

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 222

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO THE SECURE TREATMENT FACILITY ACT; AMENDING TITLE 66, IDAHO
2 CODE, BY THE ADDITION OF A NEW CHAPTER 14, TITLE 66, IDAHO CODE, TO PRO-
3 VIDE A SHORT TITLE, TO PROVIDE AUTHORITY, TO DEFINE TERMS, TO PROVIDE
4 CRITERIA TO QUALIFY FOR ADMISSION TO A CERTAIN FACILITY, TO PROVIDE FOR
5 DISPOSITION AND REDISPOSITION TO AND DISCHARGE FROM THE FACILITY, TO
6 ESTABLISH RIGHTS OF THOSE ADMITTED TO THE FACILITY AND TO PROVIDE FOR
7 CERTAIN TREATMENT; AND DECLARING AN EMERGENCY.
8

9 Be It Enacted by the Legislature of the State of Idaho:

10 SECTION 1. That Title 66, Idaho Code, be, and the same is hereby amended
11 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
12 ter 14, Title 66, Idaho Code, and to read as follows:

13 CHAPTER 14
14 SECURE TREATMENT FACILITY ACT

15 66-1401. SHORT TITLE. This chapter shall be known and may be cited as
16 the "Secure Treatment Facility Act."

17 66-1402. AUTHORITY. (1) The department of health and welfare shall
18 have the power to establish, operate and maintain a secure treatment facil-
19 ity for persons with an intellectual or developmental disability who pose
20 a substantial threat to the safety of others. These persons may also have
21 co-occurring mental illness requiring diagnostic services and treatment in
22 a secure facility. The facility shall be identifiably separate from other
23 facilities managed by the department of health and welfare for persons with
24 an intellectual or a developmental disability. The provisions of this chap-
25 ter shall be liberally construed to accomplish these purposes.

26 (2) The director of the department of health and welfare or the direc-
27 tor's designee shall have the authority to make rules for the governance of
28 the facility and program consistent with this chapter.

29 (3) When a person is the subject of a court order pursuant to section
30 66-1404, Idaho Code, for admission to a secure facility, the department may
31 disposition the person to the facility or another appropriate placement.

32 (4) The department of health and welfare division of licensing and cer-
33 tification will develop a license and survey process for the facility.

34 (5) The provisions of chapter 4, title 66, Idaho Code, apply unless oth-
35 erwise specified.

36 66-1403. DEFINITIONS. As used in this chapter:

37 (1) "Administrator" means the administrator of the secure treatment
38 facility.

39 (2) "Adult" means an individual eighteen (18) years of age or older.

1 (3) "Department" means the Idaho department of health and welfare.

2 (4) "Developmental disability" means a developmental disability as de-
3 fined in section 66-402, Idaho Code, or an intellectual disability as de-
4 fined in section 73-114, Idaho Code.

5 (5) "Director" means the director of the department.

6 (6) "Dual diagnosis" means the coexistence of the symptoms of both in-
7 tellectual or developmental disabilities and mental health issues.

8 (7) "Facility" or "secure treatment facility" means the facility to be
9 operated by the department to fulfill the purposes of this chapter. The fa-
10 cility shall, at a minimum, include:

11 (a) Locked, fenced and enclosed grounds accessible only to persons,
12 staff and authorized individuals;

13 (b) Locked residential units;

14 (c) Bedroom and building exit alarms;

15 (d) Monitoring cameras in all common areas;

16 (e) Modified interiors to reduce risk of suicide; and

17 (f) Restricted access to items that could be used as weapons.

18 (8) "Person" means an individual subject to judicial proceedings au-
19 thorized by the provisions of this chapter who is being considered for dispo-
20 sition or is admitted and dispositioned into the secure treatment facility.

21 (9) "Serious mental illness" means any of the following psychiatric
22 illnesses as defined by the American psychiatric association in the diagnos-
23 tic and statistical manual of mental disorders (DSM):

24 (a) Schizophrenia spectrum and other related disorders;

25 (b) Paranoia and other psychotic disorders;

26 (c) Bipolar and other related disorders;

27 (d) Depressive disorders;

28 (e) Trauma and stressor-related disorders;

29 (f) Anxiety disorders;

30 (g) Obsessive-compulsive and other related disorders;

31 (h) Dissociative disorders; and

32 (i) Personality disorders.

33 (10) "Substantial threat to the safety of others" means the presenta-
34 tion, by a person, of a substantial risk to physically harm other individu-
35 als, as manifested by evidence of violent behavior.

36 66-1404. CRITERIA FOR ADMISSION. (1) To be admitted to the facility, a
37 person must:

38 (a) Have a primary diagnosis of developmental disability, as deter-
39 mined by the department, and a diagnosis of serious mental illness;

40 (b) Be an adult;

41 (c) Meet one (1) of the following grounds:

42 (i) The person is charged with a crime and is committed to the
43 department to undergo evaluation or treatment for competency to
44 stand trial in conformance with chapter 2, title 18, Idaho Code; or

45 (ii) The person is civilly committed to the custody of the depart-
46 ment in conformance with chapter 4, title 66, Idaho Code; and

47 (d) Be found, by a court, to present a substantial threat to the safety
48 of others if not evaluated or treated in a secure facility.

1 (2) If the court finds that the person meets the criteria for admission,
2 the court shall, as part of the commitment to the department, order that the
3 person is appropriate to be admitted to the facility.

4 66-1405. DISPOSITION, REDISPOSITION AND DISCHARGE. (1) Disposition.
5 Disposition of a person into the facility shall be determined solely by the
6 director or the director's designee. In considering whether a person should
7 be dispositioned to the facility, the director or the director's designee
8 may consider any relevant factor including, but not limited to, the follow-
9 ing:

10 (a) Whether less-restrictive alternatives, including services pro-
11 vided in community residential facilities or other community settings
12 that would offer an opportunity for improvement of the condition, have
13 been judged to be inappropriate;

14 (b) Whether admission of the person would cause overcrowding of the fa-
15 cility; and

16 (c) Whether the facility is unable to provide appropriate care or
17 treatment for the person.

18 (2) Transportation. Upon admission, the person shall be transported to
19 the facility in conformance with chapter 2, title 18, Idaho Code, or chapter
20 4, title 66, Idaho Code.

21 (3) Redisposition and notice.

22 (a) After placement in the facility, the director or the director's
23 designee may redisposition the person to a less-restrictive facility.
24 If the person was committed to the department under title 18, Idaho
25 Code, notice of change of disposition shall be filed with the committing
26 court. If the person was committed to the department under this title,
27 notice of change in disposition shall be given in accordance with sec-
28 tion 66-407, Idaho Code.

29 (b) A judicial order that a person is appropriate to be admitted to the
30 facility constitutes continuing authorization for the department to
31 redisposition a person back into the facility as long as the commitment
32 to the department continues under chapter 2, title 18, Idaho Code, or
33 chapter 4, title 66, Idaho Code. If the director or the director's de-
34 signee has dispositioned a person to a less-restrictive facility and
35 later redispositions the person to the secure treatment facility, the
36 person may appeal the redisposition to the committing court within
37 thirty (30) days' notice of the change in disposition. The court shall
38 consider the following admission criteria:

39 (i) Whether the person continues to present a substantial threat
40 to the safety of others if not evaluated or treated in a secure fa-
41 cility; and

42 (ii) Whether its order that the person may be admitted to a secure
43 treatment facility continues to be appropriate.

44 If the court finds that the person does not meet either admission crite-
45 ria, the department shall disposition the person to a placement other
46 than the facility, or discharge the person from commitment in accor-
47 dance with chapter 2, title 18, Idaho Code, or chapter 4, title 66, Idaho
48 Code.

1 (4) Discharge. The director or the director's designee shall review
2 the person's progress every ninety (90) days to determine whether the per-
3 son continues to meet the program criteria. If the person no longer meets the
4 program criteria as provided in this chapter, the director or the director's
5 designee shall discharge the person from the facility. The director or the
6 director's designee may discharge the person from the commitment under chap-
7 ter 2, title 18, Idaho Code, or chapter 4, title 66, Idaho Code, or redispo-
8 sition the person to a less-restrictive setting. If the person is discharged
9 from commitment, notice shall be given as allowed by law authorizing the com-
10 mitment.

11 66-1406. RIGHTS OF PERSONS. (1) All persons shall be accorded those
12 civil rights provided by chapter 4, title 66, Idaho Code, except as otherwise
13 provided in this section.

14 (2) Access to attorney and advocacy. Every person in the facility shall
15 at all times have the right to visit and be visited by or to communicate by
16 sealed mail, telephone, or otherwise with the person's attorney, an employee
17 at the attorney's firm or a representative of the state protection and advo-
18 cacy system. Each person shall have reasonable access to letter-writing ma-
19 terial and postage for this purpose.

20 (3) Court order. The department may limit civil rights if and as pro-
21 vided in a court order.

22 (4) Limitations on communication, visitation and property in the fa-
23 cility. Except as provided in subsection (2) of this section, the department
24 may limit a person's rights to communicate with individuals inside or out-
25 side the facility or to receive visitors or associate freely with individu-
26 als, and to keep and use the person's own personal possessions, only if the
27 following occurs:

28 (a) The decision to limit such person's rights is a clinical decision
29 made as part of the person's individual treatment plan developed in ac-
30 cordance with chapter 4, title 66, Idaho Code;

31 (b) A statement explaining the reasons for such limitations shall imme-
32 diately be entered in the person's treatment record;

33 (c) Copies of such statement shall be sent to the person's attorney,
34 guardian, and the person's spouse, adult next of kin, or friend, if any;
35 and

36 (d) The person may appeal the treatment decisions that limit the per-
37 son's rights under this section to the department's human rights com-
38 mittee within thirty (30) days.

39 (5) The use of mechanical restraints during the transportation to or
40 from any facility must be in compliance with section 66-345, Idaho Code.

41 66-1407. TREATMENT. (1) The director or the director's designee shall
42 have the power to develop appropriate standards and rules for treatment of
43 persons in the facility. It shall be the responsibility of the director or
44 the director's designee to implement those standards.

45 (2) The relative risks and benefits of specific modes of treatment
46 contained in such plans shall be explained to each person or the spouse,
47 guardian, adult next of kin or friend of the person, to the extent allowable
48 by law.

1 (3) The ability of a person to make informed decisions as to treatment
2 will be made in accordance with a person's commitment to the department as
3 provided in chapter 2, title 18, Idaho Code, or chapter 4, title 66, Idaho
4 Code.

5 (4) Restraints may be used only when a person poses an imminent risk of
6 physical harm to self or others and restraints are the least-restrictive in-
7 tervention that would achieve safety.

8 (5) The person shall be entitled to be diagnosed, cared for and treated
9 in a manner consistent with the person's legal rights and in a manner no more
10 restrictive than necessary for the person's protection and the protection of
11 others for a period no longer than reasonably necessary for diagnosis, care,
12 treatment and protection.

13 SECTION 2. An emergency existing therefor, which emergency is hereby
14 declared to exist, this act shall be in full force and effect on and after its
15 passage and approval.