

HOUSE BILL 3758

By West

AN ACT to amend Tennessee Code Annotated, Title 33,
Chapter 1, Part 3, relative to facilities for persons
with mental health and developmental disabilities.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 33, Chapter 1, Part 3, is amended by
adding a new section thereto, as follows:

Section 33-1-3__.

(a) The department shall:

(1) Provide written notice to the fiscal review committee of
its intent to propose legislation to permit immediate or gradual
closure of any state-owned or state-operated facility that provides
residential services to persons with mental retardation or other
developmental disabilities at least sixty (60) days prior to the next
legislative session;

(2) Provide written notice by first class mail to each
resident, the resident's immediate family, if known, and the
resident's guardian of its intent to propose legislation to permit
immediate or gradual closure of any state-operated facility that
provides residential services to persons with mental retardation or
other developmental disabilities at least sixty (60) days prior to the
next legislative session; and

(3) Include in the written notice provided under this section
that the resident, the resident's immediate family, the resident's

guardian, or any other interested party with standing to act on behalf of the resident has the right to pursue legal action relating to the notice provisions of this paragraph and relating to the closure of the facility.

(b) Any state-owned or state-operated facility or group home that provides residential services to persons with mental retardation or other developmental disabilities and that has been funded by the general assembly in a specific fiscal year, shall not be closed, nor shall the department announce the pending closure of the facility, during the same fiscal year except through the provisions specified by subsection (c).

(c) The department may close any state-owned or state-operated facility that provides residential services to persons with mental retardation or other developmental disabilities upon the effective date of legislation.

(d) When a demonstrated health or safety emergency exists for a facility or a federal action that requires or necessitates a gradual or immediate closure exists for the facility, the department may seek relief from the requirements of this section in the chancery court of the county where the facility is located as follows:

(1) The department shall provide written notice by registered mail to each resident, the resident's immediate family, if known, and the resident's guardian, at least ten (10) days prior to filing an emergency petition in the chancery court; and

(2) All interested parties, including the department, the resident, his or her immediate family, the resident's guardian, or other interested

parties with standing to act on behalf of the resident shall have standing in the proceedings under this subsection (d).

(3) Any resident, family member or guardian, or other interested parties, with standing to act on behalf of the resident who wishes to challenge the decision or actions of the department regarding the notice requirements of subdivision (d)(1) shall have a cause of action in the chancery court of the county in which the facility is located, or in Davidson County chancery court. In addition to other relief allowable by law, the resident, family member or guardian, or other interested party with standing to act on behalf of the resident may seek compensatory damages and attorney fees. Punitive damages shall not be allowable under this section.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.