

Mental Health Bill [HL]

RUNNING LIST OF ALL AMENDMENTS ON REPORT

*Tabled up to and including
6 March 2025*

[Amendments marked ★ are new or have been altered]

After Clause 3

BARONESS BROWNING

★ After Clause 3, insert the following new Clause—

“Application of the Mental Capacity Act 2005: autism and learning disability

- (1) In Schedule 1A to the Mental Capacity Act 2005, paragraph 2, after the last line of the table, insert—

“Case F	P has autism or a learning disability and is not subject to any of the mental health regimes	See paragraph 5A”
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- (2) In Schedule 1A to the Mental Capacity Act 2005, paragraph 5, at end insert—

“5A (1) This paragraph applies in Case F in the table in paragraph 2.

(2) P is ineligible if the following conditions are met.

(3) The first condition is that P objects to being—

- (a) admitted for treatment as a mental health patient, or
(b) given some or all of the mental health treatment.

(4) The second condition is that a donee or deputy has not made a valid decision to consent to each matter to which P objects.

(5) In determining whether or not P objects to something, regard must be had to all the circumstances (so far as they are reasonably ascertainable), including the following—

- (a) P’s behaviour,
(b) P’s wishes and feelings, and

- (c) P's views, beliefs and values.
- (6) But regard is to be had to circumstances from the past only so far as it is still appropriate to have regard to them.
- (7) For the avoidance of doubt, Case F and this paragraph do not apply to determine P's ineligibility in respect of admission for assessment of mental disorder.””

Member's explanatory statement

This amendment to the Mental Capacity Act 2005 would prevent the Deprivation of Liberty Safeguards scheme being used to replace detention under section 3 of the Mental Health Act for people with learning difficulties or autism who do not have a mental health condition.

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