

Representative James A. Ferrin 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) (a) As used in this section, "coercive restraint" means personal, physical, or mechanical restraint, that:

(i) covers all of a patient's face;

(ii) compresses a patient's body in a way that significantly impedes a patient's breathing or causes other physical harm;

(iii) restricts or prohibits a patient's breathing in any way;

(iv) causes physical pain to the patient;

(v) involves a therapist sitting on, lying upon, or leaning against a patient with full body contact; or

(vi) involves a therapist using elbows, knees, knuckles, or fists on or against a patient's body.

(b) "Coercive restraint" does not include briefly holding, without undue force, a



26 patient, in order to calm the patient, or holding a patient's hand to escort the patient safely from
27 one area to another.

28 (2) Except as otherwise provided in Subsection (3), a licensed mental health therapist
29 may not:

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

31 (b) direct, prescribe, or instruct that coercive restraint be used or applied on or to a
32 patient.

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

34 (a) to a hospital that is subject to Requirements for States and Long Term Care
35 Facilities, 42 C.F.R. Subchapter G, Part 482;

36 (b) to a residential treatment facility that is subject to Requirements for States and
37 Long Term Care Facilities, 42 C.F.R. Subchapter G, Part 483; or

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

40 (i) protect the patient or another person from what reasonably appears to be imminent
41 physical injury; or

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

43 (4) Any restraint permitted under Subsection (3)(c) must be terminated when
44 conditions described in Subsection (3)(c) no longer exist or may be remediated by less
45 restrictive means.

46 (5) All use of restraint by a mental health therapist shall be documented in the patient's
47 file or chart.

48 (6) Licensed mental health therapists who engage in physical contact as a therapy with
49 clients are required to enter upon engagement, a written contract with the patient, parent, or
50 legal guardian of the patient, that:

51 (a) describes the nature and objectives of the therapy;

52 (b) sets forth clear, appropriate, and culturally sensitive boundaries that govern such
53 physical contact;

54 (c) forbids clients, patients, parents, or legal guardians from performing holding or
55 restraint therapy at home; and

56 (d) states that holding or restraint as a mental health treatment is an alternative therapy

57 method.