

IN THE SENATE

SENATE BILL NO. 1081

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO THE IDAHO STATE SCHOOL AND HOSPITAL; AMENDING CHAPTER 2, TITLE
2 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-234, IDAHO CODE, TO
3 PROVIDE FOR LEGISLATIVE INTENT; AMENDING CHAPTER 2, TITLE 56, IDAHO
4 CODE, BY THE ADDITION OF A NEW SECTION 56-234A, IDAHO CODE, TO DEFINE
5 TERMS; AMENDING CHAPTER 2, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW
6 SECTION 56-235A, IDAHO CODE, TO PROVIDE FOR PROHIBITIONS, RESTRICTIONS
7 AND LIMITATIONS ON ADMISSIONS; AMENDING CHAPTER 2, TITLE 56, IDAHO
8 CODE, BY THE ADDITION OF A NEW SECTION 56-235B, IDAHO CODE, TO PROVIDE
9 FOR DISCHARGE PLANNING AND AUTHORIZATION TO DISCHARGE; AMENDING CHAP-
10 TER 2, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-235C,
11 IDAHO CODE, TO PROVIDE FOR NOTICE OF DISCHARGE AND REQUEST FOR HEARING;
12 AMENDING CHAPTER 2, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SEC-
13 TION 56-235D, IDAHO CODE, TO PROVIDE FOR APPEALS; AND AMENDING CHAPTER
14 2, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-235E, IDAHO
15 CODE, TO PROVIDE FOR RULEMAKING AUTHORITY.
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17 Be It Enacted by the Legislature of the State of Idaho:

18 SECTION 1. That Chapter 2, Title 56, Idaho Code, be, and the same is
19 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
20 ignated as Section 56-234, Idaho Code, and to read as follows:

21 56-234. LEGISLATIVE INTENT. It is hereby declared by the legislature
22 that, in keeping with current state and national goals and best practice, in-
23 creasing numbers of persons with developmental disabilities are being dis-
24 charged to community facilities or private residences as an alternative to
25 large public institutions licensed as intermediate care facilities for per-
26 sons with intellectual disabilities. Such deinstitutionalization is highly
27 desirable since it can lead to a fuller, richer and more independent life for
28 persons with developmental disabilities. Recognizing that every individual
29 has unique needs and differing abilities, the purpose of the following pro-
30 visions is to clarify the department of health and welfare's duties and re-
31 sponsibilities with respect to persons with developmental disabilities, who
32 are or may become residents of the Idaho state school and hospital, a public
33 institution licensed for nine (9) or more beds as an intermediate care facil-
34 ity for persons with intellectual disabilities. The following provisions
35 shall be liberally construed to accomplish these purposes.

36 SECTION 2. That Chapter 2, Title 56, Idaho Code, be, and the same is
37 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
38 ignated as Section 56-234A, Idaho Code, and to read as follows:

39 56-234A. DEFINITIONS. As used in sections 56-234 through 56-235E,
40 Idaho Code:

1 (1) "Admission-discharge committee" means an interdisciplinary team
2 of at least three (3) individuals designated by the director to evaluate per-
3 sons as required by the provisions of sections 56-234 through 56-235E, Idaho
4 Code. Each committee member must be specially qualified by training and ex-
5 perience in the diagnosis and treatment of persons with a developmental dis-
6 ability.

7 (2) "Certified family home" means a family home as defined in section
8 39-3502, Idaho Code.

9 (3) "Community facility" means a privately owned or operated nursing
10 facility, intermediate care facility for persons with intellectual disabil-
11 ities, licensed residential or assisted living facility, other organization
12 licensed, recognized, or certified by the department to provide care or
13 treatment to persons with developmental disabilities, or a publicly owned or
14 operated facility licensed for eight (8) beds or less as an intermediate care
15 facility for persons with intellectual disabilities.

16 (4) "Department" means the Idaho department of health and welfare.

17 (5) "Developmental disabilities" means a chronic disability of a per-
18 son as defined in section 66-402, Idaho Code.

19 (6) "Director" means the director of the Idaho department of health and
20 welfare or his designee.

21 (7) "Discharge" means an admission-discharge committee has determined
22 that there is an available community facility or private residence that is
23 least restrictive, appropriate and consistent with the needs of the individ-
24 ual.

25 (8) "Medically fragile" means an individual with a developmental dis-
26 ability and a chronic medical condition that is characterized by periods of
27 acute exacerbation or potentially life-threatening episodes and that may
28 require frequent hospitalizations or prolonged recuperation periods and
29 ongoing monitoring and assistance by a licensed registered nurse.

30 (9) "Private residence" means a certified family home or a single fam-
31 ily dwelling or apartment in a multiple dwelling or apartment complex that is
32 used by an individual as a place of abode and that is not used for commercial
33 purposes.

34 (10) "Resident" means an individual who is admitted to or resides at the
35 Idaho state school and hospital.

36 (11) "Transfer" means relocating and moving a person who is a resident
37 of the Idaho state school and hospital from that institution to a community
38 facility or private residence or from one (1) community facility or private
39 residence to another. Transfer does not include relocating or moving a res-
40 ident of the Idaho state school and hospital between rooms or beds within the
41 Idaho state school and hospital.

42 SECTION 3. That Chapter 2, Title 56, Idaho Code, be, and the same is
43 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
44 igned as Section 56-235A, Idaho Code, and to read as follows:

45 56-235A. PROHIBITIONS, RESTRICTIONS AND LIMITATIONS ON ADMIS-
46 SION. (1) The Idaho state school and hospital shall not admit, accept or
47 receive any person unless an admission-discharge committee determines that:

48 (a) The individual has a developmental disability;

1 (b) The individual meets the level of care requirements and active
2 treatment requirements for admission to an intermediate care facility
3 for persons with intellectual disabilities;

4 (c) All community facilities, options and supports have been ex-
5 hausted, and there is no available community facility or private res-
6 idence that is least restrictive, appropriate and consistent with the
7 needs of the individual; and

8 (d) The Idaho state school and hospital is the least restrictive avail-
9 able residential placement consistent with the needs of the individual
10 after considering all available and appropriate community facilities
11 and private residences.

12 (2) The director may limit admissions and establish admission priori-
13 ties to the Idaho state school and hospital through rulemaking in order to
14 ensure that expenditures for services do not exceed amounts appropriated by
15 the legislature and allocated by the department to the facility. The Idaho
16 state school and hospital may refuse any applicant for voluntary admission.

17 (3) Subsections (1) and (2) of this section do not apply to:

18 (a) Temporary emergency admissions or placements for crisis stabiliza-
19 tion only, for up to ninety (90) days, that are preauthorized by the di-
20 rector; or

21 (b) Admissions or placements made by the director pursuant to section
22 66-406, Idaho Code.

23 SECTION 4. That Chapter 2, Title 56, Idaho Code, be, and the same is
24 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
25 ignated as Section 56-235B, Idaho Code, and to read as follows:

26 56-235B. DISCHARGE PLANNING -- AUTHORIZATION TO DISCHARGE. The di-
27 rector may discharge a resident of the Idaho state school and hospital on
28 such terms and conditions as the director may determine whenever an ad-
29 mission-discharge committee determines there is an available community
30 facility or private residence that is least restrictive, appropriate and
31 consistent with the individual's needs. The director shall use reasonable
32 efforts to discharge a resident to a community facility or private residence
33 where the individual can be readily visited by those persons interested in
34 his well-being.

35 SECTION 5. That Chapter 2, Title 56, Idaho Code, be, and the same is
36 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
37 ignated as Section 56-235C, Idaho Code, and to read as follows:

38 56-235C. NOTICE OF DISCHARGE -- REQUEST FOR HEARING. (1) Before a
39 discharge plan is implemented, the resident and the resident's spouse,
40 guardian, adult next of kin or friend, if any, shall be given an opportunity
41 to participate in the development and review of the admission-discharge com-
42 mittee's discharge plan.

43 (2) If, after reasonable efforts have been exhausted, the resident or
44 the resident's spouse, guardian, adult next of kin or friend, if any, does
45 not agree with the admission-discharge committee's discharge plan, ninety
46 (90) days prior to discharge, written notice shall be filed with the com-
47 mitting court, if any, and served by registered or certified mail upon the

1 resident, resident's attorney, and either the resident's spouse, guardian,
2 adult next of kin or friend, if any. The written notice must include a state-
3 ment advising the resident of the right to request a hearing by the director
4 and must also include a statement advising the resident of the right to judi-
5 cial review.

6 (3) Within fifteen (15) days from receipt of the notice of discharge,
7 the resident may serve a written request for hearing upon the director. Upon
8 receipt of such request, the director shall fix a date for hearing, which
9 date shall not be more than thirty (30) days from receipt of the request, and
10 shall give the resident at least fifteen (15) days' written notice of said
11 hearing date. Within thirty (30) days after the conclusion of the hearing,
12 the director shall notify the resident in writing by registered or certified
13 mail of his decision. A transfer shall not be implemented during any period
14 in which a request for hearing is pending and undecided by the director. If
15 no request for hearing is made within fifteen (15) days from receipt of the
16 notice of discharge, the director may discharge the resident.

17 (4) The director shall periodically monitor the adjustment of the for-
18 mer resident to his transfer to a community facility or private residence.
19 If within ninety (90) days following a transfer to a community facility or
20 private residence, an admission-discharge committee determines that the
21 former resident is not adjusting to the transfer and there is no other avail-
22 able community facility or private residence least restrictive, appropriate
23 and consistent with the needs of the former resident, the director may make
24 the determination that the former resident be readmitted to the Idaho state
25 school and hospital in accordance with section 56-235A, Idaho Code.

26 SECTION 6. That Chapter 2, Title 56, Idaho Code, be, and the same is
27 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
28 ignated as Section 56-235D, Idaho Code, and to read as follows:

29 56-235D. APPEALS. If a former resident feels aggrieved by a deci-
30 sion of the director rendered pursuant to a hearing as provided in section
31 56-235C, Idaho Code, appeal may be taken to the committing court or the court
32 of the county in which such former resident is present. Appeal must be taken
33 in the manner and form set forth in chapter 52, title 67, Idaho Code, provided
34 however, the filing of a notice of appeal with the court shall not, unless
35 otherwise ordered, stay the resident's discharge or the decision of the di-
36 rector.

37 SECTION 7. That Chapter 2, Title 56, Idaho Code, be, and the same is
38 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
39 ignated as Section 56-235E, Idaho Code, and to read as follows:

40 56-235E. RULEMAKING AUTHORITY. The director, in addition to other du-
41 ties imposed by law, is hereby authorized and directed through rulemaking
42 to establish procedures necessary to implement these provisions. The rule-
43 making authority granted in this section shall be limited to the specific
44 standards and procedures required by sections 56-234 through 56-235D, Idaho
45 Code.