

**Sixty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 5, 2021**

HOUSE BILL NO. 1089
(Human Services Committee)
(At the request of the Department of Human Services)

AN ACT to amend and reenact sections 25-01.2-09 and 25-03.1-40 of the North Dakota Century Code, relating to seclusion, restraint, and the prohibition of shock treatment and aversive reinforcement conditioning.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

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

1. Be subjected to any corporal punishment or shock treatment.
2. Be ~~isolated or secluded, except in emergency situations when necessary for the control of violent, disturbed, or depressed behavior which may immediately result, or has resulted, in harm to that~~ensured immediate physical safety of the individual or other individuals~~others~~.
3. Be physically restrained in any manner, except in emergency situations when necessary for the control of violent, disturbed, or depressed behavior which may immediately result, or has resulted, in harm to thatensured immediate physical safety of the individual or to other individuals~~others~~.
4. Be subjected to psychosurgery, sterilization, medical behavioral research, or pharmacological research, except in conformity with an order of a court of competent jurisdiction. Under no circumstances may an individual receiving treatment be subjected to hazardous or intrusive experimental research ~~which~~that is not directly related to the specific goals of that individual's treatment program.
5. Be subjected to electroconvulsive therapy ~~or shock treatment~~ without that individual's or guardian's written and informed consent. If the recipient of services is a minor, the recipient's parent, custodian, or guardian may provide informed consent for that treatment, which the parent, custodian, or guardian believes to be in the recipient's best interests.

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

25-03.1-40. Rights of patients.

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

1. To receive appropriate treatment for mental and physical ailments and for the prevention of illness or disability.
2. To the least restrictive conditions necessary to achieve the purposes of treatment.
3. To be treated with dignity and respect.

4. To be free from unnecessary restraint and isolation.
5. To visitation and telephone communications.
6. To send and receive sealed mail.
7. To keep and use personal clothing and possessions.
8. To regular opportunities for outdoor physical exercise.
9. To be free to exercise religious faith of choice.
10. To be free from unnecessary medication.
11. To exercise all civil rights, including the right of habeas corpus.
12. Not to be subjected to experimental research without the express and informed written consent of the patient or of the patient's guardian.
13. Not to be subjected to psychosurgery, or electroconvulsive treatment, ~~or aversive reinforcement conditioning~~, without the express and informed written consent of the patient or of the patient's guardian.
14. In a manner appropriate to the patient's capabilities, to ongoing participation in the planning of services.
15. Not to be required to participate in the development of an individual treatment plan.
16. To be free from aversive reinforcement conditioning.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1089.

House Vote: Yeas 92 Nays 0 Absent 2

Senate Vote: Yeas 47 Nays 0 Absent 0

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2021.

Approved at _____ M. on _____, 2021.

Governor

Filed in this office this _____ day of _____, 2021,

at _____ o'clock _____ M.

Secretary of State