

ENROLLED ACT NO. 43, SENATE

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING
2008 BUDGET SESSION

AN ACT relating to descriptive terms for persons with cognitive deficiencies; amending or replacing references to mental retardation and other similar references; requiring use of similar language in rules and policy statements as specified; providing definitions; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 3-1-101(a)(ix) and (xii), 7-11-301(a)(iii), 8-1-102(a) by creating a new paragraph (xiii), 9-2-106(a)(vii), 9-2-109(a)(iii)(C), 9-2-2104(a) by creating a new paragraph (ix), 9-2-2601(c), 14-4-102(b)(vii), 14-6-219(b), (c) and (d), 14-6-419(b), (c) and (d), 21-9-101(c)(i), 25-5-114(b), 26-22-102(a)(intro), 26-22-401(a)(i), 35-1-613(a)(ii), 35-2-901(a)(x) and (xiv), 42-4-102(a) by creating a new paragraph (x), 42-4-206(a)(ii) and 42-4-207(c)(i) and (j) are amended to read:

3-1-101. Definitions

(a) As used in this title, unless otherwise required by the context or unless otherwise defined:

(ix) "Incompetent person" means an individual who, for reasons other than being a minor, is unable unassisted to properly manage and take care of himself or his property as a result of the ~~infirmities~~ medical conditions of advanced age, physical disability, disease, the use of alcohol or controlled substances, mental illness, mental deficiency or ~~mental retardation~~ intellectual disability;

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(xii) "Mentally incompetent person" means an individual who is unable unassisted to properly manage and take care of himself or his property as the result of mental illness, mental deficiency or ~~mental retardation~~ intellectual disability;

7-11-301. Definitions.

(a) As used in this act:

(iii) "Mental deficiency" means a defect attributable to ~~mental retardation~~ intellectual disability, brain damage and learning disabilities;

8-1-102. Definitions.

(a) As used in the statutes unless the legislature clearly specifies a different meaning or interpretation or the context clearly requires a different meaning:

(xiii) "Intellectual disability" means significantly subaverage general intellectual functioning with concurrent deficits in adaptive behavior manifested during the developmental period. "Intellectually disabled" means a person with an intellectual disability.

9-2-106. Duties and powers of director of department.

(a) The director shall:

(vii) Ensure that the department and all of its divisions promulgate reasonable rules and regulations, after consultation with the departmental advisory council and in compliance with the Wyoming Administrative Procedure Act, for the implementation of all state and federal public health, mental health and medical services laws. When

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promulgating such rules and regulations the director shall assure that the department uses language which focuses on the importance of a person, rather than a person's disability.

9-2-109. Vocational rehabilitation; definitions.

(a) As used in W.S. 9-2-109 through 9-2-115:

(iii) "Individual with a significant disability" means an individual:

(C) Who has one (1) or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, ~~mental retardation~~ intellectual disability, mental illness, multiple sclerosis, muscular dystrophy, musculoskeletal disorders, neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia and other spinal cord conditions, sickle cell anemia, specific learning disability, end stage renal disease or another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitation.

9-2-2104. Duties and powers of director of department.

(a) The director shall:

(ix) Ensure all rules and other written statements of policy or interpretation formulated or

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adopted by the department use language which focuses on the importance of a person, rather than a person's disability.

9-2-2601. Department of workforce services; duties and responsibilities; agreements with other agencies authorized; definition.

(c) The department shall adopt rules and regulations pursuant to the Wyoming Administrative Procedure Act to implement requirements of the federal Workforce Investment Act. When adopting such rules and regulations the department shall use language which focuses on the importance of a person, rather than a person's disability.

14-4-102. Certification required; exceptions.

(b) W.S. 14-4-101 through 14-4-111 do not apply to:

(vii) Ranches or farms not offering services to children who are homeless, delinquent or ~~retarded children~~ have an intellectual disability; and

14-6-219. Physical and mental examinations; involuntary commitment of incompetents; subsequent proceedings.

(b) If a child has been committed to a medical facility or institution for mental examination prior to adjudication of the petition and if it appears to the court from the mental examination that the child is competent to participate in further proceedings and is not suffering from mental illness or ~~mental retardation~~ intellectual disability to a degree rendering the child subject to involuntary commitment to the Wyoming state hospital or the Wyoming state training school, the court shall order the child returned to the court without delay.

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(c) If it appears to the court by mental examination conducted before adjudication of the petition that a child alleged to be delinquent is incompetent to participate in further proceedings by reason of mental illness or ~~mental retardation~~ intellectual disability to a degree rendering the child subject to involuntary commitment to the Wyoming state hospital or the Wyoming state training school, the court shall hold further proceedings under this act in abeyance. The district attorney shall then commence proceedings in the district court for commitment of the child to the appropriate institution as provided by law.

(d) The juvenile court shall retain jurisdiction of the child on the petition pending final determination of the commitment proceedings in the district court. If proceedings in the district court commit the child to the Wyoming state hospital, the Wyoming state training school or any other facility or institution for treatment and care of ~~the mentally ill or the mentally retarded~~ people with a mental illness or an intellectual disability, the petition shall be dismissed and further proceedings under this act terminate. If proceedings in the district court determine the child ~~is not mentally ill or mentally retarded~~ does not have a mental illness or intellectual disability to a degree rendering him subject to involuntary commitment, the court shall proceed to a final adjudication of the petition and disposition of the child under the provisions of this act.

14-6-419. Physical and mental examinations.

(b) If a child has been committed to a medical facility or institution for mental examination prior to adjudication of the petition and if it appears to the court from the mental examination that the child is competent to

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participate in further proceedings and is not ~~suffering from mental illness or mental retardation~~ mentally ill or intellectually disabled to a degree rendering the child subject to involuntary commitment to the Wyoming state hospital or the Wyoming state training school, the court shall order the child returned to the court without delay.

(c) If it appears to the court by mental examination conducted before adjudication of the petition that a child alleged to be in need of supervision is incompetent to participate in further proceedings by reason of mental illness or ~~mental retardation~~ intellectual disability to a degree rendering the child subject to involuntary commitment to the Wyoming state hospital or the Wyoming state training school, the court shall hold further proceedings under this act in abeyance. The district attorney shall then commence proceedings in the district court for commitment of the child to the appropriate institution as provided by law.

(d) The juvenile court shall retain jurisdiction of the child on the petition pending final determination of the commitment proceedings in the district court. If proceedings in the district court commit the child to the Wyoming state hospital, the Wyoming state training school or any other facility or institution for treatment and care of ~~the mentally ill~~ people with mental illness or ~~the mentally retarded~~ intellectual disability, the petition shall be dismissed and further proceedings under this act terminate. If proceedings in the district court determine the child ~~is not mentally ill~~ does not have a mental illness or ~~mentally retarded~~ an intellectual disability to a degree rendering him subject to involuntary commitment, the court shall proceed to a final adjudication of the petition and disposition of the child under the provisions of this act.

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21-9-101. Educational programs for schools; standards; core of knowledge and skills; special needs programs; class size requirements; cocurricular activities.

(c) In addition to subsection (b) of this section, each school district within this state shall provide programs designed for the special needs of those student populations specified within this subsection. Programs under this subsection shall be provided and shall identify special student populations in accordance with rules and regulations of the state board of education. The state board shall monitor the proportion of students in each special needs category, compared to available regional averages. Special needs student populations include:

(i) Children with disabilities evaluated in accordance with rules and regulations of the state board as having ~~mental retardation~~ intellectual disability, hearing impairments including deafness, speech or language impairments, visual impairments including blindness, serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, specific learning disabilities, deafness and blindness or other multiple disabilities, and who, because of the impairments, need special education and related services; and

25-5-114. Eligibility for admission; appropriateness of services; effect of criminal conviction or charge.

(b) A person convicted of a criminal act shall not be admitted to the training school unless the preadmission evaluation indicates that the act was due directly to ~~mental retardation~~ intellectual disability, or that the person can benefit from resident services without penal

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restrictions. A person charged with a criminal act shall not be admitted to the training school pending disposition of the charge.

26-22-102. Requirements of accident and sickness insurance to tax supported institutions.

(a) No individual or group policy of accident and sickness insurance delivered or issued for delivery to any person in this state which provides coverage for mental illness or ~~mental retardation~~ intellectual disability or both shall exclude benefits for the care or treatment of the mental illness or ~~mental retardation~~ intellectual disability provided by a tax supported institution of the state, provided:

26-22-401. Required provision of individual or group policy or contract.

(a) Any individual or group hospital or medical expense insurance policy or hospital service plan contract or medical service plan contract, delivered or issued for delivery in this state which provides that coverage of a dependent child of a policyholder or subscriber, or of an employee or other member of the covered group, as the case may be, terminates upon attainment of the limiting age for dependent children specified in the policy or contract, shall also provide in substance that attainment of the limiting age does not terminate the child's coverage while the child is and continues to be both:

(i) Incapable of self-sustaining employment by reason of ~~mental retardation~~ intellectual disability or physical ~~handicap~~ disability; and

35-1-613. Definitions.

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(a) As used in this act:

(ii) "Developmental disabilities" means a disability attributable to ~~mental retardation~~ intellectual disability, cerebral palsy, epilepsy, autism or any other ~~neurologically handicapping~~ neurological condition requiring services similar to those required by ~~mentally retarded individuals~~ persons with intellectual disabilities, that has continued or can be expected to continue indefinitely and constitutes a substantial ~~handicap~~ impairment to the individual's ability to function ~~normally~~ in society;

35-2-901. Definitions; applicability of provisions.

(a) As used in this act:

(x) "Health care facility" means any ambulatory surgical center, assisted living facility, adult day care facility, adult foster care home, alternative eldercare home, birthing center, boarding home, freestanding diagnostic testing center, home health agency, hospice, hospital, intermediate care facility for ~~the mentally retarded~~ people with intellectual disability, medical assistance facility, nursing care facility, rehabilitation facility and renal dialysis center;

(xiv) "Intermediate care facility for ~~the mentally retarded~~ people with intellectual disability" means a facility which provides on a regular basis health related care and training to ~~mentally retarded individuals~~ persons with intellectual disabilities or persons with related conditions, who do not require the degree of care and treatment of a hospital or nursing facility and services above the need of a boarding home. The term also

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means "intermediate care facility for the mentally retarded" or "ICFMR" or "ICFs/MR" as those terms are used in federal law and in other laws, rules and regulations;

42-4-102. Definitions.

(a) As used in this chapter:

(x) "Intermediate care facility for people with intellectual disability" means "intermediate care facility for the mentally retarded" or "ICFMR" or "ICFs/MR" as those terms are used in federal law and in other laws, rules and regulations.

42-4-206. Claims against estates.

(a) If an individual receives any medical assistance pursuant to this chapter, upon the individual's death, if single, or upon the death of the survivor of a married couple, either of whom received medical assistance, the total amount paid for medical assistance rendered for the individual or the spouse shall be filed by the department as a claim against the estate of the individual or the estate of the surviving spouse in the court having jurisdiction to probate the estate. A claim shall be filed if medical assistance was rendered for either person under one (1) of the following circumstances:

(ii) The person was an inpatient in a nursing facility, intermediate care facility for ~~the mentally retarded~~ people with intellectual disability or other medical institution when he received medical assistance.

42-4-207. Recovery of incorrect payments; recovery of correct payments; liens.

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(c) The department may file a pre-death lien upon real property of an individual for medical assistance correctly paid under this chapter to an individual:

(i) Who is an inpatient in a nursing facility, intermediate care facility for ~~the mentally retarded people~~ with intellectual disability, or other medical institution; and

(j) The department may file a lien against the property of any estate, as defined in W.S. 42-4-206(g), of a deceased recipient for the amount of medical assistance provided while the recipient was fifty-five (55) years of age or older or while the recipient was an inpatient in a nursing facility, intermediate care facility for ~~the mentally retarded people~~ with intellectual disability or other medical institution. The department shall perfect this lien by filing a notice in the county in which the real property exists. The department may file an amended lien prior to the entry of the final order closing the estate.

Section 2. W.S. 25-5-102(a)(vii) is repealed.

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Section 3. This act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____
DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk