

Representative Mike Thompson proposes the following substitute bill:

**PROHIBITION OF COERCIVE RESTRAINT
PRACTICES**

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Mike Thompson

This act modifies the Mental Health Professional Licensing Act. The act restricts the use, practice, or application of restraint to certain circumstances.

This act affects sections of Utah Code Annotated 1953 as follows:

ENACTS:

58-60-117, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **58-60-117** is enacted to read:

58-60-117. Coercive restraint practices.

(1) As used in this section:

(a) "Coercive restraint" means a restraint used for purposes other than the safety of the patient or others.

(b) (i) "Restraint" means personal, physical, or mechanical restraint, that includes:

(A) the application of physical force without the use of any device, for the purpose of restraining the movement of the patient's body; or

(B) any manual method or physical or mechanical device, material, or equipment attached to or adjacent to the patient's body that the patient cannot easily remove that restricts freedom of movement or normal access to one's body.

(ii) "Restraint" does not include briefly holding, without undue force, a patient, in order to calm the patient, or holding a patient's hand to escort the patient safely from one area to another.



26 (2) Except as otherwise provided in Subsection (3), a licensed mental health therapist

27 h [or any other unlicensed individual] h may not:

28 (a) practice, use, or apply coercive restraint on or to a patient; or

29 (b) direct, instruct, prescribe, supervise, or recommend that coercive restraint be used

30 or applied on or to a patient.

31 (3) Subsection (2) does not apply:

32 (a) to a hospital that is subject to Requirements for States and Long Term Care

33 Facilities, 42 C.F.R. Subchapter G, Part 482;

34 (b) to a residential treatment facility that is subject to Requirements for States and

35 Long Term Care Facilities, 42 C.F.R. Subchapter G, Part 483; or

36 (c) when a mental health therapist determines that restraint is reasonably needed to:

37 (i) protect the patient or another person from what reasonably appears to be imminent

38 physical injury; or

39 (ii) protect property from what reasonably appears to be imminent, substantial damage.

40 (4) All use of restraint by a mental health therapist shall be fully documented in the

41 patient's file or chart.

42 (5) Any restraint permitted under Subsection (3)(c) must be terminated when

43 conditions described in Subsection (3)(c) no longer exist or may be remediated by less

44 restrictive means.

Fiscal Note

Prohibition of Coercive Restraint Practices

28-Jan-03

Bill Number HB0005s1

11:25 AM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst