

HOUSE BILL 20

J1

9lr0553

(PRE-FILED)

By: ~~Delegate Sophocleus~~ Delegates Sophocleus, Barkley, Beidle, Benson, Bromwell, Carr, G. Clagett, Conaway, Costa, Donoghue, Elliott, George, Hammen, Hecht, Howard, Hubbard, Jameson, Kach, Kipke, Krebs, Kullen, Love, McDonough, Montgomery, Morhaim, Nathan-Pulliam, Oaks, Pena-Melnyk, Pendergrass, Reznik, Rice, Riley, Robinson, Shewell, Tarrant, V. Turner, Weldon, and Wood

Requested: September 2, 2008

Introduced and read first time: January 14, 2009

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 18, 2009

CHAPTER _____

1 AN ACT concerning

2 **Intellectual Disability (Rosa's Law)**

3 FOR the purpose of changing references to mental retardation to an intellectual
4 disability; changing references to a mentally retarded individual to an
5 individual with an intellectual disability; renaming State residential centers for
6 the mentally retarded to be State residential centers for individuals with an
7 intellectual disability; renaming an intermediate care facility for the mentally
8 retarded (ICF-MR) to be an intermediate care facility for individuals with an
9 intellectual disability (ICF-ID); altering certain definitions; defining certain
10 terms; deleting certain obsolete references; making certain stylistic changes;
11 requiring the publisher of the Annotated Code to make certain corrective
12 changes; providing that certain documents may not be used until the use of
13 certain other documents; providing for the intent of this Act; and generally
14 relating to changing references to mental retardation to an intellectual
15 disability.

16 BY repealing and reenacting, with amendments,
17 Article – Education
18 Section 8-401(a)(2) and 13-303(1)
19 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



- 1 (2008 Replacement Volume)
- 2 BY repealing and reenacting, with amendments,
3 Article – Estates and Trusts
4 Section 13–101(l)
5 Annotated Code of Maryland
6 (2001 Replacement Volume and 2008 Supplement)
- 7 BY repealing and reenacting, with amendments,
8 Article – Family Law
9 Section 5–101(f) and 14–103
10 Annotated Code of Maryland
11 (2006 Replacement Volume and 2008 Supplement)
- 12 BY repealing and reenacting, with amendments,
13 Article – Health – General
14 Section 7–101(c)(1), (k), and (p), 7–204(a) and (c), 7–501, 7–502,
15 7–503(e)(1), 7–505, 7–507(f), (g), and (j), 7–508, 7–512(a), 7–515, 7–516,
16 7–517, 7–803, 7–909(d), 10–101(f), 10–514(d), 10–620(e), 15–805(b),
17 16–101(b), 16–201(a), 16–402, 16–404, 16–405, 16–407, and 19–201(e)
18 Annotated Code of Maryland
19 (2005 Replacement Volume and 2008 Supplement)
- 20 BY adding to
21 Article – Health – General
22 Section 7–101(k)
23 Annotated Code of Maryland
24 (2005 Replacement Volume and 2008 Supplement)
- 25 BY repealing
26 Article – Health – General
27 Section 7–101(l)
28 Annotated Code of Maryland
29 (2005 Replacement Volume and 2008 Supplement)
- 30 BY repealing and reenacting, with amendments,
31 Article – Labor and Employment
32 Section 3–420(d)
33 Annotated Code of Maryland
34 (2008 Replacement Volume)
- 35 BY repealing and reenacting, with amendments,
36 Article – State Finance and Procurement
37 Section 10–309(a)
38 Annotated Code of Maryland
39 (2006 Replacement Volume and 2008 Supplement)
- 40 BY repealing and reenacting, with amendments,

1 Article – Transportation
2 Section 11–117 and 22–412.1
3 Annotated Code of Maryland
4 (2006 Replacement Volume and 2008 Supplement)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
6 MARYLAND, That the Laws of Maryland read as follows:

7 **Article – Education**

8 8–401.

9 (a) (2) “Child with a disability” means a child who has been determined
10 through appropriate assessment as having autism, deaf–blindness, hearing
11 impairment, including deafness, emotional disturbance, [mental retardation]
12 **INTELLECTUAL DISABILITY**, multiple disabilities, orthopedic impairment, other
13 health impairment, specific learning disability, speech or language impairment,
14 traumatic brain injury, visual impairment, including blindness, and who because of
15 that impairment needs special education and related services.

16 13–303.

17 (1) The Board of Directors shall insure that the medical system shall
18 continue to make available medical services to residents of various State institutions
19 whose residents prior to the effective date of this legislation were served by the
20 Hospital, including State residential centers for [the mentally retarded] **INDIVIDUALS**
21 **WITH AN INTELLECTUAL DISABILITY**, State mental hygiene facilities and facilities
22 run by the State Division of Correction, as long as the administrators of those
23 institutions continue to seek care from the Hospital for their residents in accordance
24 with policies and legislative intent incorporated in the State budget. The Hospital is to
25 be compensated by the institutions or other payors for this care in accordance with
26 policies of the State Health Services Cost Review Commission or other relevant
27 authority.

28 **Article – Estates and Trusts**

29 13–101.

30 (1) “Mental facility” means any place providing a clinic, hospital, day
31 residential or other programs, public or private, other than a veterans’ hospital, which
32 purports to or does provide treatment for persons suffering from mental disorders as
33 defined in § 10–101(f) or § 3–101(g) of the Criminal Procedure Article, [mental
34 retardation] **INTELLECTUAL DISABILITY** as defined in § 7–101(l) of the Health –
35 General Article, or drug addiction or for chronic alcoholics.

36 **Article – Family Law**

1 5–101.

2 (f) “Disability” means:

3 (1) alcohol dependence, as defined in § 8–101 of the Health – General
4 Article;

5 (2) drug dependence, as defined in § 8–101 of the Health – General
6 Article;

7 (3) a mental disorder, as defined in § 10–101 of the Health – General
8 Article; or

9 (4) [mental retardation] **INTELLECTUAL DISABILITY**, as defined in §
10 7–101 of the Health – General Article.

11 14–103.

12 This title does not apply to:

13 (1) the abuse of a patient in a mental health facility, under Title 10 of
14 the Health – General Article;

15 (2) the abuse of a patient in a facility for [mentally retarded]
16 individuals **WITH AN INTELLECTUAL DISABILITY** under Title 7 of the Health –
17 General Article;

18 (3) the abuse of a patient in a nursing home under Title 19 of the
19 Health – General Article; or

20 (4) the abuse of a patient in a hospital under Title 19 of the Health –
21 General Article.

22 **Article – Health – General**

23 7–101.

24 (c) (1) “Admission” means the process by which an individual with
25 [mental retardation] **AN INTELLECTUAL DISABILITY** is accepted as a resident in a
26 State residential center.

27 **(K) “INTELLECTUAL DISABILITY” MEANS A DEVELOPMENTAL**
28 **DISABILITY THAT IS EVIDENCED BY SIGNIFICANTLY SUBAVERAGE**
29 **INTELLECTUAL FUNCTIONING AND IMPAIRMENT IN THE ADAPTIVE BEHAVIOR**
30 **OF AN INDIVIDUAL.**

31 [(k)] (L) “Live independently” means:

1 (1) For adults:

2 (i) Managing personal care, such as clothing and medication;

3 (ii) Managing a household, such as menu planning, food
4 preparation and shopping, essential care of the premises, and budgeting; and

5 (iii) Using community resources, such as commercial
6 establishments, transportation, and services of public agencies; or

7 (2) For minors, functioning in normal settings without the need for
8 supervision or assistance other than supervision or assistance that is age appropriate.

9 [(1) “Mental retardation” means a developmental disability that is evidenced
10 by significantly subaverage intellectual functioning and impairment in the adaptive
11 behavior of an individual.]

12 (p) “State residential center” means a place that:

13 (1) Is owned and operated by this State;

14 (2) Provides residential services for individuals with [mental
15 retardation] **AN INTELLECTUAL DISABILITY** and who, because of [mental
16 retardation] **THAT INTELLECTUAL DISABILITY**, require specialized living
17 arrangements; and

18 (3) Admits 9 or more individuals with [mental retardation] **AN**
19 **INTELLECTUAL DISABILITY**.

20 7–204.

21 (a) To advance the public interest, it is the policy of this State:

22 (1) To eliminate over a 5–year period the number of [mentally
23 retarded] **INDIVIDUALS WITH AN INTELLECTUAL DISABILITY** and [nonretarded]
24 developmentally disabled individuals **WHO DO NOT HAVE AN INTELLECTUAL**
25 **DISABILITY** who are on the waiting list for appropriate community services and
26 programs; and

27 (2) To develop alternative ways and means to finance and expand
28 existing services and programs within this time period.

29 (c) The Commission shall:

30 (1) Develop a systematic 5–year plan for:

1 (i) Identifying alternative funding mechanisms, including uses
2 of State excess properties and proceeds derived from any sales or leases of the
3 properties, which enable community programs to serve all eligible [mentally retarded]
4 **INDIVIDUALS WITH AN INTELLECTUAL DISABILITY** and [nonretarded]
5 developmentally disabled individuals **WHO DO NOT HAVE AN INTELLECTUAL**
6 **DISABILITY**;

7 (ii) Providing incentives to facilitate the establishment of new
8 service providers for purposes consistent with this title;

9 (iii) Assuring appropriate levels of program accountability,
10 monitoring, and quality control;

11 (iv) Evaluating appropriate personnel-related issues including
12 compensation, recruitment, retention, professional training, and development; and

13 (v) Determining the effectiveness of any cost reimbursement
14 system implemented by the Department and evaluating the need to maintain or
15 modify the funding level in subsequent years;

16 (2) Monitor any implementation of the 5-year plan and make
17 recommendations on how to facilitate further implementation; and

18 (3) Review Administration activities related to its services and
19 programs.

20 7-501.

21 (a) There are State residential centers for individuals with [mental
22 retardation] **AN INTELLECTUAL DISABILITY** in the Developmental Disabilities
23 Administration.

24 (b) The Director shall appoint an administrative head for each State
25 residential center.

26 7-502.

27 (a) The Secretary shall approve the admission of an individual to a State
28 residential center only if:

29 (1) The findings of the evaluation are that the individual:

30 (i) Has [mental retardation] **AN INTELLECTUAL DISABILITY**;

31 and

32 (ii) For adequate habilitation, needs residential services; and

1 (2) There is no less restrictive setting in which the needed services can
2 be provided and that is available to the individual or will be available to the individual
3 within a reasonable time.

4 (b) The Secretary may not approve the admission of an individual to a State
5 residential center if:

6 (1) The findings of the evaluation are that the individual:

7 (i) Does not have [mental retardation] **AN INTELLECTUAL**
8 **DISABILITY**; or

9 (ii) Has [mental retardation] **AN INTELLECTUAL DISABILITY**
10 but does not need residential services for adequate habilitation; or

11 (2) There is a less restrictive setting in which the needed services can
12 be provided that is available to the individual or will be available to the individual
13 within a reasonable time.

14 (c) The Secretary shall provide an individual with the appropriate least
15 restrictive service consistent with the individual's welfare, safety, and plan of
16 habilitation, if the individual:

17 (1) Has an application for services that has been approved under §
18 7-404(c) of this title; or

19 (2) Is considered eligible for transfer under Subtitle 8 of this title by
20 the Director or the Director's designee.

21 7-503.

22 (e) (1) At the hearing, in order to certify the admission of the individual,
23 it must be affirmatively shown by clear and convincing evidence that the conclusions
24 leading to the decision to admit the individual are supported by the following findings:

25 (i) The individual has [mental retardation] **AN INTELLECTUAL**
26 **DISABILITY**;

27 (ii) The individual needs residential services for the individual's
28 adequate habilitation; and

29 (iii) There is no less restrictive setting in which the needed
30 services can be provided that is available to the individual or will be available to the
31 individual within a reasonable time after the hearing.

32 7-505.

1 (a) At least once a year, each individual with [mental retardation] **AN**
2 **INTELLECTUAL DISABILITY** who is admitted to a State residential center shall be
3 reevaluated to determine:

4 (1) Whether the individual continues to meet the requirements of this
5 subtitle for admission to a State residential center;

6 (2) Whether the services which the individual requires can be
7 provided in a less restrictive setting;

8 (3) Whether the individual's plan of habilitation as required by §
9 7-1006 of this title is adequate and suitable; and

10 (4) Whether the State residential center has complied with and
11 executed the individual's plan of habilitation in accordance with the rules, regulations,
12 and standards that the Secretary adopts.

13 (b) If the Secretary finds that any individual no longer meets the admission
14 requirements of this subtitle, the Secretary shall begin appropriate proceedings for
15 release or transfer of that individual.

16 7-507.

17 (f) The trier of fact shall determine:

18 (1) Whether the individual has [mental retardation] **AN**
19 **INTELLECTUAL DISABILITY**;

20 (2) Whether for adequate habilitation, the individual needs residential
21 services; and

22 (3) Whether there is a less restrictive setting in which the needed
23 services can be provided that is available to the individual or will be available to the
24 individual within a reasonable time.

25 (g) (1) The court shall remand the individual to the custody of the State
26 residential center, if the trier of fact determines that:

27 (i) The individual has [mental retardation] **AN INTELLECTUAL**
28 **DISABILITY**;

29 (ii) For adequate habilitation the individual needs residential
30 services; and

31 (iii) There is no less restrictive setting in which those services
32 needed can be provided and which is available to the individual or will be available to
33 the individual within a reasonable time.

1 (2) The court shall order that appropriate less restrictive services be
2 offered to an individual, if the trier of fact determines that:

3 (i) The individual has [mental retardation] **AN INTELLECTUAL**
4 **DISABILITY**;

5 (ii) For adequate habilitation the individual needs residential
6 services; and

7 (iii) There is a less restrictive setting in which the service can be
8 provided, and which from evidence submitted by the Director is available or will be
9 available to the individual within a reasonable time.

10 (3) The individual shall be released from the State residential center,
11 if the trier of fact determines that:

12 (i) The individual does not have [mental retardation] **AN**
13 **INTELLECTUAL DISABILITY**;

14 (ii) For adequate habilitation the individual does not need
15 residential services; or

16 (iii) There is a less restrictive setting in which the needed
17 services can be provided that is available to the individual or will be available to the
18 individual within a reasonable time.

19 (j) (1) After a determination on the merits of a petition under this
20 section, a court may not hear a later petition for the individual within 1 year after that
21 determination, unless:

22 (i) The petition is verified, and alleges an improvement in the
23 condition of the individual with [mental retardation] **AN INTELLECTUAL DISABILITY**
24 after the determination; and

25 (ii) The court, after review of the verified petition, determines
26 that the matter should be reopened.

27 (2) If the matter is reopened, the petition shall be heard as provided in
28 this section.

29 7-508.

30 (a) At the direction of the Secretary, an individual who has been admitted
31 under this subtitle shall be released from a State residential center if:

1 (1) The individual is not an individual with [mental retardation] **AN**
2 **INTELLECTUAL DISABILITY**;

3 (2) The individual is an individual with [mental retardation] **AN**
4 **INTELLECTUAL DISABILITY** but does not need residential services; or

5 (3) There is an available, less restrictive kind of service that is
6 consistent with the welfare and safety of the individual.

7 (b) (1) At the direction of the Secretary, any individual who has been
8 admitted under this subtitle may be released conditionally from a State residential
9 center for individuals with [mental retardation] **AN INTELLECTUAL DISABILITY**, if,
10 in the judgment of the Secretary, the individual:

11 (i) Would be cared for properly by the individual or another
12 person; and

13 (ii) Would not endanger the individual or the person or property
14 of another.

15 (2) The Secretary may set the conditions for release that the Secretary
16 considers reasonable. The conditions may relate to:

17 (i) The duration of the release;

18 (ii) Treatment during release; or

19 (iii) Placement under supervised care in an approved setting.

20 (3) An individual with [mental retardation] **AN INTELLECTUAL**
21 **DISABILITY** released conditionally is considered to be held by the State residential
22 center from which the individual was released.

23 (c) Each determination of any release of an individual, whether full or
24 conditional, including a summary of the reasons for the determination, shall be made
25 a permanent part of the individual's record.

26 7-512.

27 (a) (1) Each board consists of 7 members appointed by the Governor.

28 (2) The board for each State residential center shall reflect adequately
29 the composition of the community that the State residential center serves.

30 (3) Of the 7 members of the board for a State residential center:

1 (i) At least 2 shall be parents or other relatives or guardians of
2 residents of that State residential center; and

3 (ii) Each of the others shall be individuals who:

4 1. Are known for their interest in civic and public
5 affairs; and

6 2. Have expressed an active interest in the care of
7 individuals with [mental retardation] **AN INTELLECTUAL DISABILITY**, or generally
8 in [mental retardation] **INTELLECTUAL DISABILITY** endeavors.

9 (4) The Governor shall appoint the members from a list of qualified
10 individuals submitted to the Governor by the Secretary. The number of names on the
11 list shall be at least twice the number of vacancies.

12 7-515.

13 (a) Each board may adopt regulations for the conduct of its meetings.

14 (b) (1) Each board serves in an advisory capacity.

15 (2) Each board shall:

16 (i) Submit to the Secretary an annual report on:

17 1. The needs of individuals with [mental retardation]
18 **AN INTELLECTUAL DISABILITY**; and

19 2. The extent to which its State residential center meets
20 these needs;

21 (ii) Advise the administrative head of the State residential
22 center on its goals, programs, and policies;

23 (iii) Help in evaluating the degree to which these goals are
24 achieved;

25 (iv) Review and make recommendations about the annual
26 budget of the State residential center;

27 (v) Assume leadership in developing community understanding
28 of the needs of individuals with [mental retardation] **AN INTELLECTUAL**
29 **DISABILITY**; and

30 (vi) Carry out any other responsibility that the administrative
31 head of the State residential center requests.

1 7-516.

2 The administrative head for each State residential center may appoint any
3 employee as a law-enforcement officer and, while the employee holds a special police
4 commission issued by the Governor, the employee may:

5 (1) Return an individual with [mental retardation] **AN**
6 **INTELLECTUAL DISABILITY** to the State residential center from which the individual
7 has left without approved leave; and

8 (2) Be used to protect individuals or property at the State residential
9 center.

10 7-517.

11 (a) (1) In this section the following words have the meanings indicated.

12 (2) “Intermediate care facility for [the mentally retarded (“ICF-MR”)]
13 **INDIVIDUALS WITH AN INTELLECTUAL DISABILITY (ICF-ID)”** means a State
14 residential center for individuals with [mental retardation] **AN INTELLECTUAL**
15 **DISABILITY**.

16 (3) [“ICF-MR income”] **“ICF-ID INCOME”** means all revenues
17 received by an [ICF-MR] **ICF-ID** from any source providing [ICF-MR] **ICF-ID**
18 services to residents of the facility.

19 (b) (1) Each [ICF-MR] **ICF-ID** operating in Maryland is subject to an
20 assessment of 6% of all [ICF-MR] **ICF-ID** income.

21 (2) The assessment required by this section shall:

22 (i) Be paid by each [ICF-MR] **ICF-ID** in accordance with this
23 section; or

24 (ii) Terminate if the assessment is not permissible under
25 Section 1903(w) of the Social Security Act.

26 (c) On or before the 15th day of each quarter of the State fiscal year, each
27 [ICF-MR] **ICF-ID** shall pay to the Department 6% of the [ICF-MR] **ICF-ID** income
28 received during the previous fiscal quarter.

29 (d) For fiscal year 2004, the assessment required by this section shall be paid
30 on or before June 20, 2004, based on the [ICF-MR] **ICF-ID** income received during
31 the period from April 1, 2003 through March 31, 2004.

1 (e) The Department may adopt regulations to implement this section.

2 7-803.

3 (a) In this section, the term “facility” means an intermediate care
4 [facility–mental retardation] **FACILITY – INTELLECTUAL DISABILITY CONSISTENT**
5 **WITH § 1905(D) OF THE SOCIAL SECURITY ACT.**

6 (b) A resident of a facility may not be transferred or discharged from the
7 facility involuntarily except for the following reasons:

8 (1) A medical reason;

9 (2) The welfare of the resident or other residents;

10 (3) Knowingly transferring personal assets in violation of a contract
11 provision and only to become eligible for Medicaid benefits;

12 (4) A nonpayment for a stay; or

13 (5) The planned closing of the facility.

14 7-909.

15 (d) The Administration shall bring any deficiencies to the attention of:

16 (1) The executive officer of the licensee; or

17 (2) In the case of an intermediate care [facility–mental retardation]
18 **FACILITY – INTELLECTUAL DISABILITY**, the State Planning Council and the
19 State–designated protection and advocacy agency.

20 10-101.

21 (f) (1) “Mental disorder” means a behavioral or emotional illness that
22 results from a psychiatric or neurological disorder.

23 (2) “Mental disorder” includes a mental illness that so substantially
24 impairs the mental or emotional functioning of an individual as to make care or
25 treatment necessary or advisable for the welfare of the individual or for the safety of
26 the person or property of another.

27 (3) “Mental disorder” does not include [mental retardation] **AN**
28 **INTELLECTUAL DISABILITY.**

29 10-514.

1 (d) (1) “Private group home” means a residence in which individuals who
2 have been or are under treatment for a mental disorder may be provided care or
3 treatment in a homelike environment.

4 (2) “Private group home” does not include:

5 (i) Any facility that is owned by or leased to this State or any
6 public agency;

7 (ii) Any facility that is regulated by the Department of Juvenile
8 Services;

9 (iii) Any facility that is regulated by the [Mental Retardation
10 and] Developmental Disabilities Administration;

11 (iv) Any facility that is organized wholly or partly to make a
12 profit; or

13 (v) A foster home that is the domicile of the foster parent.

14 10–620.

15 (e) (1) “Mental disorder” means the behavioral or other symptoms that
16 indicate:

17 (i) To a lay petitioner who is submitting an emergency petition,
18 a clear disturbance in the mental functioning of another individual; and

19 (ii) To the following health professionals doing an examination,
20 at least one mental disorder that is described in the version of the American
21 Psychiatric Association’s “Diagnostic and Statistical Manual – Mental Disorders” that
22 is current at the time of the examination:

23 1. Physician;

24 2. Psychologist;

25 3. Clinical social worker;

26 4. Licensed clinical professional counselor;

27 5. Clinical nurse specialist in psychiatric and mental
28 health nursing (APRN/PMH);

29 6. Psychiatric nurse practitioner (CRNP–PMH); or

30 7. Licensed clinical marriage and family therapist.

1 (2) "Mental disorder" does not include [mental retardation]
2 **INTELLECTUAL DISABILITY.**

3 15-805.

4 (b) (1) Attendant services and supports shall be designed to assist a
5 consumer in accomplishing activities of daily living and health-related functions
6 through:

7 (i) Hands-on assistance;

8 (ii) Supervision; or

9 (iii) Cueing, prompting, or reminding the consumer about an
10 activity.

11 (2) Attendant services and supports shall be provided in a consumer's
12 home or other independent or supported living environment, including school, work,
13 recreational, and religious settings.

14 (3) Attendant services and supports may not be provided in:

15 (i) A nursing facility;

16 (ii) An intermediate care facility for [the mentally retarded]
17 **INDIVIDUALS WITH AN INTELLECTUAL DISABILITY;** or

18 (iii) A facility that provides food, shelter, and treatment services
19 to four or more individuals unrelated to the proprietor.

20 16-101.

21 (b) (1) As to a recipient of services under the Maryland [Mental
22 Retardation and] Developmental Disabilities Law, a word used in this title has the
23 same meaning as is indicated by a definition of the word in § 7-101 of this article.

24 (2) As to a recipient of services under the Maryland Mental Hygiene
25 Law, a word used in this title has the same meaning as is indicated by a definition of
26 the word in § 10-101 of this article.

27 16-201.

28 (a) The Secretary shall adopt rules and regulations that set charges for
29 services that the Department provides for the physically ill, aged, mentally disordered,
30 [mentally retarded] **INTELLECTUALLY DISABLED**, and developmentally disabled and
31 other recipients of services in or through State-operated:

- 1 (1) Clinics;
- 2 (2) Day care, day treatment, and day hospital care;
- 3 (3) Group homes and small residential homes;
- 4 (4) Inpatient care in regional and State hospitals and centers; and
- 5 (5) Inpatient and outpatient care of any other kind.

6 16-402.

7 When an individual enters a facility for comprehensive evaluation and when [a
8 mentally retarded individual] **AN INDIVIDUAL WITH AN INTELLECTUAL DISABILITY**
9 is admitted to a public facility, each proponent of the admission shall be advised in
10 writing, in clear and simple terms, of those provisions of this title that apply to that
11 individual.

12 16-404.

13 (a) If there is any insurance, group health plan, or prepaid medical care
14 coverage for part or all of the cost of the care provided, the Department shall seek to
15 collect the proceeds of the insurance, plan, or coverage to the full extent required to
16 pay for the charges for services set under § 16-201 of this title. The insured or
17 policyholder may not withhold the payment and shall assign to the Department any
18 benefits available under the policy for services rendered by the Department to any
19 insured covered by the policy.

20 (b) The liability of a chargeable person for services provided to [a mentally
21 retarded individual] **AN INDIVIDUAL WITH AN INTELLECTUAL DISABILITY** may not
22 exceed the greater of:

23 (1) The sum of any proceeds of insurance, group health plan, or
24 prepaid medical care that the insurer or plan pays because of liability for the payment
25 of or repayment for the cost of care provided to the individual; or

26 (2) The lesser of:

27 (i) The amount determined under § 16-405 of this subtitle; or

28 (ii) The amount set by the Department under § 16-203(b) of this
29 title.

30 (c) The liability of responsible relatives for the cost of care of [a mentally
31 retarded individual] **AN INDIVIDUAL WITH AN INTELLECTUAL DISABILITY** in a
32 residential, State facility ceases when the cost of care of the [mentally retarded

1 individual] **INDIVIDUAL WITH AN INTELLECTUAL DISABILITY** has been charged for
 2 a period or periods that total 16 years.

3 16–405.

4 (a) In this section, “taxable income” has the meaning that federal law gives
 5 to it for purposes of the Internal Revenue Code.

6 (b) For purposes of § 16–404(b)(2) of this subtitle, the liability of a chargeable
 7 person for the cost of care of [a mentally retarded individual] **AN INDIVIDUAL WITH**
 8 **AN INTELLECTUAL DISABILITY** shall be determined in accordance with either of the
 9 following schedules, at the option of the chargeable person.

Schedule A									
Schedule Based on Gross Monthly Income									
Gross Mo. Income of Person Liable for Support		Monthly Rate of Contribution							
At Least	Less Than	2 Dep.	3 Dep.	4 Dep.	5 Dep.	6 Dep.	7 Dep.	8 Dep.	8 Dep.
\$500—	575	\$16.00	\$	\$	\$	\$	\$	\$	\$
575—	650	22.40	16.00	.....	.....	.....	.....	.....	.....
650—	725	25.60	22.40	19.20	16.00	.....	.....	.....	.....
725—	800	32.00	28.80	22.40	19.20	16.00	.....	.....	.....
800—	875	35.20	32.00	28.80	25.60	22.40	16.00	.....	.....
875—	950	43.20	39.20	35.20	32.00	25.60	22.40	19.20	19.20
950—	1025	56.00	49.60	43.20	35.20	32.00	28.80	25.60	25.60
1025—	1100	72.00	64.00	49.60	43.20	39.20	35.20	32.00	32.00
1100—	1175	88.00	72.00	64.00	56.00	49.60	43.20	35.20	35.20
1175—	1250	91.00	88.00	80.00	72.00	64.00	49.60	43.20	43.20
1250—	1325	94.00	94.00	91.00	88.00	72.00	64.00	56.00	56.00
1325—	1400	94.00	94.00	94.00	91.00	88.00	80.00	72.00	72.00
1400—	1475	94.00	94.00	94.00	94.00	94.00	91.00	88.00	88.00
1475—	1550	94.00	94.00	94.00	94.00	94.00	94.00	91.00	91.00
1550	and up	94.00	94.00	94.00	94.00	94.00	94.00	94.00	94.00

Schedule B	
Schedule Based on Taxable Income Under Federal Internal Revenue Code	
Annual Taxable Income of Person Liable for Support	Monthly Rate of Contribution
At least \$4,000 but less than \$5,000	\$16.00
At least \$5,000 but less than \$6,000	22.40
At least \$6,000 but less than \$7,000	28.80
At least \$7,000 but less than \$8,000	35.20

1	At least \$8,000 but less than \$9,000	43.20
2	At least \$9,000 but less than \$10,000	56.00
3	At least \$10,000 but less than \$11,000	72.00
4	At least \$11,000 but less than \$12,000	88.00
5	At least \$12,000	94.00

6 (c) To establish the taxable income, the chargeable person shall provide
7 either a copy of a federal income tax return or an affidavit as to the taxable income
8 reported on that federal income tax return.

9 (d) Any modification of liability for charges based on a federal income tax
10 return shall become effective as of July 1 in each calendar year.

11 (e) (1) Within the time that the Secretary sets and on the forms that the
12 Secretary provides, each chargeable person shall elect the schedule under which the
13 chargeable person is to be billed.

14 (2) The election is effective as of the day that the [mentally retarded
15 individual] **INDIVIDUAL WITH AN INTELLECTUAL DISABILITY** first is admitted for
16 service and remains in force until changed by the chargeable person.

17 (3) A change in the election is effective on July 1 after the date on
18 which the Department is notified of the change.

19 (4) If a person fails to elect within the time that the Secretary sets, the
20 Secretary shall determine which schedule is to apply.

21 (f) A person whose taxable income is less than \$4,000 a year may not be
22 charged any amount under this section.

23 (g) For purposes of this section, both parents of [a mentally retarded
24 individual] **AN INDIVIDUAL WITH AN INTELLECTUAL DISABILITY** shall be
25 considered a single responsible relative.

26 16-407.

27 (a) This section does not apply to funds that are derived from benefits
28 payable under laws administered by the Veterans' Administration.

29 (b) (1) If any property of [a mentally retarded] **AN individual WITH AN**
30 **INTELLECTUAL DISABILITY** remains in the custody of a public facility for 1 year after
31 the death or release of the [mentally retarded] individual **WITH AN INTELLECTUAL**
32 **DISABILITY**, the Department shall investigate to locate the individual or to determine
33 if any other person legally is entitled to that property.

34 (2) If such a person is not found:

1 (i) As much as possible of the account of the [mentally
2 retarded] individual **WITH AN INTELLECTUAL DISABILITY** at the facility shall be
3 paid from the property; and

4 (ii) Any balance becomes the property of this State and shall be
5 paid into the General Fund of this State.

6 (c) (1) An action may not be brought more than 3 years after the death or
7 release of [a mentally retarded] **AN individual WITH AN INTELLECTUAL DISABILITY**
8 to recover any of this property left at or in the custody of the facility.

9 (2) This subsection does not waive any defense, including the defense
10 of governmental immunity, available to any facility or other State agency in an action
11 brought against it, even if the action is brought within 3 years after the death or
12 release of the [mentally retarded] individual **WITH AN INTELLECTUAL DISABILITY**.

13 19–201.

14 (e) (1) “Related institution” means an institution that is licensed by the
15 Department as:

16 (i) A comprehensive care facility that is currently regulated by
17 the Commission; or

18 (ii) An intermediate care facility – [mental retardation]
19 **INTELLECTUAL DISABILITY**.

20 (2) “Related institution” includes any institution in paragraph (1) of
21 this subsection, as reclassified from time to time by law.

22 **Article – Labor and Employment**

23 3–420.

24 (d) The wage for overtime may be computed on the basis of each hour over 48
25 hours that an employee works during 1 workweek:

26 (1) for an employee of a bowling establishment; and

27 (2) for an employee of an institution that:

28 (i) is not a hospital; but

29 (ii) is engaged primarily in the care of individuals who:

30 1. are aged, [mentally retarded] **INTELLECTUALLY**
31 **DISABLED**, or sick or have a mental disorder; and

1 SECTION 3. AND BE IT FURTHER ENACTED, That documents reflecting the
2 renaming of mental retardation to be an intellectual disability may not be used until
3 all documents already in print and reflecting the terminology in use prior to the
4 effective date of this Act have been used.

5 SECTION 4. AND BE IT FURTHER ENACTED, That nothing in this Act is
6 intended to result in a reduction of federal funds available to the State.

7 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect
8 October 1, 2009.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.