

Introduced by

Human Services Committee

(At the request of the Department of Human Services)

1 A BILL for an Act to amend and reenact sections 25-01.2-09 and 25-03.1-40 of the North  
2 Dakota Century Code, relating to seclusion, restraint, and the prohibition of shock treatment and  
3 aversive reinforcement conditioning.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 25-01.2-09 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **25-01.2-09. Punishment - ~~Isolation~~Seclusion - ~~Physical restraints~~Restraints -**  
8 **Psychosurgery - Sterilization - Shock treatment.**

9 An individual with a developmental disability receiving services at any institution, facility, or  
10 individualized setting from a public or private agency or organization may not at any time:

- 11 1. Be subjected to any corporal punishment or shock treatment.
- 12 2. Be ~~isolated or secluded, except in emergency situations when necessary for the~~  
13 ~~control of violent, disturbed, or depressed behavior which may immediately result, or~~  
14 ~~has resulted, in harm to that~~ensure immediate physical safety of the individual or other  
15 ~~individuals~~others.
- 16 3. Be physically restrained in any manner, except in ~~emergency situations when~~  
17 ~~necessary for the control of violent, disturbed, or depressed behavior which may~~  
18 ~~immediately result, or has resulted, in harm to that~~ensure immediate physical safety of  
19 ~~the individual or to other individuals~~others.
- 20 4. Be subjected to psychosurgery, sterilization, medical behavioral research, or  
21 pharmacological research, except in conformity with an order of a court of competent  
22 jurisdiction. Under no circumstances may an individual receiving treatment be  
23 subjected to hazardous or intrusive experimental research ~~which~~that is not directly  
24 related to the specific goals of that individual's treatment program.

- 1           5.    Be subjected to electroconvulsive therapy ~~or shock treatment~~ without that individual's  
2                    or guardian's written and informed consent. If the recipient of services is a minor, the  
3                    recipient's parent, custodian, or guardian may provide informed consent for that  
4                    treatment, which the parent, custodian, or guardian believes to be in the recipient's  
5                    best interests.

6           **SECTION 2. AMENDMENT.** Section 25-03.1-40 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8           **25-03.1-40. Rights of patients.**

9           Each patient of a treatment facility retains the following rights, subject only to the limitations  
10 and restrictions authorized by section 25-03.1-41. A patient has the right:

- 11           1.    To receive appropriate treatment for mental and physical ailments and for the  
12                    prevention of illness or disability.
- 13           2.    To the least restrictive conditions necessary to achieve the purposes of treatment.
- 14           3.    To be treated with dignity and respect.
- 15           4.    To be free from unnecessary restraint and isolation.
- 16           5.    To visitation and telephone communications.
- 17           6.    To send and receive sealed mail.
- 18           7.    To keep and use personal clothing and possessions.
- 19           8.    To regular opportunities for outdoor physical exercise.
- 20           9.    To be free to exercise religious faith of choice.
- 21           10.   To be free from unnecessary medication.
- 22           11.   To exercise all civil rights, including the right of habeas corpus.
- 23           12.   Not to be subjected to experimental research without the express and informed written  
24                    consent of the patient or of the patient's guardian.
- 25           13.   Not to be subjected to psychosurgery, or electroconvulsive treatment, ~~or aversive-~~  
26                    ~~reinforcement conditioning,~~ without the express and informed written consent of the  
27                    patient or of the patient's guardian.
- 28           14.   In a manner appropriate to the patient's capabilities, to ongoing participation in the  
29                    planning of services.
- 30           15.   Not to be required to participate in the development of an individual treatment plan.
- 31           16.   To be free from aversive reinforcement conditioning.