



Bob Bennett

*Final Analysis*  
*Legislative Service Commission*

## **Sub. H.B. 538**

123rd General Assembly  
(As Passed by the General Assembly)

**Reps.** Calvert, Clancy, Tiberi, Buehrer, Amstutz, Aslanides, Ford, Verich, Hartnett, Jones, O'Brien, Roman, Boyd, Austria, Salerno, Krupinski, Patton, A. Core, Widener, Olman, Winkler, Jerse, Hoops, Terwilleger, Britton, Barrett

**Sens.** Spada, Kearns, Drake, Gardner

**Effective date:** \*

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### **ACT SUMMARY**

- Changes the criminal records check requirements for Department of Mental Retardation and Developmental Disabilities (DMRDD) employees and for certain employees of contractors with county boards of mental retardation and developmental disabilities (county MRDD boards).
- Revises the law governing criminal records checks conducted by the Bureau of Criminal Identification and Investigation.
- Permits county MRDD boards to continue to perform certification and registration of their employees on behalf of DMRDD.
- Changes the law governing audits of and payment agreements with providers of services or programs to DMRDD and accreditation by DMRDD of services or programs offered by county MRDD boards.
- Provides that a contractor is not required to repay DMRDD the amount received pursuant to a retroactive rate increase DMRDD granted in April 1997.

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\* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared.*

- Extends the expiration date of the Joint Council on Mental Retardation and Developmental Disabilities from December 31, 2001, to December 31, 2004.
- Establishes new requirements for review of reports of abuse, neglect, and major unusual incidents and requires DMRDD to establish reporting requirements for major unusual incidents and unusual incidents.
- Makes other changes in laws governing DMRDD and county MRDD boards.
- Permits the guardian of a ward to give consent for an autopsy or post-mortem examination and to authorize a burial or cremation.

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## CONTENT AND OPERATION

### Criminal records checks

#### Criminal records checks for DMRDD and county MRDD board employees

(secs. 109.57, 109.572, 5123.081, and 5123.28; Section 3)

**Background.** Continuing law requires the superintendent of a county board of mental retardation and developmental disabilities (county MRDD board) to request that the Superintendent of the Bureau of Criminal Identification and Investigation (BCII) conduct a criminal records check of each applicant for employment with the board. An exception is that a criminal records check need not be requested for a county MRDD board employee who is being considered for a different position or is returning after a leave of absence or seasonal break in employment, as long as the superintendent has no reason to believe that the employee has committed any of the offenses listed or described below. The superintendent may also request that any other state or federal agency provide a written report regarding the criminal record of the applicant. Further, with regard to an applicant who becomes an MRDD board employee, if the employee holds an occupational or professional license or other credentials, the superintendent may request that the state or federal agency that regulates the employee's occupation or profession supply the superintendent with a written report of any information

pertaining to the employee's criminal record that the agency obtains in the course of conducting an investigation or renewing the employee's license or other credentials. Finally, a county MRDD board superintendent must request that the Registrar of Motor Vehicles provide a certified abstract regarding the record of convictions for violations of motor vehicle laws of any applicant who will be required by employment to (1) transport individuals with mental retardation or another developmental disability or (2) operate the county MRDD board's vehicles for any other purpose.

A county MRDD board is not permitted to employ a person who has been convicted of or pleaded guilty to any of the offenses specified in the law, unless rules adopted by the Director of the Department of Mental Retardation and Developmental Disabilities (DMRDD) specify circumstances under which it is permissible to hire an applicant who meets rehabilitation standards set by DMRDD.<sup>1</sup> But a county MRDD board may employ an applicant pending receipt of the reports requested under the law.

Before hire, the county MRDD board superintendent must require the applicant to submit a statement attesting that the applicant has not been convicted

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<sup>1</sup> *The disqualifying criminal offenses are the following: aggravated murder, murder, voluntary manslaughter, involuntary manslaughter, felonious assault, aggravated assault, assault, failing to provide for a functionally impaired person, aggravated menacing, patient abuse, gross patient neglect, patient neglect, kidnapping, abduction, criminal child enticement, rape, sexual battery, corruption of a minor, gross sexual imposition, sexual imposition, importuning, voyeurism, public indecency, compelling prostitution, promoting prostitution, procuring, prostitution, prostitution after a positive HIV test, disseminating matter harmful to juveniles, pandering obscenity, pandering obscenity involving a minor, pandering sexually oriented matter involving a minor, illegal use of a minor in nudity-oriented material or performance, aggravated robbery, robbery, aggravated burglary, burglary, unlawful abortion, endangering children, contributing to the unruliness or delinquency of a child, domestic violence, carrying concealed weapons, having weapons while under disability, improperly discharging a firearm at or into a habitation or in a school safety zone, corrupting another with drugs, numerous types of "trafficking in drugs" offenses, illegal manufacture of drugs or illegal cultivation of marihuana, various funding of drug or marihuana trafficking offenses, illegal administration or distribution of anabolic steroids, placing harmful or hazardous objects or substances in or furnishing adulterated food or confections, child stealing as it existed prior to July 1, 1996, interference with custody that would have been the offense of child stealing as it existed prior to July 1, 1996, various types of possession of drugs offenses that are not a minor drug possession offense, or the former offense of felonious sexual penetration; a felony contained in the Revised Code that is not specifically listed above, if the felony bears a direct and substantial relationship to the duties and responsibilities of the position being filled; or a violation of any existing or former law of Ohio, any other state, or the United States that is substantially equivalent to any of the offenses or violations listed or described above.*

of or pleaded guilty to any of the disqualifying offenses. The superintendent must also require that the applicant sign an agreement in which the applicant agrees to notify the superintendent if, while employed with the county MRDD board, the applicant is formally charged with any of those offenses. The agreement must inform the applicant that failure to report formal charges may result in the applicant being dismissed from employment.

***The act.*** The act makes several changes to the criminal records check provisions concerning county MRDD board employees. The act includes as applicants subject to the criminal records check requirement persons who are being transferred to the board and employees who are being recalled or reemployed after a layoff. It adds to the disqualifying offenses any offense contained in the Revised Code that constitutes a misdemeanor of the first degree on the first offense and a felony on a subsequent offense, if the offense bears a direct and substantial relationship to the position being filled and the nature of the services being provided and violations of existing or former municipal ordinances that are substantially equivalent to the specified offenses. The act requires that the employee notify the county MRDD board superintendent *within 14 days* of any formal charge, *conviction, or plea of guilty* that concerns one of the disqualifying offenses. Finally, the act requires a county MRDD board superintendent to provide a copy of each report or abstract obtained under the criminal records check provisions pertaining to board applicants only at the Director's request, rather than always, as required by prior law.

The act repeals law that prohibited any appointing officer from appointing a person to a classified or unclassified position in DMRDD if the person had been convicted of or pleaded guilty to either of the following: (1) any felony, or a crime constituting a misdemeanor of the first degree on the first offense and a felony on subsequent offenses, contained in the Revised Code, if the felony or misdemeanor bore a direct and substantial relationship to the position being filled or (2) a violation of an existing or former law of Ohio, any other state, or the United States, if the law violated was substantially equivalent to any offense described in (1). The Director of DMRDD or an appointing officer was required to request that BCII or any other state or federal agency supply the Director or officer with a written report regarding the criminal record of any applicant under final consideration for a position with DMRDD.

In place of the repealed law, the act requires the DMRDD Director to request that the BCII Superintendent conduct a criminal records check of each applicant for employment in a position with DMRDD in a manner modeled on the law for conducting criminal records checks of persons seeking employment with a county MRDD board, including the act's amendments to that law. The new

requirements apply only to persons who apply for appointment or employment on or after the act's effective date.

**Criminal records checks for certain employees of contractors with county MRDD boards**

(sec. 5126.281)

Continuing law requires certain entities to conduct criminal records checks of certain prospective employees in the same manner a county MRDD board must conduct a criminal records check of job applicants. Under prior law, an entity was subject to the requirement if it was under contract with a county MRDD board for the provision of direct services to individuals with mental retardation or a developmental disability. The act provides that an entity is subject to the requirement if it is under contract with a county MRDD board for the provision of specialized services to such individuals. The act defines "specialized services" as any program or service designed and operated to serve primarily individuals with mental retardation or a developmental disability, including a program or service provided by an entity licensed or certified by DMRDD. If there is a question as to whether a contracting entity is providing specialized services, the entity is permitted to request that the DMRDD Director make a determination. The Director's determination is final.

Prior law provided that a prospective employee had to undergo a criminal records check if he or she was under final consideration for employment with the contracting entity in a position that involved providing services directly to individuals with mental retardation or a developmental disability. The act provides that a prospective employee is subject to a criminal records check if he or she is under final consideration for employment with the contracting entity in an employment position in which the employee has physical contact with, the opportunity to be alone with, or exercises supervision or control over one or more individuals with mental retardation or a developmental disability. The act maintains the current exceptions to the criminal records check requirement and also *exempts* from the requirement a person who will provide only respite care under a family support services program established under law unaffected by the act and is selected by a family member of the individual who is to receive the respite care.

**Changes in the BCII Law regarding criminal records checks**

(sec. 109.572)

**Formats for criminal records check forms and fingerprint impression sheets.** The BCII Superintendent is required to prescribe a form to obtain the

information necessary for BCII to conduct a criminal records check. The Superintendent also must prescribe standard fingerprint impression sheets to obtain fingerprint impressions to conduct a criminal records check. The act allows the form and standard impression sheets to be in a tangible format, in an electronic format, or in both formats.

**Methods of forwarding fingerprint impressions and information.** For a criminal records check to be conducted, a completed form containing the necessary information about the person subject to the check and a completed fingerprint impression sheet containing the person's fingerprint impressions must be forwarded to the Superintendent. The act provides that the Superintendent may prescribe methods for forwarding the fingerprint impressions and the information needed to conduct the criminal records check, which methods must include, but not be limited to, an electronic method.

**Alternate certification and registration programs for county MRDD board employees**

(sec. 5126.252; Section 6)

Generally, no person can be employed or compensated by a county MRDD board who does not hold the certificate, evidence of registration, or license required for the position under the rules of DMRDD or the State Department of Education (sec. 5126.26, not in the act). The act provides that, notwithstanding this and related provisions, DMRDD may authorize county MRDD boards to establish and administer in their counties programs for the certification and registration of persons for employment by the boards. A certificate or evidence of registration issued by a board participating in programs under this type of DMRDD authorization has the same force and effect as a certificate or evidence of registration issued by the DMRDD.

A statute that expired June 30, 1999, authorized DMRDD to exercise the power described above by means of pilot projects. The act specifies that its provisions revive the prior law, except that the provisions are permanent, the programs established by DMRDD are not limited to pilot projects, and the programs do not apply to employees of entities contracting with county MRDD boards.

**Accreditation of county MRDD boards**

(sec. 5126.081)

Continuing law requires DMRDD to establish a system of accreditation for county MRDD boards. Under prior law, DMRDD had to establish uniform

standards for the system by rule. The act instead requires DMRDD to adopt rules governing the system of accreditation and to establish requirements for accreditation. DMRDD continues to be required to adopt the rules in accordance with the Administrative Procedure Act.

The act repeals law that provided that a board denied accreditation was ineligible to receive, for the programs and services that were the subject of the denied accreditation, any state or federal funds in an amount that exceeded the amount the board received for the programs and services immediately prior to the date DMRDD determined that the board did not meet the accreditation standards.

**Audits of providers of services or programs**

(secs. 5123.02, 5123.05, and 5123.051)

If DMRDD determines pursuant to an audit or a reconciliation that money is owed to the state by a person or government agency that has entered into a contract with DMRDD to provide residential or respite care services, a payment agreement may be entered into. The act authorizes DMRDD, rather than the Office of Support within DMRDD, to enter into payment agreements and provides for such agreements with any provider of services or programs, not just residential and respite care service providers.

The act eliminates law that required that all money collected under a payment agreement be deposited in the state treasury to the credit of the Purchase of Service Fund. Under prior law, that fund was used solely to fund residential and respite care services. The act instead requires that the fund be used for audits of the programs and services that receive funds through or are subject to regulation by DMRDD.

**Repayments by contractors to DMRDD**

(Section 5)

The act provides that a person or government agency that has entered into a contract with DMRDD to provide residential services to individuals with mental retardation or developmental disabilities is not required to repay DMRDD the amount the contractor received from DMRDD pursuant to a retroactive rate increase DMRDD issued in April 1997. If, prior to the act's effective date a contractor repaid DMRDD the amount it received pursuant to that retroactive rate increase, DMRDD must return the payment. The returned payment must be paid from the Purchase of Service Fund. Neither the retroactive increase nor a payment DMRDD returns is an amount payable to the state for purposes of law that governs

the collection of amounts owed the state or is subject to a reconciliation under law governing DMRDD.

**Extension of the Joint Council on Mental Retardation and Developmental Disabilities**

(Section 4)

The act extends the expiration date under the sunset review law of the Joint Council on Mental Retardation and Developmental Disabilities to December 31, 2004.

**Self audits by county MRDD boards**

(sec. 5126.082)

Continuing law requires that the DMRDD Director adopt rules in accordance with the Administrative Procedure Act that establish standards for promoting and advancing the quality of life of individuals with mental retardation and developmental disabilities who receive certain early childhood, adult, or family support services. Prior law required each county MRDD board annually to submit a report to the DMRDD regarding the board's progress in complying fully with the standards. The act requires instead that each county MRDD board conduct a self audit to evaluate the board's progress in fully complying with the standards.

**Review and reporting of abuse, neglect, major unusual incidents, and unusual incidents**

**Review committees**

(sec. 5123.611)

Sub. S.B. 171 of the 123rd General Assembly requires DMRDD to establish committees to review reports of abuse, neglect, and other major unusual incidents. (Sec. 5123.61--not in the act.) The act requires that a review committee issue recommendations to DMRDD at the conclusion of its review. DMRDD must review the committee's recommendations and issue a report of its findings, which must be made available to (1) the person who is the subject of the report, (2) that person's guardian or legal counsel, (3) the licensee of a residential facility in which that person resides, and (4) the employer of any MRDD employee who allegedly committed or was responsible for the abuse, neglect, or major unusual

incident.<sup>2</sup> DMRDD is prohibited from disclosing its report to any other person or government entity not authorized to investigate reports of abuse, neglect, or other major unusual incidents, unless the person who is the subject of the report or the person's guardian gives DMRDD written consent.

**Reporting of major unusual incidents and unusual incidents**

(sec. 5123.612)

The act requires the DMRDD Director to adopt rules in accordance with the Administrative Procedure Act regarding the reporting of major unusual incidents and unusual incidents involving persons with mental retardation or a developmental disability. The rules must specify what constitutes a major unusual incident or an unusual incident.<sup>3</sup>

**Independent review of reports of abuse and neglect**

(sec. 5126.311)

Certain persons who have reason to believe that a mentally retarded or developmentally disabled adult has suffered any wound, injury, disability, or condition that reasonably indicates abuse or neglect are required to immediately report that information or cause it to be reported to a law enforcement agency or to the county MRDD board.<sup>4</sup> A county MRDD board is required to review reports of abuse and neglect it receives. The act provides an exception to that requirement when it would be inappropriate for the county board to investigate the report, as determined by DMRDD or the county board. In such a case, DMRDD or the county board may request that one of the following conduct the review instead of the county board: (1) another county MRDD board, (2) DMRDD, (3) a regional

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<sup>2</sup> Under the act, "MR/DD" employee means an employee of DMRDD or a county MRDD board, an individual who is employed by an intermediate care facility for the mentally retarded or provides services pursuant to a contract or as a volunteer for such a facility, or an individual who is employed in a position that includes providing specialized services to individuals with mental retardation or a developmental disability.

<sup>3</sup> DMRDD has already adopted a rule, Ohio Administrative Code § 5123:2-17-02, that defines major unusual incidents and unusual incidents and establishes reporting requirements for those incidents. The act gives DMRDD express authority to adopt such a rule.

<sup>4</sup> If the report concerns a resident of a facility operated by DMRDD, the report must be made to a law enforcement agency or DMRDD.

council of government, or (4) any other government entity authorized to investigate reports of abuse and neglect.

**Training of county MRDD board employees concerning abuse and neglect reports**

(sec. 5126.312)

Continuing law requires county MRDD boards to provide comprehensive formal training for employees and others authorized to review reports of abuse and neglect and arrange for the provision of services to persons with mental retardation or a developmental disability who have suffered abuse and neglect. The act requires DMRDD to adopt rules establishing minimum standards for that training. Training provided by a county MRDD board must meet the minimum standards.

**Other changes relating to DMRDD and county MRDD boards**

**Citizen's advisory council**

(sec. 5123.092)

Continuing law requires each DMRDD institution and branch institution to establish a 13-member citizen's advisory council. The act eliminates the authority of the Joint Council on Mental Retardation and Developmental Disabilities to appoint advisory council members when the DMRDD Director rejects nominees for appointment to an advisory council.

**Residence of superintendent of DMRDD institution**

(sec. 5123.09)

The act removes the authority of the DMRDD Director to require the superintendent of a DMRDD institution to reside on the institution's grounds and devote his or her entire time to the interests of the institution.

**Access to records of DMRDD institutions**

(sec. 5123.89)

The act authorizes a DMRDD institution's managing officer to provide access to the records and certain other confidential documents relating to a deceased resident, former resident, or person whose institutionalization was sought to the guardian or, if there was no guardian, to a family member (defined as a parent, brother, sister, spouse, son, daughter, grandparent, aunt, uncle, or cousin) of the decedent upon a written request for the access.

### **Travel expenses**

(sec. 5123.801)

The act removes the \$20 limit on the amount of travel and escort expenses a DMRDD institution may provide under certain circumstances for a resident on the resident's discharge or during a trial visit to an alternative community residential placement.

### **Comprehensive evaluation**

(secs. 5123.01 and 5123.85)

The act increases from 20 to 30 days the time within which, after a resident's admission to a DMRDD institution, a comprehensive evaluation must be completed and changes the definition of "comprehensive evaluation" so that the group that conducts the evaluation need not include an individual professionally qualified in the field of education.

### **Agreements with medical colleges**

(sec. 5123.11)

The act authorizes, rather than requires as under prior law, the DMRDD Director to enter into agreements with medical or osteopathic medical colleges to establish, manage, and conduct residency medical training programs.

### **Trustee of estate**

(sec. 5123.55)

The act permits an individual to be appointed a trustee of an estate of an individual with mental retardation or another developmental disability, in lieu of guardianship and without a judicial determination of incompetency, if the value of the estate is \$10,000 or less, rather than \$7,000 or less as under prior law.

### **Information on personal rights**

(secs. 5123.63 and 5123.64)

The act removes the requirement that instruction about the rights of individuals with mental retardation or another developmental disability be part of all individual habilitation plans. Instead, the act requires that the instruction "be documented."

The act removes the requirement that each provider of services post a copy of the list of rights and related information in a place accessible to recipients of services, employees, and visitors. Instead, the act requires that providers "make the information available."

The act removes the requirement that a service provider post a copy of its procedures for resolving complaints of violations of the rights in a place accessible to the service recipient. Instead, the act requires that the provider give each recipient or the recipient's parent, guardian, or advocate a copy of the procedures.

**Limitation on guardianship**

(sec. 5123.93)

The act prohibits the assignment of a person or agency that provides services to an individual with mental retardation as the individual's guardian, unless the person is related by blood or marriage or unless the service the person or agency provides is a protective service.

**Purposes of Chapter 5123.**

(sec. 5123.67)

DMRDD law includes a list of purposes the law is to be liberally interpreted to accomplish. Prior law included in the list a purpose of recognizing the need of persons with mental retardation or a developmental disability, whenever care in a residential facility was absolutely necessary, to live in surroundings and circumstances as close to normal as possible. The act provides instead for a purpose of promoting opportunities for such persons to live in surroundings or circumstances that are typical for other community members. The act adds a new purpose to the list: to promote the right of persons with mental retardation or a developmental disability to speak and be heard about the desired direction of their lives and to use available resources in ways that further that direction.

**Persons with mental retardation or another developmental disability**

(secs. 5123.01, 5123.02, 5123.042, 5123.082, 5123.17, 5123.181, 5123.27, 5123.34, 5123.351, 5123.353, 5123.55, 5123.62, 5123.63, 5123.64, 5123.67, 5123.93, and 5126.042)

The act changes certain existing references in MRDD-related statutes from "mentally retarded or developmentally disabled persons" to "persons with mental retardation or another developmental disability."

### **Terminology changes**

(secs. 5123.041, 5123.06, 5123.18, 5123.19, and 5123.21)

The act changes the title from "chief" to "deputy director" of a division of DMRDD. It replaces "standards and *procedures*" for the certification of habitation centers (adopted by DMRDD Director rules) with "standards" for that certification; changes a reference from "head of a hospital" to "managing officer" of an "institution"; and removes references to a "semi-independent living home," "family home," "group home," and "foster family home" in various MRDD-related statutes.<sup>5</sup>

### **Waiting lists**

(sec. 5126.042)

The act provides that the following take precedence over provisions in law governing waiting lists for MRDD programs or services: (a) Medicaid rules and regulations and (b) any specific requirements that may be contained within a Medicaid state plan amendment or waiver program that a county MRDD board has authority to administer or respect to which it has authority to provide services, programs, or supports.

### **In-home care exemption**

(sec. 5126.357)

A parent of an individual with mental retardation or a developmental disability who is not more than age 21 and the guardian of an individual with mental retardation or a developmental disability who is any age is permitted to authorize an unlicensed in-home care worker to give or apply prescribed medication or perform other health care tasks as part of the in-home care. The parent or guardian must be the primary supervisor of the care and the unlicensed in-home care worker must have been selected by the parent or guardian and be under the parent or guardian's direct supervision.

The act extends this authority to a family member of the individual with mental retardation or a developmental disability of any age. "Family member" is defined as a parent, sibling, spouse, son, daughter, grandparent, aunt, uncle, cousin, or guardian of the individual with mental retardation or a developmental disability. The individual with mental retardation or a developmental disability

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<sup>5</sup> *The latter types of homes are all "residential facilities," a term the act retains without modification.*

must reside with the family member and be dependent on the family member to the extent that, if the supports were withdrawn, another living arrangement would have to be found.

**County MRDD board reports**

(sec. 5126.12)

On or before each October 15, a county MRDD board is required to certify to the DMRDD Director the average daily membership in adult services for the first full week of services during October. This information must include persons participating in community employment services. Prior law provided that to be counted as participating in community employment services, a person must have spent an average of no less than 20 hours per week in such employment during the preceding six weeks. The act provides instead that a person must have spent an average of no less than ten hours per week in that employment during the preceding six months.

A county MRDD board is required to certify to the DMRDD Director an itemized report of expenditures for the calendar year which the Director has approved for reimbursement. Under prior law, the report was due by February 15. The act provides that the report is due on or before March 30 and for the report to cover all income and operating expenditures for the immediately preceding calendar year. A county board is required by the act to certify the report in a format DMRDD specifies.

**Expenditure report required for regional council of government**

(sec. 5126.13)

The act requires the fiscal officer of a regional council of government that consists of county MRDD boards to provide an income and operating expenditure report to DMRDD, in the format DMRDD specifies, by each March 30 covering the immediately preceding calendar year.

**MRDD board members**

(sec. 5126.02)

The act requires (a) that county MRDD board members be United States citizens and (b) that both the board of county commissioners and the probate judge, to the maximum extent possible, appoint members to the county MRDD board who have professional training and experience in business management, finance, law, health care practice, personnel administration, or government service.

**Appointment of interim superintendent**

(sec. 5126.023)

The act authorizes a county MRDD board to appoint, when a vacancy occurs, a superintendent for an interim period not to exceed 180 days until a permanent superintendent can be employed or arranged for. The DMRDD Director is permitted to approve additional time periods for these types of interim appointments if a county MRDD board so requests and the Director determines that additional periods are warranted and the services of a permanent superintendent are unavailable.

**Access to records of county MRDD boards and reports of abuse or neglect**

(secs. 5123.613 and 5126.044)

When a person who is the subject of a report of abuse or neglect dies or when an eligible person who requests programs or services dies, the act requires DMRDD, a county MRDD board, or an entity under contract with the county board, whichever is applicable, to provide the report, any records that relate to the report, and, in the case of an eligible person, any other reports and records to both of the following on written request:

(1) The executor or administrator of the person's estate if necessary to administer the person's estate;

(2) The person's guardian, or, if the person had no guardian at the time of death, to a person in the first applicable of the following categories: spouse, children, parents, brothers or sisters, uncles or aunts, closest relative by blood or adoption, or closest relative by marriage.

DMRDD, a county board, or an entity must provide the reports and records not later than 30 days after receiving the request.

**DMRDD Director rules regarding plans for residential services**

(sec. 5123.042)

The act eliminates a requirement that the DMRDD Director adopt rules under the Administrative Procedure Act establishing procedures as well as uniform standards governing the submission of certain plans to county MRDD boards for the development of residential services for individuals with mental retardation or another developmental disability.

**Repeal of provisions**

(secs. 5123.16 and 5123.231 (repealed))

The act repeals two statutes whose provisions, according to DMRDD, were no longer operative. The provisions related to the sale or lease of land or facilities under DMRDD's jurisdiction and substantial compliance by DMRDD and DMRDD institutions with standards for mental retardation facilities of the Accreditation Council for Services for Mentally Retarded and Other Developmentally Disabled Persons or medical assistance standards under federal Medicaid law by July 1, 1982 or January 1, 1983.

**Guardian's authority in relation to a deceased ward**

(secs. 2108.50 and 2111.13)

Continuing law requires that consent be given for the performance of an autopsy or post-mortem examination. The persons who may provide the consent are specified in the following order: (1) the person who is to be the subject of the autopsy or examination during that person's lifetime, (2) the person's spouse, (3) the person's children, parents, or brothers or sisters, (4) any other relative, and (5) a person with written authority to make arrangements for burial. The act includes as a person who may provide consent a person who was the guardian of the deceased person at the time of death. A guardian is to have the lowest degree of priority of persons who may give consent. A guardian who gives consent for an autopsy or post-mortem examination must notify the probate court as soon as possible after giving consent.

In a case in which a deceased ward did not have a guardian of the estate and the estate is not required to be administered by a probate court, the act permits a guardian to authorize the burial or cremation of the deceased ward. A guardian who authorizes a burial or cremation must notify the probate court as soon as possible after giving the authorization.

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**HISTORY**

ACTION	DATE	JOURNAL ENTRY
Introduced	01-11-00	p. 1494
Reported, H. State Gov't	04-18-00	pp. 1834-1835
Passed House (96-0)	05-03-00	pp. 1875-1876
Reported, S. Health, Human		



Services & Aging	05-23-00	p.	1776
Passed Senate (33-0)	05-24-00	pp.	1832-1833
House concurred in Senate amendments (93-0)	05-25-00	pp.	2133-2134

00-HB538.123/lg

