennessee Code Annotated, Section 68-12-107, is amended by deleting “physically handicapped or crippled children” wherever it appears and by substituting instead “children with a physical disability”.

SECTION 85. Tennessee Code Annotated, Section 68-12-108(a)(1), is amended by deleting “are physically handicapped or crippled” and by substituting instead “have a physical disability”.

SECTION 86. Tennessee Code Annotated, Section 68-12-108(b)(2), is amended by deleting “physically handicapped or crippled children” and by substituting instead “children with a physical disability”.

SECTION 87. Tennessee Code Annotated, Section 68-12-109, is amended by deleting “physically handicapped, visually handicapped and crippled children” and by substituting instead “children with physical or visual disabilities”.

SECTION 88. Tennessee Code Annotated, Section 68-12-110, is amended by deleting “crippled children” and by substituting instead “children with physical disabilities”.

SECTION 89. Tennessee Code Annotated, Section 68-120-202, is amended by deleting “are physically handicapped” and by substituting instead “have a physical disability”.

SECTION 90. Tennessee Code Annotated, Section 68-120-203, is amended by deleting “‘Physically handicapped’ means handicapped” and by substituting instead “‘Physical disability’ means having a disability”.

SECTION 91. Tennessee Code Annotated, Section 68-120-204(a)(1), is amended by deleting “physically handicapped persons” and by substituting instead “persons who have a physical disability”.

SECTION 92. Tennessee Code Annotated, Section 68-120-204(a)(2), is amended by deleting “handicapped accessibility specifications” and by substituting instead “disability accessibility specifications”.

SECTION 93. Tennessee Code Annotated, Section 68-120-204(a)(3), is amended by deleting “designed for the physically handicapped” and by substituting instead “designed for

persons with physical disabilities”, and is further amended by deleting “for use by the physically handicapped persons” and by substituting instead “for use by persons with physical disabilities”.

SECTION 94. Tennessee Code Annotated, Section 69-5-201, is amended by deleting “if such person be an infant or a non compos mentis, and without regular guardian, or such guardian has not been notified of the proceeding as provided for notice” and by substituting instead “if such person be an infant and without regular guardian, or an infant or person adjudicated incompetent and such guardian or conservator has not been notified of the proceeding as provided for notice” and is further amended by deleting “so under disability”.

SECTION 95. Tennessee Code Annotated, Section 69-5-830, is amended by deleting “who are lunatics or of unsound mind” and by substituting instead “adjudicated incompetent” and further amended by deleting “removal of such disability” and by substituting instead “restoration of competency”.

SECTION 96. Tennessee Code Annotated, Section 70-2-110, is amended by deleting “disabled persons” wherever it appears and by substituting instead “persons with disabilities” and is further amended by deleting “handicapped”.

SECTION 97. Tennessee Code Annotated, Section 71-1-119, is amended by deleting “the handicapped” and by substituting instead “persons with disabilities”.

SECTION 98. Tennessee Code Annotated, Section 71-4-201, is amended by deleting “blind persons and visually handicapped persons” and by substituting instead “persons who are blind or visually impaired”.

SECTION 99. Tennessee Code Annotated, Section 71-4-602, is amended by deleting subdivision (1) in its entirety and by substituting instead the following as a new, appropriately designated subdivision:

() “Blind individual with an employment barrier” means a person who is blind, and whose blindness constitutes a substantial barrier to employment.

SECTION 100. Tennessee Code Annotated, Section 71-4-602, is amended in subdivision (7) by deleting the language "Eligible blind handicapped individual" and by substituting instead "Eligible individual with employment barriers" and is further amended by deleting "blind handicapped person who is a blind citizen of this state" and substituting instead "blind individual with a disability who is a citizen of this state."

SECTION 101. Tennessee Code Annotated, Section 71-4-602, is amended by deleting subdivision (a) and substituting instead the following:

(9) "Maintenance" means the provision of money on behalf of a blind individual with employment barriers to cover the necessary living expenses, and health and maintenance essential to achieving the individual's vocational rehabilitation;

SECTION 102. Tennessee Code Annotated, Section 71-4-602(11)(A), is amended by deleting "handicap" wherever it occurs and by substituting instead "barrier".

SECTION 103. Tennessee Code Annotated, Section 71-4-602(16), is amended in subdivision (A) by deleting "blind handicapped individual" and by substituting instead "blind individual with employment barriers" and is further amended in subdivision (B) by deleting "blind handicapped individuals" and by substituting instead "blind individuals with employment barriers".

SECTION 104. Tennessee Code Annotated, Section 71-4-602(17), is amended by deleting "severely handicapped individuals" and by substituting instead "individuals with severe disabilities".

SECTION 105. Tennessee Code Annotated, Section 71-4-603(a), is amended by deleting "blind handicapped individuals" and by substituting instead "blind individuals with employment barriers".

SECTION 106. Tennessee Code Annotated, Section 71-4-2201, is amended by deleting "handicaps" wherever it appears and by substituting instead "disabilities".

SECTION 107. Tennessee Code Annotated, Section 71-5-2503(11), is amended by deleting “handicap” and by substituting instead “disability”.

SECTION 108. Nothing in this legislation shall be construed to alter or otherwise affect the eligibility for services or the rights or responsibilities of individuals covered by the provision on the day before the date of enactment of this legislation.

SECTION 109. The provisions of this act are declared to be remedial in nature and all provisions of this act shall be liberally construed to effectuate its purposes.

SECTION 110. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 111. This act shall take effect July 1, 2011, the public welfare requiring it.