



## State of Tennessee

### PUBLIC CHAPTER NO. 158

SENATE BILL NO. 1533

By Norris, McNally, Yager

Substituted for: House Bill No. 1997

By McCormick, Harry Brooks, Campbell

AN ACT to amend Tennessee Code Annotated, Title 2; Title 4; Title 5; Title 8; Title 10; Title 12; Title 13; Title 33; Title 37; Title 40; Title 48; Title 49; Title 55; Title 56; Title 63; Title 68 and Title 71, Chapter 6, relative to intellectual and developmental disabilities.

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

SECTION 1. Tennessee Code Annotated, Section 2-12-114(b)(1)(D), is amended by deleting the language "and mental retardation" and substituting instead the language "intellectual and developmental disabilities".

SECTION 2. Tennessee Code Annotated, Section 4-3-2702(c), is amended by deleting the language "developmental disabilities" and by substituting instead the language "intellectual or developmental disabilities".

SECTION 3. Tennessee Code Annotated, Section 4-31-702, is amended by deleting the language "mental retardation" wherever it appears and by substituting in its place the following language: "intellectual and developmental disabilities".

SECTION 4. Tennessee Code Annotated, Section 5-9-101, is amended in subdivision (3) by deleting the subdivision in its entirety and substituting instead the language: "For the support of people who are indigent or have mental illness or intellectual or developmental disabilities;" and is further amended in subdivision (24) by deleting the language "mentally ill and the mentally retarded" and by substituting instead the language "people with mental illness or intellectual or developmental disabilities".

SECTION 5. Tennessee Code Annotated, Section 8-30-208(b)(7), is amended by deleting the language "mental health/mental retardation institutions" and by substituting instead the language "mental health institutes or developmental centers".

SECTION 6. Tennessee Code Annotated, Section 10-7-504(c), is amended by deleting the language "mental retardation" and by substituting instead the language "intellectual and developmental disabilities".

SECTION 7. Tennessee Code Annotated, Section 12-2-117(a), is amended by deleting the following language from the first sentence "or developmental disabilities".

SECTION 8. Tennessee Code Annotated, Section 13-24-101(a), is amended by deleting the language "mentally retarded, mentally handicapped or physically handicapped persons" wherever it appears and by substituting instead the language "mentally handicapped persons or persons with intellectual or physical disabilities".

SECTION 9. 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 the language "mentally handicapped persons or persons with intellectual or physical disabilities" and is further amended by deleting the word "houseparents" and by substituting instead "support staff".

SECTION 10. Tennessee Code Annotated, Section 33-1-101(10) and (11), are amended by deleting these subdivisions in their entirety and substituting therefore the following language:

(10) "Developmental center" means a Department of Intellectual and Developmental Disabilities facility or part of it that provides residential and habilitation services to persons with intellectual disabilities;

(11)(A) "Developmental disability" in a person over five (5) years of age means a condition that:

(i) Is attributable to a mental or physical impairment or combination of mental and physical impairments;

(ii) Manifested before twenty-two (22) years of age;

(iii) Likely to continue indefinitely;

(iv) Results in substantial functional limitations in three (3) or more of the following major life activities:

(a) Self-care;

(b) Receptive and expressive language;

(c) Learning;

(d) Mobility;

(e) Self-direction;

(f) Capacity for independent living; or

(g) Economic self-sufficiency; and

(v) Reflects the person's need for a combination and sequence of special interdisciplinary or generic services, supports, or other assistance that is likely to continue indefinitely and need to be individually planned and coordinated.

(B) "Developmental disability" in a person up to five (5) years of age means a condition of substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disability as defined for persons over five (5) years of age if services and supports are not provided;

SECTION 11. Tennessee Code Annotated, Section 33-1-101(16)(A), is amended by inserting the language ", for the purposes of the general functions of the department as set forth in § 4-3-2701(b)," between the words "means" and "substantial".

SECTION 12. Tennessee Code Annotated, Section 33-1-101(24), is amended by deleting the subdivision in its entirety and is further amended by renumbering the remaining subdivisions accordingly.

SECTION 13. Tennessee Code Annotated, Section 33-1-309(b), is amended by deleting the word "division" and by substituting instead the word "department".

SECTION 14. Tennessee Code Annotated, Section 33-2-402(4), is amended by deleting the language "deputy commissioner of health" and by substituting instead the language "deputy commissioner of mental health".

SECTION 15. Tennessee Code Annotated, Section 33-2-408(b)(3), is amended by adding the following language after the word "neglect" and before the word "or":

exploitation, misappropriation.

SECTION 16. Tennessee Code Annotated, Section 33-3-108(b), is amended by adding the language "misappropriation" after the word and punctuation "neglect," wherever it appears.

SECTION 17. Tennessee Code Annotated, Section 33-5-110(a), is amended by deleting the language "Tennessee division of intellectual disabilities services" and by substituting instead the language "Department of Intellectual and Developmental Disabilities".

SECTION 18. Tennessee Code Annotated, Section 33-5-110, is amended by deleting the language "DIDS" wherever it appears and by substituting instead the language "DIDD".

SECTION 19. Tennessee Code Annotated, Section 37-1-102(b)(23)(B), is amended by deleting the language "retardation" and by substituting instead the language "intellectual disability".

SECTION 20. Tennessee Code Annotated, Section 40-28-115(g)(1), is amended by deleting the language "retarded" and by substituting instead the language "intellectually disabled".

SECTION 21. Tennessee Code Annotated, Section 48-101-301(5) and (15)(E), is amended by deleting the language "physically or mentally retarded individuals" wherever it appears and by substituting instead the language "individuals with physical and/or intellectual disability".

SECTION 22. Tennessee Code Annotated, Section 48-101-302(b), is amended by deleting the language "physically and mentally retarded individuals" and by substituting instead the language "individuals with physical and/or intellectual disability".

SECTION 23. Tennessee Code Annotated, Section 48-101-308(a)(7) and (8), is amended by deleting the language "physically and mentally retarded individuals" wherever it appears and by substituting instead the language "individuals with physical and/or intellectual disability".

SECTION 24. Tennessee Code Annotated, Section 49-2-115(b), is amended by deleting the language "mental health and mental retardation" and by substituting instead the language "mental health, intellectual and developmental disabilities".

SECTION 25. Tennessee Code Annotated, Section 49-5-5004(c), is amended by deleting the language "mental health and mental retardation" and by substituting instead the language "mental health, intellectual and developmental disabilities".

SECTION 26. Tennessee Code Annotated, Section 49-8-802(a), is amended by deleting the language "and mental health and mental retardation" and by substituting instead the language "mental health, and intellectual and developmental disabilities".

SECTION 27. Tennessee Code Annotated, Section 49-10-902(a)(2), is amended by deleting the language "the mentally retarded" and by substituting instead the language "people with intellectual disability".

SECTION 28. 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 29. Tennessee Code Annotated, Section 56-7-2503, is amended by deleting the language "mentally ill or mentally retarded persons" wherever it appears and by substituting instead the language "persons with mental illness or intellectual disability".

SECTION 30. Tennessee Code Annotated, Section 56-7-2601(b), (c)(1), and (e), are amended by deleting the language "mental retardation" wherever it occurs and by substituting instead the language "intellectual disability".

SECTION 31. Tennessee Code Annotated, Section 63-7-102(10)(B), is amended by deleting the language "persons with mental retardation" and by substituting instead the language "people with intellectual disabilities".

SECTION 32. Tennessee Code Annotated, Section 63-7-102(10)(C), is amended in the first sentence by deleting the language "the mentally retarded" and by substituting instead the language "people with intellectual disabilities".

SECTION 33. Tennessee Code Annotated, Section 63-11-208(e)(3) and (e)(4), are amended by deleting the language "mental retardation" wherever it occurs and by substituting instead the language "intellectual disability".

SECTION 34. Tennessee Code Annotated, Section 68-1-904(c)(1), is amended by deleting the language "persons with mental retardation" and by substituting instead the language "persons with intellectual disability" and by deleting the language "the mentally retarded" wherever it occurs and by substituting instead the language "persons who have intellectual disability".

SECTION 35. Tennessee Code Annotated, Section 68-5-401(a)(1), is amended by deleting the language "mental retardation" and by substituting instead the language "intellectual disability".

SECTION 36. Tennessee Code Annotated, Section 68-5-502(a), is amended by deleting the language "mental retardation" and by substituting instead the language "intellectual disability".

SECTION 37. Tennessee Code Annotated, Section 68-5-504(b)(1), is amended by deleting the language "mental retardation" and by substituting instead the language "intellectual disability".

SECTION 38. Tennessee Code Annotated, Section 68-11-705, is amended by deleting the language "mentally ill and mentally retarded persons" and by substituting instead the language "persons with mental illness or intellectual disability".

SECTION 39. Tennessee Code Annotated, Section 68-11-1602(7)(A), is amended by deleting the language "mental retardation institutional habilitation facility" and by substituting instead the language "intellectual disability institutional habilitation facility".

SECTION 40. Tennessee Code Annotated, Section 68-11-1625(f)(14), is amended by deleting the language "Mental retardation institutional habilitation facilities" and by substituting instead the language "Intellectual disability institutional habilitation facilities".

SECTION 41. Tennessee Code Annotated, Section 71-6-113(b), is amended by deleting the language "physical illness, mental retardation or developmental disabilities" and by substituting instead the language "physical illness, intellectual disability or developmental disabilities".

SECTION 42. Tennessee Code Annotated, Section 71-6-124(a)(1)(A), is amended by deleting the language "mental retardation" and by substituting instead the language "intellectual disabilities" and is further amended by deleting the language "division of intellectual disabilities services (DIDS), department of finance and administration" and by substituting instead the following language: "the Department of Intellectual and Developmental Disabilities (DIDD)".

SECTION 43. Tennessee Code Commission is authorized to make changes to appropriate provisions of Tennessee Code Annotated in order to effectuate the intent of Public Chapters 734 and 1100 of the Public Acts of 2010 with respect to references to mental retardation and similar terms and the creation of the Department of Intellectual and Developmental Disabilities.

SECTION 44. 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 45. Tennessee Code Annotated, Title 33; Chapter 5, Part 1, is amended by adding the following language as a new, appropriately designated section:

Section \_\_\_\_.

(a) Notwithstanding any provisions of state law to the contrary, eligibility criteria for medical assistance programs and services pursuant to Title 71, Chapter 5, for persons with intellectual or developmental disabilities shall be established by the Bureau of TennCare, and set forth in the Medicaid state plan, federal waivers, or in rules promulgated by the Bureau of TennCare, and shall be subject to the availability of funding in each year's General Appropriations Act.

(b) Notwithstanding any provisions of state law to the contrary, eligibility criteria for state-funded programs and services for persons with intellectual or developmental disabilities shall be established by the Department of Intellectual and Developmental Disabilities and set forth in department rules, and shall be subject to the availability of funding in each year's General Appropriations Act.

SECTION 46. This act shall take effect upon becoming a law, the public welfare requiring it.

SENATE BILL NO. 1533

PASSED: April 21, 2011

  
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RON RAMSEY  
SPEAKER OF THE SENATE

  
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BETH HARWELL, SPEAKER  
HOUSE OF REPRESENTATIVES

APPROVED this 5<sup>th</sup> day of May 2011

  
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BILL HASLAM, GOVERNOR