

2. NEEDS IN-RESIDENCE TREATMENT FOR PROTECTION OF THE INDIVIDUAL OR ANOTHER OR FOR ADEQUATE CARE OF THE INDIVIDUAL; AND

(II) THERE IS NO AVAILABLE, LESS RESTRICTIVE FORM OF TREATMENT THAT IS CONSISTENT WITH THE WELFARE AND SAFETY OF THE INDIVIDUAL.

REVISOR'S NOTE: This section is new language derived without substantive change from former Article 59A, §§ 10(c) and (d) and 11(c).

Throughout this section, the specific findings are substituted for references such as "the answer to either subsections (b)(1), (b)(2) herein, or both is in the negative," for clarity. This substitution avoids the error in the former phrases that "the answer to ... both is in the negative", which would require a simultaneous finding that an individual is not a mentally retarded individual and is a mentally retarded individual. See subsections (a)(1) and (b)(1) of this section.

In subsection (a) of this section, the former references to "the director's designee" are deleted as unnecessary in light of § 7-204(c)(2) of this title.

In subsection (a)(2)(ii) of this section, the former reference to "care" is deleted as unnecessary in light of the use of the defined term "treatment".

In subsection (b)(2)(ii) of this section, the defined term "treatment" is substituted for the reference to "intervention", for clarity.

The Commission to Revise the Annotated Code notes, for consideration by the General Assembly, that subsection (b)(2) of this section does not require a private facility to consider whether the particular private facility is appropriate for treatment of the individual.

As to the differences between the admission determinations under subsections (a) and (b) of this section, see the General Revisor's Note to this subtitle.

Defined terms: "Admission" § 7-101
"Comprehensive evaluation" § 7-101
"Director" § 7-101
"Mentally retarded individual" § 7-101