

# *State of Tennessee*

## **PUBLIC CHAPTER NO. 254**

### **SENATE BILL NO. 267**

**By Johnson, Reeves, Lowe**

Substituted for: House Bill No. 315

By Lamberth, Cochran, Hazlewood, Jernigan, Shaw, Bricken, Helton-Haynes, Eldridge, Camper,  
Moody, Powers

AN ACT to amend Tennessee Code Annotated, Title 71, Chapter 5, Part 1, relative to intermediate care facilities for individuals with intellectual disabilities.

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

SECTION 1. Tennessee Code Annotated, Section 71-5-105(b), is amended by deleting the subsection and substituting:

(b)(1) Subject to subdivision (b)(3), the total number of beds in private for-profit and private not-for-profit intermediate care facilities for individuals with intellectual disabilities (ICF/IID) must not be less than six hundred ninety-six (696) absent a reduction in the occupancy rate to eighty percent (80%) or less of the statewide available occupancy as determined annually and must not exceed a total maximum number of eight hundred four (804) upon the voluntary surrender by the certificate of need providers. To determine the statewide available occupancy, the department of intellectual and developmental disabilities shall use the data from cost reports submitted by providers to the comptroller of the treasury. The department shall demonstrate a commitment to assisting providers who chose to transition a current site from ICF/IID services to home and community-based services (HCBS) in achieving compliance with the HCBS settings rules. In compliance with the certificate of need process, private for-profit and private not-for-profit ICF/IID beds may be transferred from one (1) location or one (1) provider to another, but the total number of such beds must not exceed eight hundred four (804).

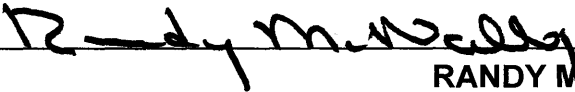
(2) An available private ICF/IID bed may be filled only upon completion of a community-informed choice process established and administered by the department of intellectual and developmental disabilities that fairly and completely represents available options in order to ensure that the placement is the most integrated and cost-effective setting and subject to the individual's freedom of choice. Providers may refuse persons based on needs compatibility considering the total mix of persons in the facility. The department of intellectual and developmental disabilities shall demonstrate a commitment to ensuring the individual's freedom of choice and ensure that each eligible service recipient is fully informed of all services available to the recipient, including community ICF/IID facilities and the specialized services the facilities provide.

(3) The total number of private for-profit and not-for-profit ICF/IID beds authorized in subdivision (b)(1) is permanently reduced upon voluntary surrender of a certificate of need for the specified number of ICF/IID beds by the owner. A surrendered bed must not be reestablished by the same or another owner.

SECTION 2. This act takes effect upon becoming a law, the public welfare requiring it.

SENATE BILL NO. 267

PASSED: April 13, 2023

  
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RANDY McNALLY  
SPEAKER OF THE SENATE

  
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CAMERON SEXTON, SPEAKER  
HOUSE OF REPRESENTATIVES

APPROVED this 28<sup>th</sup> day of April 2023

  
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BILL LEE, GOVERNOR