

By: Lucio

S. B. No. 639

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the rights of persons with intellectual or
3 developmental disabilities residing in state residential care
4 facilities.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Chapter 592, Health and Safety Code, is amended
7 by adding Subchapter E to read as follows:

SUBCHAPTER E. RIGHTS OF PERSONS RESIDING IN STATE RESIDENTIAL

CARE FACILITIES

10 Sec. 592.071. DEFINITIONS. In this subchapter:

22 (b) This subchapter may not be construed to authorize a
23 state residential care facility to take any action that would
24 impair the health or safety of any resident of that facility.

1 Sec. 592.073. LEGISLATIVE FINDINGS. The legislature
2 recognizes that all persons with intellectual or developmental
3 disabilities living in this state are entitled to the same rights
4 and privileges as any other person living in this state. It is the
5 policy of the state that all persons, regardless of disability, be
6 treated with dignity and respect. The legislature recognizes that
7 persons residing in state residential care facilities have the
8 right to determine and pursue their personal goals, dreams, and
9 aspirations to be contributing members of their communities.

10 Sec. 592.074. PURPOSE. The purpose of the state
11 residential care facility resident bill of rights is:

12 (1) to ensure the freedoms and rights of persons with
13 intellectual or developmental disabilities living in state
14 residential care facilities;

15 (2) to promote choice and self-determination; and

16 (3) to protect the civil and constitutional rights of
17 residents in state residential care facilities consistent with
18 federal and state laws and in accordance with acceptable standards
19 of professional practice.

20 Sec. 592.075. STATE RESIDENTIAL CARE FACILITY RESIDENT BILL
21 OF RIGHTS. It is the policy of the state that each person residing
22 in a state residential care facility has the following rights:

23 (1) to make decisions that impact the person's rights
24 and freedoms, or, if appropriate, to have a legal guardian or, if
25 the person is a minor, a parent make those decisions;

26 (2) to be free from abuse, neglect, and exploitation,
27 including:

11 (D) isolation from others, unless necessary to
12 protect the health and safety of the person or others and the use of
13 the isolation is not prohibited by other law:

14 (E) corporal or physical punishment;

15 (F) sexual abuse; or

16 (G) emotional abuse;

1 completion of the investigation;

2 (7) to report complaints about the state residential
3 care facility, other than complaints about abuse, neglect, or
4 exploitation, and have timely and appropriate resolution to those
5 complaints;

6 (8) to live in the least restrictive setting
7 appropriate to the person's individual needs and abilities and the
8 most integrated setting possible, including:

9 (A) having the opportunity to make an informed
10 choice to move into a community with the necessary services and
11 supports;

12 (B) having access to community services while
13 waiting for a determination of eligibility for those services;

14 (C) choosing to participate in, and
15 participating in, community activities;

16 (D) having regular reviews of placement, if the
17 person was placed in a state residential care facility by the
18 justice system;

19 (E) having access to well-developed, specialized
20 community programs for offenders with disabilities necessary to
21 successfully reintegrate into the community, if applicable; and

22 (F) requesting planning meetings to review
23 community placement determinations or specific community options;

24 (9) to engage in age-appropriate, healthy
25 interpersonal relationships with other persons based on mutual
26 consent;

27 (10) to receive high quality assistive technology

1 assessments, equipment, and training, and for staff to have the
2 relevant training, necessary to ensure the person's successful
3 inclusion in major life activities, to the greatest extent
4 possible, including:

5 (A) communication;

6 (B) mobility;

7 (C) employment; and

8 (D) education;

9 (11) to a quality and productive life, including:

10 (A) the opportunity to pursue employment or
11 education of the person's choice;

12 (B) freedom from unsafe living conditions at the
13 state residential care facility in which the person resides;

14 (C) opportunities to participate in an
15 organization that advocates with and on behalf of people with
16 disabilities;

17 (D) opportunities to interact with individuals
18 with shared interests who do not reside at the state residential
19 care facility, including mentors, friends, and family, and
20 individuals participating in clubs, classes, and social groups;

21 (E) access to services or meetings of a religious
22 organization of the person's choosing, including weekly services or
23 meetings and services or meetings on the religious holy days of that
24 religion; and

25 (F) personal living space with privacy to the
26 greatest extent possible based on the person's individual needs;

27 (12) to have access to appropriate health care,

1 including:

2 (A) a well-balanced diet;

3 (B) regular access to physical activity, with

4 supports as needed, in the least restrictive environment, with the

5 opportunity to go outdoors when preferred if possible;

6 (C) preventative and emergency medical care; and

7 (D) behavioral interventions;

8 (13) to reside in a community-based alternative with

9 supports and services if the person desires, if this is possible

10 considering the individual's disability;

11 (14) to have the person's legal guardian or, if the

12 person is a minor, the person's parent notified of any significant

13 medical, behavioral, or social event that occurs in the person's

14 life; and

15 (15) to be provided with a written copy of this Bill of

16 Rights in English and Spanish and to have the opportunity to review

17 this document with an advocate or individual of the person's

18 choosing.

19 Sec. 592.076. PROVISION OF BILL OF RIGHTS TO RESIDENTS. (a)

20 The department shall provide a written copy of the state

21 residential care facility resident bill of rights in English and

22 Spanish to each person living in a state residential care facility

23 and, if applicable, to the person's legal guardian or, if the person

24 is a minor, the person's parent.

25 (b) A state residential care facility shall prominently and

26 conspicuously display a copy of the state residential care facility

27 resident bill of rights in English and Spanish in a public area of

1 the facility that is readily accessible by the residents.

2 (c) The executive commissioner of the Health and Human
3 Services Commission shall adopt rules relating to the form of the
4 state residential care facility resident bill of rights.

5 Sec. 592.077. PROHIBITED PLACEMENT. A person who is
6 younger than 22 years of age who is admitted to a state residential
7 care facility on a temporary basis may not reside in the facility
8 for more than 60 days. As soon as practicable after the temporary
9 placement, the department shall place the person in a family
10 setting with the necessary supports and services.

11 SECTION 2. (a) The executive commissioner of the Health and
12 Human Services Commission shall adopt the rules required by Section
13 592.076, Health and Safety Code, as added by this Act, not later
14 than January 1, 2010.

15 (b) A state school is not required to provide or display the
16 state residential care facility resident bill of rights under
17 Subchapter E, Chapter 592, Health and Safety Code, as added by this
18 Act, before February 1, 2010.

19 SECTION 3. This Act takes effect September 1, 2009.