



Ohio Legislative Service Commission

Final Analysis

Matthew Magner

Sub. H.B. 158

131st General Assembly
(As Passed by the General Assembly)

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

Sens. Uecker, Jones, LaRose, Bacon, Balderson, Brown, Burke, Cafaro, Coley, Eklund, Faber, Gardner, Gentile, Hite, Hottinger, Jordan, Lehner, Manning, Obhof, Oelslager, Patton, Peterson, Sawyer, Schiavoni, Seitz, Skindell, Tavares, Thomas, Williams, Yuko

Effective date: October 12, 2016

ACT SUMMARY

- Replaces Revised Code references to "mental retardation" and derivations of that term with the terms "intellectual disability" and "developmental disability."
- Specifies that "intellectual disability" is included within the meaning of "developmental disability."
- Modifies the standards used in determining whether a person has the level of intellectual disability that is a factor in consideration of whether the person can be subject to institutionalization by court order.
- Eliminates one of the exceptions to the confidentiality of certain records related to residents of institutions for persons with intellectual disabilities.

CONTENT AND OPERATION

Statutory terms regarding mental retardation

Throughout the Revised Code, the act replaces the terms "mentally retarded," "mentally retarded person," and "mental retardation" with "intellectual disability," a new term, or "developmental disability," an existing one. It specifies that the intent of the General Assembly is to make these changes without a resulting change in meaning.¹

Where "mental retardation" or "mentally retarded person" is used by itself in the Revised Code, the act changes the term to "intellectual disability." Where "mental retardation" and "developmental disability" are used together in a statute, the act changes them to the single term "developmental disability."

In the Revised Code chapters governing the Ohio Department of Developmental Disabilities and county boards of developmental disabilities, the act defines "intellectual disability" by modifying the definition of "mentally retarded person." "Intellectual disability" is defined as "a disability characterized by having significantly subaverage general intellectual functioning existing concurrently with deficiencies in adaptive behavior, manifested during the developmental period."²

"Developmental disability" is essentially unchanged by the act. It is defined as a severe, chronic disability that is characterized by all of the following: (1) 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) is manifested before age 22, (3) is likely to continue indefinitely, (4) based on the person's age, results in or involves developmental delays or substantial functional limitations, and (5) 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.³

The act 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 meaning established by or derived from the act's definition of "intellectual disability."⁴

¹ Section 4.

² R.C. 5123.01 and 5126.01.

³ R.C. 5123.01(Q).

⁴ R.C. 5123.014.



Institutionalization

Prior law defined "mentally retarded person subject to institutionalization by court order" as an adult who meets certain conditions and is "at least moderately mentally retarded." The act changes the term to "person with an intellectual disability subject to institutionalization by court order" and refers to "at least a moderate level of intellectual disability." It also changes the publication used in determining intellectual disability. Under prior law, the determination of "moderately mentally retarded" was based on standard measurements recorded in the *Manual of Terminology and Classification in Mental Retardation*. Under the act, the determination of "a moderate level of intellectual disability" is to be based on a finding that a person has (1) at least moderate deficits in overall functioning, as indicated by a full-scale intelligence quotient test score of 55 or below, and (2) at least moderate deficits in adaptive behavior, as determined in accordance with the criteria established in the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders*, 5th edition.⁵

The act 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 meaning established by or derived from the act's definition of "person with an intellectual disability subject to institutionalization by court order," including the definition of "moderate level of intellectual disability."⁶

Records

With some exceptions, certain records that identify a resident or former resident of an institution for persons with intellectual disabilities or a person whose institutionalization is sought must be kept confidential and may not be disclosed. The act repeals an exception under which records could be disclosed if, in the judgement of the managing officer for institution records, disclosure to a mental health facility was in the best interest of the person identified in the records.⁷

⁵ R.C. 5123.01(P).

⁶ R.C. 5123.014.

⁷ R.C. 5123.89(B)(3).



HISTORY

ACTION	DATE
Introduced	04-15-15
Reported, H. Health & Aging	12-09-15
Passed House (97-0)	01-26-16
Reported, S. State & Local Gov't	05-17-16
Passed Senate (33-0)	05-24-16
House concurred in Senate amendments (93-0)	05-24-16

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