

By: Zaffirini

S.B. No. 41

A BILL TO BE ENTITLED

AN ACT

relating to the use of restraints in state supported living centers.

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

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

SUBCHAPTER E. USE OF RESTRAINTS IN STATE SUPPORTED LIVING CENTERS

Sec. 592.101. DEFINITION. In this subchapter, "executive commissioner" means the executive commissioner of the Health and Human Services Commission.

Sec. 592.102. USE OF RESTRAINTS. (a) The executive commissioner shall adopt rules to ensure that:

(1) a mechanical or physical restraint is not administered to a resident of a state supported living center unless the restraint is:

(A) necessary to prevent imminent physical injury to the resident or another; and

(B) the least restrictive restraint effective to prevent imminent physical injury;

(2) the administration of a mechanical or physical restraint to a resident of a state supported living center ends immediately once the imminent risk of physical injury abates; and

(3) a mechanical or physical restraint is not administered to a resident of a state supported living center as

1 punishment or as part of a behavior plan.

2 (b) The executive commissioner shall adopt rules to
3 prohibit the use of prone and supine holds on a resident of a state
4 supported living center except as transitional holds.

5 Sec. 592.103. STANDING ORDERS FOR RESTRAINTS PROHIBITED.

6 (a) A person may not issue a standing order to administer on an
7 as-needed basis mechanical or physical restraints to a resident of
8 a state supported living center.

9 (b) A person may not administer mechanical or physical
10 restraints to a resident of a state supported living center
11 pursuant to a standing order to administer restraints on an
12 as-needed basis.

13 Sec. 592.104. STRAITJACKETS PROHIBITED. A person may not
14 use a straitjacket to restrain a resident of a state supported
15 living center.

16 Sec. 592.105. DUTY TO REPORT. A state supported living
17 center shall report to the executive commissioner each incident in
18 which a physical or mechanical restraint is administered to a
19 resident of a state supported living center. The report must
20 contain information and be in the form required by rules of the
21 executive commissioner.

22 Sec. 592.106. CONFLICT WITH OTHER LAW. To the extent of a
23 conflict between this subchapter and Chapter 322, this subchapter
24 controls.

25 SECTION 2. Not later than January 1, 2012, the executive
26 commissioner of the Health and Human Services Commission shall
27 adopt rules required under Sections 592.102 and 592.105, Health and

1 Safety Code, as added by this Act.

2 SECTION 3. This Act takes effect immediately if it receives
3 a vote of two-thirds of all the members elected to each house, as
4 provided by Section 39, Article III, Texas Constitution. If this
5 Act does not receive the vote necessary for immediate effect, this
6 Act takes effect September 1, 2011.