

1 AN ACT in relation to health.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Mental Health and Developmental
5 Disabilities Code is amended by changing Section 2-108 as
6 follows:

7 (405 ILCS 5/2-108) (from Ch. 91 1/2, par. 2-108)

8 Sec. 2-108. Use of restraint. Restraint may be used
9 only as a therapeutic measure to prevent a recipient from
10 causing physical harm to himself or physical abuse to others.
11 Restraint may only be applied by a person who has been
12 trained in the application of the particular type of
13 restraint to be utilized. In no event shall restraint be
14 utilized to punish or discipline a recipient, nor is
15 restraint to be used as a convenience for the staff.

16 (a) Except as provided in this Section, restraint shall
17 be employed only upon the written order of a physician,
18 clinical psychologist, clinical social worker, clinical
19 professional counselor, or registered nurse with supervisory
20 responsibilities. No restraint shall be ordered unless the
21 physician, clinical psychologist, clinical social worker,
22 clinical professional counselor, or registered nurse with
23 supervisory responsibilities, after personally observing and
24 examining the recipient, is clinically satisfied that the use
25 of restraint is justified to prevent the recipient from
26 causing physical harm to himself or others. In no event may
27 restraint continue for longer than 2 hours unless within that
28 time period a nurse with supervisory responsibilities or a
29 physician confirms, in writing, following a personal
30 examination of the recipient, that the restraint does not
31 pose an undue risk to the recipient's health in light of the

1 recipient's physical or medical condition. The order shall
2 state the events leading up to the need for restraint and the
3 purposes for which restraint is employed. The order shall
4 also state the length of time restraint is to be employed and
5 the clinical justification for that length of time. No order
6 for restraint shall be valid for more than 16 hours. If
7 further restraint is required, a new order must be issued
8 pursuant to the requirements provided in this Section.

9 (b) In the event there is an emergency requiring the
10 immediate use of restraint, it may be ordered temporarily by
11 a qualified person only where a physician, clinical
12 psychologist, clinical social worker, clinical professional
13 counselor, or registered nurse with supervisory
14 responsibilities is not immediately available. In that
15 event, an order by a nurse, clinical psychologist, clinical
16 social worker, clinical professional counselor, or physician
17 shall be obtained pursuant to the requirements of this
18 Section as quickly as possible, and the recipient shall be
19 examined by a physician or supervisory nurse within 2 hours
20 after the initial employment of the emergency restraint.
21 Whoever orders restraint in emergency situations shall
22 document its necessity and place that documentation in the
23 recipient's record.

24 (c) The person who orders restraint shall inform the
25 facility director or his designee in writing of the use of
26 restraint within 24 hours.

27 (d) The facility director shall review all restraint
28 orders daily and shall inquire into the reasons for the
29 orders for restraint by any person who routinely orders them.

30 (e) Restraint may be employed during all or part of one
31 24 hour period, the period commencing with the initial
32 application of the restraint. However, once restraint has
33 been employed during one 24 hour period, it shall not be used
34 again on the same recipient during the next 48 hours without

1 the prior written authorization of the facility director.

2 (f) Restraint shall be employed in a humane and
3 therapeutic manner and the person being restrained shall be
4 observed by a qualified person as often as is clinically
5 appropriate but in no event less than once every 15 minutes.
6 The qualified person shall maintain a record of the
7 observations. Specifically, unless there is an immediate
8 danger that the recipient will physically harm himself or
9 others, restraint shall be loosely applied to permit freedom
10 of movement. Further, the recipient shall be permitted to
11 have regular meals and toilet privileges free from the
12 restraint, except when freedom of action may result in
13 physical harm to the recipient or others.

14 (g) Every facility that employs restraint shall provide
15 training in the safe and humane application of each type of
16 restraint employed. The facility shall not authorize the use
17 of any type of restraint by an employee who has not received
18 training in the safe and humane application of that type of
19 restraint. Each facility in which restraint is used shall
20 maintain records detailing which employees have been trained
21 and are authorized to apply restraint, the date of the
22 training and the type of restraint that the employee was
23 trained to use.

24 (h) Whenever restraint is imposed upon any recipient
25 whose primary mode of communication is sign language, the
26 recipient shall be permitted to have his hands free from
27 restraint for brief periods each hour, except when freedom
28 may result in physical harm to the recipient or others.

29 (i) A recipient who is restrained may only be secluded
30 at the same time pursuant to an explicit written
31 authorization as provided in Section 2-109 of this Code.
32 Whenever a recipient is restrained, a member of the facility
33 staff shall remain with the recipient at all times unless the
34 recipient has been secluded. A recipient who is restrained

1 and secluded shall be observed by a qualified person as often
2 as is clinically appropriate but in no event less than every
3 15 minutes.

4 (j) Whenever restraint is used, the recipient shall be
5 advised of his right, pursuant to Sections 2-200 and 2-201 of
6 this Code, to have any person of his choosing, including the
7 Guardianship and Advocacy Commission or the agency designated
8 pursuant to the Protection and Advocacy for Developmentally
9 Disabled Persons Act notified of the restraint. A recipient
10 who is under guardianship may request that any person of his
11 choosing be notified of the restraint whether or not the
12 guardian approves of the notice. Whenever the Guardianship
13 and Advocacy Commission is notified that a recipient has been
14 restrained, it shall contact that recipient to determine the
15 circumstances of the restraint and whether further action is
16 warranted.

17 (Source: P.A. 92-651, eff. 7-11-02.)

18 Section 99. Effective date. This Act takes effect upon
19 becoming law.