

SUBCHAPTER I—PROTECTION AND  
ADVOCACY SYSTEMS

PART A—ESTABLISHMENT OF SYSTEMS

§ 10801. Congressional findings and statement of  
purpose

(a) The Congress finds that—

(1) individuals with mental illness are vulnerable to abuse and serious injury;

(2) family members of individuals with mental illness play a crucial role in being advocates for the rights of individuals with mental illness where the individuals are minors, the individuals are legally competent and choose to involve the family members, and the individuals are legally incompetent and the legal guardians, conservators, or other legal representatives are members of the family;

(3) individuals with mental illness are subject to neglect, including lack of treatment, adequate nutrition, clothing, health care, and adequate discharge planning; and

(4) State systems for monitoring compliance with respect to the rights of individuals with mental illness vary widely and are frequently inadequate.

(b) The purposes of this chapter are—

(1) to ensure that the rights of individuals with mental illness are protected; and

(2) to assist States to establish and operate a protection and advocacy system for individuals with mental illness which will—

(A) protect and advocate the rights of such individuals through activities to ensure the enforcement of the Constitution and Federal and State statutes; and

(B) investigate incidents of abuse and neglect of individuals with mental illness if the incidents are reported to the system or if there is probable cause to believe that the incidents occurred.

(Pub. L. 99-319, title I, §101, May 23, 1986, 100 Stat. 478; Pub. L. 102-173, §§3, 10(2), Nov. 27, 1991, 105 Stat. 1217, 1219.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original “this Act”, meaning Pub. L. 99-319, May 23, 1986, 100 Stat. 478, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note below and Tables.

AMENDMENTS

1991—Subsec. (a). Pub. L. 102-173, §10(2), substituted “individuals with mental illness” for “mentally ill individuals” in three places.

Subsec. (a)(2) to (4). Pub. L. 102-173, §3, added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

Subsec. (b). Pub. L. 102-173, §10(2), substituted “individuals with mental illness” for “mentally ill individuals” in three places.

SHORT TITLE OF 1991 AMENDMENT

Section 1 of Pub. L. 102-173 provided that: “This Act [amending this section and sections 10802 to 10807, 10821, 10824, 10826, 10827, 10841, and 10851 of this title] may be cited as the ‘Protection and Advocacy for Mentally Ill Individuals Amendments Act of 1991’.”

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100-509, §1, Oct. 20, 1988, 102 Stat. 2543, provided that: “This Act [amending sections 10802, 10804 to

10806, 10821, 10822, 10825, and 10827 of this title and enacting a provision set out as a note under section 10827 of this title] may be cited as the ‘Protection and Advocacy for Mentally Ill Individuals Amendments Act of 1988’.”

SHORT TITLE

Pub. L. 99-319, §1, May 23, 1986, 100 Stat. 478, as amended by Pub. L. 106-310, div. B, title XXXII, §3206(a), Oct. 17, 2000, 114 Stat. 1193, provided that: “This Act [enacting this chapter and section 247a of this title and enacting provisions set out as a note below] may be cited as the ‘Protection and Advocacy for Individuals with Mental Illness Act’.”

SUPERSEDURE OF BALANCED BUDGET PROVISIONS

Section 402 of Pub. L. 99-319 provided that: “This Act [see Short Title note above] shall not be construed as superseding any of the balanced budget provisions set forth in section 3(7) of the Congressional Budget and Impoundment Control Act of 1974 [2 U.S.C. 622(7)].”

§ 10802. Definitions

For purposes of this subchapter:

(1) The term “abuse” means any act or failure to act by an employee of a facility rendering care or treatment which was performed, or which was failed to be performed, knowingly, recklessly, or intentionally, and which caused, or may have caused, injury or death to a<sup>1</sup> individual with mental illness, and includes acts such as—

(A) the rape or sexual assault of a<sup>1</sup> individual with mental illness;

(B) the striking of a<sup>1</sup> individual with mental illness;

(C) the use of excessive force when placing a<sup>1</sup> individual with mental illness in bodily restraints; and

(D) the use of bodily or chemical restraints on a<sup>1</sup> individual with mental illness which is not in compliance with Federal and State laws and regulations.

(2) The term “eligible system” means the system established in a State to protect and advocate the rights of persons with developmental disabilities under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C. 15041 et seq.].

(3) The term “facilities” may include, but need not be limited to, hospitals, nursing homes, community facilities for individuals with mental illness, board and care homes, homeless shelters, and jails and prisons.

(4) The term “individual with mental illness” means, except as provided in section 10804(d) of this title, an individual—

(A) who has a significant mental illness or emotional impairment, as determined by a mental health professional qualified under the laws and regulations of the State; and

(B)(i)(I) who is an inpatient or resident in a facility rendering care or treatment, even if the whereabouts of such inpatient or resident are unknown;

(II) who is in the process of being admitted to a facility rendering care or treatment, including persons being transported to such a facility; or<sup>2</sup>

<sup>1</sup> So in original. Probably should be “an”.

<sup>2</sup> So in original.