

# ENROLLMENT(S)

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(5)

AN ACT

D.C. ACT 12-588

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 12, 1999

*Codification  
District of  
Columbia  
Code  
1999 Supp.*

To amend, on an temporary basis, 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 two licensed physicians.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Mentally Retarded Citizens Substituted Consent for Health Care Decisions and Emergency Care Definition Temporary Amendment Act of 1998".

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:

**Note, Section  
21-2011**

"(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.

**Note, Section  
21-2046**

Sec. 3. The Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978, effective March 3, 1979 (D.C. Law 2-137; D.C. Code § 6-1901 *et seq.*) is amended as follows:

(a) Section 507 D.C. Code § 6-1967) 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

**Note, Section  
6-1967**

**ENROLLED ORIGINAL**

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 two 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. 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 provisions of health care decisionmakers pursuant to D.C. Code § 21-1101 *et seq.* for all incapacitated and potentially incapacitated persons under the Administrator's jurisdiction.

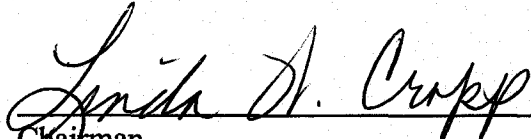
"(b) Nothing in this section shall be read to require any person to execute a durable power of attorney for health care."

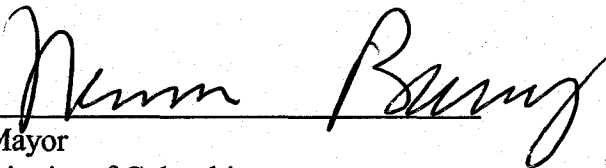
Note, Section  
6-1967.1

Sec. 4. 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. (a) 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), 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)), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(1)), and publication in the District of Columbia Register.

(b) This act shall expire after 225 days of its having taken effect.

  
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Chairman  
Council of the District of Columbia

  
\_\_\_\_\_  
Mayor  
District of Columbia

Approved: December 24, 1998



COUNCIL OF THE DISTRICT OF COLUMBIA  
 COUNCIL PERIOD TWELVE  
 RECORD OF OFFICIAL COUNCIL VOTE

B12-757

Docket No. \_\_\_\_\_

ITEM ON CONSENT CALENDAR

ACTION & DATE

ADOPTED FIRST READING, 12-01-98

VOICE VOTE  
 RECORDED VOTE ON REQUEST

APPROVED

ABSENT

THOMAS

ROLL CALL VOTE - Result

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Cropp					Chavous					Schwartz				
Allen					Evans					Smith, Jr.				
Ambrose					Jarvis					Thomas, Sr.				
Brazil					Mason									
Catania					Patterson									

X - Indicates Vote

AB - Absent

NV - Present not Voting

CERTIFICATION RECORD

*[Signature]*  
 Secretary to the Council

*[Signature]* December 17, 1998  
 Date

ITEM ON CONSENT CALENDAR

ACTION & DATE

ADOPTED FINAL READING, 12-15-98

VOICE VOTE  
 RECORDED VOTE ON REQUEST

APPROVED

ABSENT

THOMAS

ROLL CALL VOTE - Result

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Cropp					Chavous					Schwartz				
Allen					Evans					Smith, Jr.				
Ambrose					Jarvis					Thomas, Sr.				
Brazil					Mason									
Catania					Patterson									

X - Indicates Vote

AB - Absent

NV - Present not voting

CERTIFICATION RECORD

*[Signature]*  
 Secretary to the Council

*[Signature]* December 17, 1998  
 Date

ITEM ON CONSENT CALENDAR

ACTION & DATE

VOICE VOTE  
 RECORDED VOTE ON REQUEST

ABSENT

ROLL CALL VOTE - Result

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Cropp					Chavous					Schwartz				
Allen					Evans					Smith, Jr.				
Ambrose					Jarvis					Thomas, Sr.				
Brazil					Mason									
Catania					Patterson									

X - Indicates Vote

AB - Absent

NV - Present not Voting

CERTIFICATION RECORD

Secretary to the Council

Date