

TITLE 66
STATE CHARITABLE INSTITUTIONS

CHAPTER 14
SECURE TREATMENT FACILITY ACT

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

[66-1401, added 2017, ch. 240, sec. 1, p. 593.]

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

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

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

(4) The department of health and welfare division of licensing and certification will develop a license and survey process for the facility.

(5) The provisions of [chapter 4, title 66](#), Idaho Code, apply unless otherwise specified.

[66-1402, added 2017, ch. 240, sec. 1, p. 593.]

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

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

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

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

(4) "Developmental disability" means a developmental disability as defined in section [66-402](#), Idaho Code, or an intellectual disability as defined in section [73-114](#), Idaho Code.

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

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

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

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

(b) Locked residential units;

(c) Bedroom and building exit alarms;

(d) Monitoring cameras in all common areas;

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

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

(8) "Person" means an individual subject to judicial proceedings authorized by the provisions of this chapter who is being considered for disposition or is admitted and dispositioned into the secure treatment facility.

(9) "Serious mental illness" means any of the following psychiatric illnesses as defined by the American psychiatric association in the diagnostic and statistical manual of mental disorders (DSM):

- (a) Schizophrenia spectrum and other related disorders;
- (b) Paranoia and other psychotic disorders;
- (c) Bipolar and other related disorders;
- (d) Depressive disorders;
- (e) Trauma and stressor-related disorders;
- (f) Anxiety disorders;
- (g) Obsessive-compulsive and other related disorders;
- (h) Dissociative disorders; and
- (i) Personality disorders.

(10) "Substantial threat to the safety of others" means the presentation, by a person, of a substantial risk to physically harm other individuals, as manifested by evidence of violent behavior.

[66-1403, added 2017, ch. 240, sec. 1, p. 593.]

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

- (a) Have a primary diagnosis of developmental disability, as determined by the department, and a diagnosis of serious mental illness;
- (b) Be an adult;
- (c) Meet one (1) of the following grounds:
 - (i) The person is charged with a crime and is committed to the department to undergo evaluation or treatment for competency to stand trial in conformance with [chapter 2, title 18](#), Idaho Code; or
 - (ii) The person is civilly committed to the custody of the department in conformance with [chapter 4, title 66](#), Idaho Code; and
- (d) Be found, by a court, to present a substantial threat to the safety of others if not evaluated or treated in a secure facility.

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

[66-1404, added 2017, ch. 240, sec. 1, p. 594.]

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

- (a) Whether less-restrictive alternatives, including services provided in community residential facilities or other community settings that would offer an opportunity for improvement of the condition, have been judged to be inappropriate;
- (b) Whether admission of the person would cause overcrowding of the facility; and
- (c) Whether the facility is unable to provide appropriate care or treatment for the person.

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

(3) Redisposition and notice.

(a) After placement in the facility, the director or the director's designee may redisposition the person to a less-restrictive facility. If the person was committed to the department under [title 18](#), Idaho Code, notice of change of disposition shall be filed with the committing court. If the person was committed to the department under this title, notice of change in disposition shall be given in accordance with section [66-407](#), Idaho Code.

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

(i) Whether the person continues to present a substantial threat to the safety of others if not evaluated or treated in a secure facility; and

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

If the court finds that the person does not meet either admission criteria, the department shall disposition the person to a placement other than the facility, or discharge the person from commitment in accordance with [chapter 2, title 18](#), Idaho Code, or [chapter 4, title 66](#), Idaho Code.

(4) Discharge. The director or the director's designee shall review the person's progress every ninety (90) days to determine whether the person continues to meet the program criteria. If the person no longer meets the program criteria as provided in this chapter, the director or the director's designee shall discharge the person from the facility. The director or the director's designee may discharge the person from the commitment under [chapter 2, title 18](#), Idaho Code, or [chapter 4, title 66](#), Idaho Code, or redisposition the person to a less-restrictive setting. If the person is discharged from commitment, notice shall be given as allowed by law authorizing the commitment.

[66-1405, added 2017, ch. 240, sec. 1, p. 594.]

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

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

(3) Court order. The department may limit civil rights if and as provided in a court order.

(4) Limitations on communication, visitation and property in the facility. Except as provided in subsection (2) of this section, the department may limit a person's rights to communicate with individuals inside or outside the facility or to receive visitors or associate freely with individuals, and to keep and use the person's own personal possessions, only if the following occurs:

(a) The decision to limit such person's rights is a clinical decision made as part of the person's individual treatment plan developed in accordance with [chapter 4, title 66](#), Idaho Code;

(b) A statement explaining the reasons for such limitations shall immediately be entered in the person's treatment record;

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

(d) The person may appeal the treatment decisions that limit the person's rights under this section to the department's human rights committee within thirty (30) days.

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

[66-1406, added 2017, ch. 240, sec. 1, p. 595.]

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

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

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

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

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

[66-1407, added 2017, ch. 240, sec. 1, p. 596.]