

AN ACT

*Codification
District of
Columbia
Code
2001 Supp.*

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend, on an emergency basis, due to Congressional review, Chapter 20 of Title 21 of the District of Columbia Code to add a definition of "emergency care" to the guardianship law, and to amend the Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978 to authorize the Administrator of the Mental Retardation and Developmental Disabilities Administration, or the Administrator's designee, to grant, refuse, or withdraw consent, with certain limitations, on behalf of incapacitated customers, for health care services, treatment, or procedures, upon the certification of 2 licensed physicians.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Citizens with Mental Retardation Substituted Consent for Health Care Decisions Congressional Review Emergency Amendment Act of 2001".

Sec. 2. Chapter 20 of Title 21 of the District of Columbia Code is amended as follows:

(a) Section 21-2011 is amended by adding a new paragraph (5A) to read as follows:

"(5A) "Emergency care" means immediate treatment, including diagnostic treatment, provided in response to a sudden, acute, and unanticipated medical crisis in order to avoid injury, extreme pain, impairment, or death."

(b) Section 21-2046(a) is amended by striking the phrase "life threatening emergency" and inserting the phrase "life-threatening situation or a situation involving emergency care" in its place.

Sec. 3. The Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978 is amended as follows:

(a) Section 507 is amended to read as follows:

"Sec. 507. (a) Subject to the limitations provided in subsection (b) of this section, if a customer is certified as an incapacitated individual in accordance with D.C. Code § 21-2204, and there is no known person reasonably available, mentally capable, and willing to act pursuant to D.C. Code § 21-2210, the Administrator of the Mental Retardation and Developmental

Disabilities Administration ("Administrator"), or the Administrator's designee, is authorized to grant, refuse, or withdraw consent on behalf of a customer with respect to the provision of any health care service, treatment, or procedure; provided, that 2 licensed physicians have certified in writing that the health care service, treatment, or procedure is clinically indicated to maintain the health of the customer.

"(b) The Administrator, or the Administrator's designee, is not authorized, unless authorized by a court, to consent to the following:

"(1) An abortion, sterilization, psychosurgery, or removal of a bodily organ, except to preserve the life or prevent the immediate serious impairment of the physical health of the customer;

"(2) Convulsive therapy;

"(3) Experimental treatments or behavior modification programs involving aversive stimuli or deprivation of rights; or

"(4) The withholding of life-saving medical procedures.

"(c) Nothing in this section shall be read to require any person to execute a durable power of attorney for health care."

(b) A new section 507a is added to read as follows:

"Sec. 507a. (a) It shall be the policy of the District government to ensure that incapacitated persons have available health care decisionmakers. Within 6 months of the effective date of the Mentally Retarded Citizens Substituted Consent for Health Care Decisions and Emergency Care Definition Temporary Amendment Act of 1998, the Administrator of the Mental Retardation and Developmental Disabilities Administration shall establish a plan to encourage, as much as possible, the provision of health care decisionmakers pursuant to D.C. Code § 21-2210 for all incapacitated and potentially incapacitated persons under the Administrator's jurisdiction.

"(b) Nothing in this section shall be read to require any person to execute a durable power of attorney for health care."

Sec. 4. Fiscal impact statement.

The Council anticipates that this act will reduce costs to the Mental Retardation and Developmental Disabilities Administration by reducing legal costs associated with guardianships. This act will also reduce Medicaid costs to the District because prompt attention to medical needs will reduce medical costs.

Sec. 5. Applicability.

This act shall apply as of February 5, 2001.

Sec. 6. Effective date.

ENROLLED ORIGINAL

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto) and approval by the Financial Responsibility and Management Assistance Authority as provided in section 203(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 116; D.C. Code § 47-392.3(a)), and shall remain in effect for no longer than 90 days, beginning on February 5, 2001, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Code § 1-229(a)).

Chairman
Council of the District of Columbia

Mayor
District of Columbia