

1-1 By: Zaffirini S.B. No. 41
1-2 (In the Senate - Filed November 8, 2010; January 31, 2011,
1-3 read first time and referred to Committee on Health and Human
1-4 Services; February 22, 2011, reported favorably by the following
1-5 vote: Yeas 8, Nays 0; February 22, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the use of restraints in state supported living
1-9 centers.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Chapter 592, Health and Safety Code, is amended
1-12 by adding Subchapter E to read as follows:

1-13 SUBCHAPTER E. USE OF RESTRAINTS IN STATE SUPPORTED LIVING CENTERS

1-14 Sec. 592.101. DEFINITION. In this subchapter, "executive
1-15 commissioner" means the executive commissioner of the Health and
1-16 Human Services Commission.

1-17 Sec. 592.102. USE OF RESTRAINTS. (a) The executive
1-18 commissioner shall adopt rules to ensure that:

1-19 (1) a mechanical or physical restraint is not
1-20 administered to a resident of a state supported living center
1-21 unless the restraint is:

1-22 (A) necessary to prevent imminent physical
1-23 injury to the resident or another; and

1-24 (B) the least restrictive restraint effective to
1-25 prevent imminent physical injury;

1-26 (2) the administration of a mechanical or physical
1-27 restraint to a resident of a state supported living center ends
1-28 immediately once the imminent risk of physical injury abates; and

1-29 (3) a mechanical or physical restraint is not
1-30 administered to a resident of a state supported living center as
1-31 punishment or as part of a behavior plan.

1-32 (b) The executive commissioner shall adopt rules to
1-33 prohibit the use of prone and supine holds on a resident of a state
1-34 supported living center except as transitional holds.

1-35 Sec. 592.103. STANDING ORDERS FOR RESTRAINTS PROHIBITED.

1-36 (a) A person may not issue a standing order to administer on an
1-37 as-needed basis mechanical or physical restraints to a resident of
1-38 a state supported living center.

1-39 (b) A person may not administer mechanical or physical
1-40 restraints to a resident of a state supported living center
1-41 pursuant to a standing order to administer restraints on an
1-42 as-needed basis.

1-43 Sec. 592.104. STRAITJACKETS PROHIBITED. A person may not
1-44 use a straitjacket to restrain a resident of a state supported
1-45 living center.

1-46 Sec. 592.105. DUTY TO REPORT. A state supported living
1-47 center shall report to the executive commissioner each incident in
1-48 which a physical or mechanical restraint is administered to a
1-49 resident of a state supported living center. The report must
1-50 contain information and be in the form required by rules of the
1-51 executive commissioner.

1-52 Sec. 592.106. CONFLICT WITH OTHER LAW. To the extent of a
1-53 conflict between this subchapter and Chapter 322, this subchapter
1-54 controls.

1-55 SECTION 2. Not later than January 1, 2012, the executive
1-56 commissioner of the Health and Human Services Commission shall
1-57 adopt rules required under Sections 592.102 and 592.105, Health and
1-58 Safety Code, as added by this Act.

1-59 SECTION 3. This Act takes effect immediately if it receives
1-60 a vote of two-thirds of all the members elected to each house, as
1-61 provided by Section 39, Article III, Texas Constitution. If this
1-62 Act does not receive the vote necessary for immediate effect, this
1-63 Act takes effect September 1, 2011.

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