



# Ohio Legislative Service Commission

## Bill Analysis

Matthew Magner

### Sub. H.B. 158

131st General Assembly  
(As Passed by the House)

**Reps.** Dever and Howse, Amstutz, Anielski, Antonio, Bishoff, Boyd, Brown, Butler, Conditt, Derickson, DeVitis, Dovilla, Ginter, Hambley, Hayes, Huffman, Lepore-Hagan, Maag, McClain, Patmon, Patterson, Phillips, Ramos, Reineke, Retherford, Romanchuk, Ryan, Schuring, Sears, Slesnick, Sweeney, Sykes, Zeltwanger, Gonzales, Barnes, T. Johnson, Kuhns, LaTourette, Antani, Ashford, Baker, Blessing, Boyce, Brenner, Burkley, Celebrezze, Cera, Clyde, Craig, Cupp, Driehaus, Grossman, Hackett, Hagan, Hall, Henne, Hill, G. Johnson, Koehler, Kunze, Landis, Leland, Manning, McColley, M. O'Brien, S. O'Brien, Pelanda, Perales, Reece, Rezabek, Rogers, Ruhl, Schaffer, Sheehy, Slaby, K. Smith, R. Smith, Sprague, Strahorn, Terhar

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## BILL SUMMARY

- Replaces references in the Revised Code to the term "mental retardation" and its derivations with the term "intellectual disability."
- Specifies that "intellectual disability" is included within the meaning of the term "developmental disability."
- Modifies the standards used in determining whether a person has a moderate level of intellectual disability and could be subject to institutionalization by court order.

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## CONTENT AND OPERATION

### Statutory terms regarding mental retardation

Throughout the Revised Code, the bill removes the terms "mentally retarded" and "mental retardation" and replaces them with the term "intellectual disability." The bill specifies that it is the intent of the General Assembly to make these changes without a resulting change in meaning.<sup>1</sup>

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<sup>1</sup> Section 4.

To replace "mental retardation" with "intellectual disability," the bill makes a number of changes. The bill defines "intellectual disability" in place of "mentally retarded person" in the primary definition sections related to the Ohio Department of Developmental Disabilities and county boards of developmental disabilities<sup>2</sup> and making corresponding changes throughout those chapters. Elsewhere throughout the Revised Code, where "mental retardation" is used by itself, the bill changes the term to "intellectual disability." Where "mental retardation" and "developmental disability" are used together in a statute, the bill changes the references to both terms to the single term "developmental disability."

The bill specifies that whenever "mental retardation" or any derivation of that term is referred to or designated in any statute, rule, contract, grant, or other document, the reference or designation is deemed to have the same meaning established by or derived from the bill's definition of "intellectual disability." This provision replaces a similar provision that currently is included in a statute dealing with criminal offenders who may receive intervention in lieu of conviction.<sup>3</sup>

### **Inclusion of "intellectual disability" within "developmental disability"**

The bill specifies that the term "developmental disability" includes an "intellectual disability."<sup>4</sup> Under current law, "developmental disability" means a severe, chronic disability that is characterized by all of the following: (1) it is attributable to a mental or physical impairment or a combination of mental and physical impairments, other than a mental or physical impairment solely caused by mental illness, (2) it is manifested before age 22, (3) it is likely to continue indefinitely, (4) based on the person's age, it results in or involves developmental delays or substantial functional limitations, and (5) it causes the person to need a combination and sequence of special, interdisciplinary, or other type of care, treatment, or provision of services for an extended period of time that is individually planned and coordinated.

### **Determination of a moderate level of intellectual disability**

The bill modifies the standards used in determining whether a person has a moderate level of intellectual disability and could be subject to institutionalization by court order. Under current law, the determination is based on standard measurements recorded in the *Manual of Terminology and Classification in Mental Retardation*. Under the bill, the determination is to be based on a finding that a person has (1) at least moderate

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<sup>2</sup> R.C. 5123.01 and 5126.01.

<sup>3</sup> R.C. 2951.041 and 5123.014.

<sup>4</sup> R.C. 5123.01 and 5126.01.



deficits in overall functioning, as measured by a full-scale intelligence quotient test, and (2) at least moderate deficits in adaptive behavior, as determined in accordance with the criteria established in the fifth edition of the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders*.<sup>5</sup>

The bill specifies that whenever "mentally retarded person subject to institutionalization by court order" or any derivation of that term is referred to or designated in any statute, rule, contract, grant, or other document, the reference or designation is deemed to have the same meaning established by or derived from the bill's definition of "person with an intellectual disability subject to institutionalization by court order," including the definition of "moderate level of intellectual disability."<sup>6</sup>

## **Background**

### **Federal law**

In October 2010, Congress passed Rosa's Law, which changed references to "a mentally retarded individual" in specified federal laws to "an individual with an intellectual disability," and references to "mental retardation" to "intellectual disability."<sup>7</sup> Rosa's Law also required federal agencies that administer the affected laws to make conforming amendments to their regulations. Other federal agencies, though not required to do so by Rosa's Law, have revised their regulations to use the term "intellectual disability." For example, the federal Social Security Administration adopted a final rule replacing the term "mental retardation" with "intellectual disability" for purposes of its "Listing of Impairments" used to evaluate claims involving mental disorders in adults and children.<sup>8</sup>

### **Ohio law**

Enacted in 2009 by the 128th General Assembly, Sub. S.B. 79 changed the name of the Ohio Department of Mental Retardation and Developmental Disabilities to the Ohio Department of Developmental Disabilities. The act also changed the name of county boards of mental retardation and developmental disabilities to county boards of developmental disabilities. It did not change other references to mental retardation in the Revised Code.

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<sup>5</sup> R.C. 5123.01(P).

<sup>6</sup> R.C. 5123.014.

<sup>7</sup> Public Law 111-256.

<sup>8</sup> See 78 Fed. Reg. 148 (2013).



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## HISTORY

ACTION	DATE
Introduced	04-15-15
Reported, H. Health & Aging	12-09-15
Passed House (97-0)	01-26-16

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