

110TH CONGRESS  
1ST SESSION

# H. R. 3995

To protect the interests of each resident of intermediate care facilities for the mentally retarded in class action lawsuits on behalf of such resident.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 30, 2007

Mr. FRANK of Massachusetts introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To protect the interests of each resident of intermediate care facilities for the mentally retarded in class action lawsuits on behalf of such resident.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. PROTECTING THE INTERESTS OF EACH RESI-**  
4 **DENT OF INTERMEDIATE CARE FACILITIES**  
5 **FOR THE MENTALLY RETARDED IN CLASS AC-**  
6 **TION LAWSUITS ON BEHALF OF SUCH RESI-**  
7 **DENT.**

8 (a) IN GENERAL.—Notwithstanding any other provi-  
9 sion of law, no entity that receives funds from the Federal  
10 government may use such funds to file a class action law-

1 suit against an intermediate care facility for the mentally  
2 retarded on behalf of any resident of such facility unless  
3 the resident (or, if there is a legal representative of the  
4 resident, such legal representative), after receiving notice  
5 of the proposed class action lawsuit, has the opportunity  
6 to elect not to have the action apply to the resident.

7 (b) NOTICES; RESIDENT RIGHT OF WITHDRAWAL  
8 FROM LAWSUIT.—

9 (1) PLAINTIFF NOTICE OF PROPOSED LAWSUIT  
10 TO FACILITY.—If an entity uses funds from the Fed-  
11 eral government to file a class action lawsuit against  
12 an intermediate care facility for the mentally re-  
13 tarded on behalf of residents of such facility, the en-  
14 tity shall provide notice of the proposed lawsuit to  
15 the facility at least 90 days before the date of filing  
16 of the lawsuit.

17 (2) FACILITY NOTICE OF PROPOSED LAWSUIT  
18 TO RESIDENTS.—Not later than 30 days after the  
19 date the facility receives such notice, the facility  
20 shall provide notice of the proposed lawsuit to each  
21 resident of such facility on behalf of which the law-  
22 suit is proposed to be filed and, if there is a legal  
23 representative of such a resident, to such representa-  
24 tive.

1           (3) RESIDENT RIGHT TO WITHDRAW FROM  
2           LAWSUIT.—A resident (or, if there is a legal rep-  
3           resentative of such a resident, the legal representa-  
4           tive) may elect not to be part of such a proposed  
5           lawsuit by filing a notice of such decision with the  
6           facility within 60 days of the date the facility noti-  
7           fies the resident or legal representative of the pro-  
8           posed class lawsuit.

9           (c) LEGAL REPRESENTATIVE DEFINED.—In this sec-  
10          tion, the term “legal representative” means, with respect  
11          to a resident of an intermediate care facility for the men-  
12          tally retarded, an individual who has been appointed under  
13          State law to be a legal guardian, conservator, or other rep-  
14          resentative for the resident and who is authorized under  
15          law to make decisions on behalf of the resident with re-  
16          spect to care and treatment of the resident in the facility.

17          (d) EFFECTIVE DATE.—This section shall apply to  
18          lawsuits filed after the date of the enactment of this Act.

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