

**SENATE, No. 2983**

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**STATE OF NEW JERSEY**  
**213th LEGISLATURE**

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INTRODUCED JUNE 22, 2009

**Sponsored by:**

**Senator JENNIFER BECK**

**District 12 (Mercer and Monmouth)**

**SYNOPSIS**

"Tara's Law"; establishes registry of offending community care residence providers and requires written monthly case manager reports of individuals with developmental disabilities residing in community care residences.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning individuals with developmental disabilities,  
2 designated as "Tara's Law," amending P.L.1983, c.524, and  
3 supplementing chapter 6D of Title 30 of the Revised Statutes.

4  
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6 *of New Jersey:*

7  
8 1. (New section) The Legislature finds and declares that:

9 a. The safety of some of our most vulnerable citizens, those  
10 individuals with developmental disabilities who reside in  
11 community care residences throughout the State, is of utmost  
12 importance;

13 b. These community care residences are private homes or  
14 apartments in which adults or families contract with the Department  
15 of Human Services to provide care and training to individuals with  
16 developmental disabilities; the department issues licenses to  
17 individuals to operate community care residences if they satisfy the  
18 department's standards for these residences;

19 c. To help protect the safety of individuals with developmental  
20 disabilities who reside in community care residences, it is important  
21 that the department establish and maintain a registry so that those  
22 providers who have been implicated in substantiated incidents of  
23 abuse, neglect, exploitation, or abandonment of individuals with  
24 developmental disabilities are prevented from employment in  
25 facilities or programs of the Division of Developmental Disabilities  
26 and facilities or programs licensed, contracted, or regulated by the  
27 department, unless they can show they have been rehabilitated; and

28 d. Under current law, a case manager is required to visit a  
29 community care residence monthly and inspections must be  
30 conducted at least annually; additionally, unannounced inspections  
31 are authorized as deemed necessary to allow for inquiry into the  
32 operation of the residence and care management of the individual  
33 with developmental disabilities. To ensure proper follow up after  
34 monthly visits, it is necessary that a case manager send a written  
35 report that describes the care and safety of the individual with  
36 developmental disabilities to his supervisor and the individual's  
37 parent or legal guardian.

38  
39 2. (New section) As used in this act:

40 "Abandonment" shall consist of any of the following acts by a  
41 community care residence provider on an individual with  
42 developmental disabilities: willfully forsaking the individual with  
43 developmental disabilities; or failing to care for and keep control  
44 and custody of the individual so that the individual is exposed to  
45 physical or moral risk without proper and sufficient protection.

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 "Abuse" means wrongfully inflicting or allowing to be inflicted  
2 physical abuse or verbal or psychological abuse or mistreatment by  
3 a community care residence provider upon an individual with  
4 developmental disabilities.

5 "Alternate" means a person 18 years of age or older who assumes  
6 the responsibility of a licensee when the licensee is absent from a  
7 community care residence.

8 "Commissioner" means the Commissioner of Human Services.

9 "Community care residence" means a private home or apartment  
10 in which a person 18 years of age or older or family is licensed by  
11 and contracts with the department to provide an individual with  
12 developmental disabilities with care or training, or both.

13 "Community care residence provider" means a licensee or an  
14 alternate.

15 "Department" means the Department of Human Services.

16 "Developmental disability" means developmental disability as  
17 defined in section 3 of P.L.1977, c.82 (C.30:6D-3).

18 "Division" means the Division of Developmental Disabilities in  
19 the Department of Human Services.

20 "Exploitation" means the act or process of a community care  
21 residence provider using an individual with developmental  
22 disabilities or his resources for another person's profit or advantage.

23 "Licensee" means one or more persons 18 years of age or older  
24 who are named on the license issued by the department to operate a  
25 community care residence and have overall responsibility for an  
26 individual with developmental disabilities.

27 "Neglect" shall consist of any of the following acts by a  
28 community care residence provider on an individual with  
29 developmental disabilities: willfully failing to provide proper and  
30 sufficient food, clothing, maintenance, medical care, or a clean and  
31 proper home; or failure to do or permit to be done any act necessary  
32 for the well-being of an individual with developmental disabilities.

33 "Physical abuse" means a physical act directed at an individual  
34 with developmental disabilities by a community care residence  
35 provider of a type that causes one or more of the following: pain,  
36 injury, anguish, or suffering. Such acts include, but are not limited  
37 to, the individual with developmental disabilities being isolated,  
38 abducted, pinched, bitten, punched, slapped, hit, pushed, dragged,  
39 or struck with a thrown or held object.

40 "Registry" means the Registry of Offending Community Care  
41 Residence Providers established pursuant to this act.

42 "Verbal or psychological abuse or mistreatment" means any  
43 verbal or non-verbal act or omission by a caregiver that inflicts one  
44 or more of the following: emotional harm; mental distress; or  
45 invocation of fear, humiliation, intimidation, or degradation to an  
46 individual with developmental disabilities. Examples include, but  
47 are not limited to: bullying; ignoring need; verbal assault; use of

1 racial or ethnic slurs; or intimidating gestures, such as shaking a fist  
2 at an individual with developmental disabilities.

3  
4 3. (New section) a. If a person has reasonable cause to believe  
5 that an individual with developmental disabilities has been  
6 subjected to abuse, neglect, exploitation, or abandonment by a  
7 community care residence provider, that person shall report the  
8 same immediately to the department by telephone or otherwise.  
9 The report, if possible, shall contain the name and address of the  
10 individual with developmental disabilities and the individual's  
11 community care residence provider, guardian, or other person  
12 having custody and control of the individual and, if known:

13 (1) the condition of the individual with developmental  
14 disabilities;

15 (2) the nature and possible extent of the individual's injuries,  
16 maltreatment, abuse, neglect, exploitation, or abandonment,  
17 including any evidence of previous injuries, maltreatment, abuse,  
18 neglect, exploitation, or abandonment; and

19 (3) any other information that the person believes may be helpful  
20 with respect to the injuries, maltreatment, abuse, neglect,  
21 exploitation, or abandonment of the individual with developmental  
22 disabilities and the identity of the alleged offender.

23 b. The commissioner shall designate staff to receive and  
24 prioritize such reports, initiate appropriate responses through timely  
25 and appropriate investigative activities, and ensure that findings are  
26 reported in a uniform and timely manner.

27 c. A person who fails to report an act of abuse, neglect,  
28 exploitation, or abandonment of an individual with developmental  
29 disabilities while having reasonable cause to believe that such an  
30 act has been committed, is a disorderly person.

31  
32 4. (New section) a. Upon receipt of a report pursuant to  
33 section 3 of this act, the commissioner shall designate an entity, as  
34 established by the commissioner, that shall immediately take such  
35 action as shall be necessary to ensure the safety of the individual  
36 with developmental disabilities, and to that end may request  
37 appropriate assistance from local and State law enforcement  
38 officials or Adult Protective Services, pursuant to P.L.1993, c.249  
39 (C.52:27D-406 et seq.).

40 b. The commissioner shall adopt rules and regulations  
41 necessary to provide for an investigation of a reported incident and  
42 subsequent substantiation or non-substantiation of an allegation of  
43 abuse, neglect, exploitation, or abandonment of an individual with  
44 developmental disabilities by a community care residence provider.

45  
46 5. (New section) a. The commissioner shall establish and  
47 maintain a Registry of Offending Community Care Residence  
48 Providers in the department.

1       b. The commissioner shall adopt rules and regulations  
2 specifying the procedures and standards for inclusion of a  
3 community care residence provider on the registry and for  
4 notification of such inclusion to the provider.

5       (1) For inclusion on the registry in the case of a substantiated  
6 incident of abuse, the provider shall have acted with intent,  
7 recklessness, or careless disregard to cause or potentially cause  
8 injury to an individual with developmental disabilities.

9       (2) For inclusion on the registry in the case of a substantiated  
10 incident of abandonment or neglect, the provider shall have acted  
11 with gross negligence, recklessness, or in a pattern of behavior that  
12 causes or potentially causes harm to an individual with  
13 developmental disabilities.

14       (3) In the case of a substantiated incident of exploitation, the  
15 commissioner shall establish a minimum dollar amount for  
16 inclusion on the registry.

17       c. The commissioner also shall adopt rules and regulations  
18 that:

19       (1) provide for an appeals process of the determination to  
20 include an alleged offending community care residence provider's  
21 name on the registry;

22       (2) concern the dissemination of information in the registry;

23       (3) prohibit persons included on the registry from employment in  
24 facilities or programs of the division and facilities or programs  
25 licensed, contracted, or regulated by the department; and

26       (4) provide for the removal of a person's name from the registry.  
27 A person may apply for removal of his name to the commissioner  
28 after a period of five years of being placed on the registry. The  
29 person shall affirmatively demonstrate to the commissioner clear  
30 and convincing evidence of rehabilitation, using the provisions of  
31 P.L.1968, c.282 (C.2A:168A-1 et seq.) as a guide; and

32       d. The commissioner may adopt rules and regulations to allow  
33 bona fide employers serving vulnerable populations to inquire of  
34 the department if potential or current employees are included on the  
35 registry, consistent with federal and State privacy and  
36 confidentiality laws.

37       e. No information received in the registry shall be considered  
38 as a public or government record within the meaning of P.L.1963,  
39 c.73 (C.47:1A-1 et seq.) or P.L.2001, c.404 (C.47:1A-5 et al.).  
40

41       6. (New section) A record of a report made pursuant to this  
42 act, any information obtained by the department in investigating  
43 such reports, and a report of findings forwarded to the registry  
44 pursuant to this act shall be kept confidential and may be disclosed  
45 only under circumstances expressly authorized by rules and  
46 regulations promulgated by the commissioner. The department  
47 shall only disclose information that is relevant to the purpose for  
48 which the information is required; except that the department shall

1 not disclose information which would likely endanger the life,  
2 safety, or physical or emotional well-being of an individual with  
3 developmental disabilities or the life or safety of any other person,  
4 or which may compromise the integrity of a department  
5 investigation, civil or criminal investigation, or judicial proceeding.  
6 If the department denies access to specific information on this basis,  
7 the requesting entity may seek disclosure through the Superior  
8 Court. Nothing in this act shall be construed to permit the  
9 disclosure of any information deemed confidential by federal or  
10 State law.

11

12 7. (New section) The department shall maintain a 24-hours a  
13 day, seven days a week emergency telephone service for the receipt  
14 of calls involving a report, complaint, or allegation of abuse,  
15 neglect, exploitation, or abandonment pursuant to this act.

16

17 8. (New section) a. A person acting pursuant to this act in the  
18 making of a report under this act shall have immunity from any  
19 civil or criminal liability that might otherwise be incurred or  
20 imposed. Such a person shall have the same immunity with respect  
21 to testimony given in any judicial proceeding resulting from the  
22 report.

23 b. A person who reports or causes to report in good faith an  
24 allegation of abuse, neglect, exploitation, or abandonment pursuant  
25 to this act and as a result thereof is discharged from employment or  
26 in any manner discriminated against with respect to compensation,  
27 hire, tenure, or terms, conditions, or privileges of employment, may  
28 file a cause of action for appropriate relief in the Superior Court in  
29 the county in which the discharge or alleged discrimination  
30 occurred or in the county of the person's primary residence. If the  
31 court finds that the person was discharged or discriminated against  
32 as a result of the person's reporting an allegation of abuse, neglect,  
33 exploitation, or abandonment pursuant to this act, the court may  
34 grant reinstatement of employment with back pay or other legal or  
35 equitable relief.

36

37 9. Section 8 of P.L.1983, c.524 (C.30:6D-20) is amended to  
38 read as follows:

39 8. a. The department shall ensure that every developmentally  
40 disabled person covered by ~~【this act】~~P.L.1983, c.524 is visited at  
41 least monthly by a case manager employed by the department or by  
42 an agency under contract to the department.

43 b. In the case of a monthly visit to a person with developmental  
44 disabilities residing in a community care residence, upon  
45 completion of the monthly visit, the case manager shall provide a  
46 written report to the case manager's supervisor and to the parent or  
47 legal guardian, as appropriate, of the person with developmental  
48 disabilities. The report, which shall be sent electronically to the

1 case manager's supervisor and, if practicable, electronically to the  
2 parent or legal guardian, shall include information pertaining to the  
3 care and safety of the person with developmental disabilities,  
4 including, but not limited to, personal hygiene and grooming,  
5 nutritional and clothing needs, and overall general well-being of the  
6 person with developmental disabilities.  
7 (cf: P.L.1983, c.524, s.8)

8  
9 10. The Commissioner of Human Services shall adopt rules and  
10 regulations pursuant to the "Administrative Procedure Act,"  
11 P.L.1968, c.410 (C.52:14B-1 et seq.), to carry out the provisions of  
12 this act.

13  
14 11. This act shall take effect on the 180th day after the date of  
15 enactment, but the Commissioner of Human Services may take such  
16 anticipatory administrative action in advance thereof as shall be  
17 necessary for the implementation of this act.

#### 18 19 20 STATEMENT

21  
22 This bill seeks to protect individuals with developmental  
23 disabilities who reside in community care residences from abuse,  
24 neglect, exploitation, or abandonment by: establishing a registry of  
25 community care residence providers who are implicated in  
26 substantiated incidents of abuse, neglect, exploitation, or  
27 abandonment of an individual with developmental disabilities; and  
28 requiring case managers to provide written reports upon completion  
29 of their monthly visits to individuals with developmental  
30 disabilities.

31 Specifically, the bill requires the Department of Human Services  
32 (DHS) to establish and maintain a Registry of Offending  
33 Community Care Residence Providers. "Community Care  
34 Residence Providers" are defined in the bill as: "licensees," who  
35 are the one or more adults named on the license issued by DHS to  
36 operate a community care residence and have overall responsibility  
37 for an individual with developmental disabilities; and "alternates,"  
38 who are adults who assume the responsibility of licensees when  
39 they are absent from the community care residence.

40 The bill also defines the terms "abuse" (which includes both  
41 physical abuse and verbal or psychological abuse or mistreatment),  
42 "neglect," "exploitation," and "abandonment."

43 The bill provides that if a person has reasonable cause to believe  
44 that an individual with developmental disabilities has been  
45 subjected to abuse, neglect, exploitation, or abandonment by a  
46 community care residence provider, that person must make a report  
47 immediately to DHS. The report, if possible, would contain the  
48 name and address of the individual with developmental disabilities

1 and the individual's community care residence provider, guardian,  
2 or other person having custody and control of the individual and, if  
3 known: the condition of the individual with developmental  
4 disabilities and other information helpful to understanding the  
5 condition of the individual and the identity of the alleged offender.  
6 A person who fails to report an act of abuse, neglect, exploitation,  
7 or abandonment of an individual with developmental disabilities  
8 while having reasonable cause to believe that such an act has been  
9 committed, is a disorderly person (punishable by up to six months  
10 imprisonment, a fine of \$1,000, or both).

11 The Commissioner of Human Services is required to designate  
12 staff to receive and prioritize reports, initiate appropriate responses  
13 through timely and appropriate investigative activities, and ensure  
14 that findings are reported in a uniform and timely manner. Upon  
15 receipt of a report, the commissioner must take such action as shall  
16 be necessary to ensure the safety of the individual with  
17 developmental disabilities, and to that end may request appropriate  
18 assistance from local and State law enforcement officials or Adult  
19 Protective Services, pursuant to P.L.1993, c.249 (C.52:27D-406 et  
20 seq.).

21 The commissioner is also required to adopt rules and regulations  
22 that:

- 23 • provide for an investigation of a reported incident and  
24 subsequent substantiation or non-substantiation of an allegation  
25 of abuse, neglect, exploitation, or abandonment of an individual  
26 with developmental disabilities by a community care residence  
27 provider;
- 28 • specify the procedures and standards for inclusion of a  
29 community care residence provider on the Registry of Offending  
30 Community Care Residence Providers and for notification of  
31 such inclusion to the provider. For inclusion on the registry in  
32 the case of a substantiated incident of:  
33 --abuse, the provider must have acted with intent, recklessness,  
34 or careless disregard to cause or potentially cause injury to an  
35 individual with developmental disabilities;  
36 --abandonment or neglect, the provider shall have acted with  
37 gross negligence, recklessness, or in a pattern of behavior that  
38 causes or potentially causes harm to an individual with  
39 developmental disabilities; and  
40 --exploitation, the commissioner shall establish a minimum  
41 dollar amount for inclusion on the registry;
- 42 • provide for an appeals process of the determination to include an  
43 alleged offending community care residence provider's name on  
44 the registry;
- 45 • address the dissemination of information in the registry;
- 46 • prohibit persons included on the registry from employment in  
47 facilities or programs of the Division of Developmental



1       Disabilities in DHS and facilities or programs licensed,  
2       contracted, or regulated by the department; and  
3       • provide for the removal of a person's name from the registry. A  
4       person may apply for removal of his name after a period of five  
5       years of being placed on the registry, and must affirmatively  
6       demonstrate clear and convincing evidence of rehabilitation,  
7       using the provisions of P.L.1968, c.282 (C.2A:168A-1 et seq.)  
8       as a guide.

9       The commissioner may also adopt rules and regulations to allow  
10      bona fide employers serving vulnerable populations to inquire of  
11      DHS if potential or current employees are included on the registry,  
12      consistent with federal and State privacy and confidentiality laws.  
13      Information received in the registry shall not be considered as a  
14      public or government record within the meaning of P.L.1963, c.73  
15      (C.47:1A-1 et seq.) or P.L.2001, c.404 (C.47:1A-5 et al.).

16      The bill provides for confidentiality of records and provides that  
17      a record of a report made pursuant to the bill, any information  
18      obtained by DHS in investigating such reports, and a report of  
19      findings forwarded to the registry must be kept confidential and  
20      may be disclosed only under circumstances expressly authorized by  
21      rules and regulations promulgated by the commissioner. DHS shall  
22      only disclose information relevant to the purpose for which the  
23      information is required; except that the department shall not  
24      disclose information which would likely endanger the life, safety,  
25      or physical or emotional well-being of an individual with  
26      developmental disabilities or the life or safety of any other person,  
27      or which may compromise the integrity of a DHS investigation,  
28      civil or criminal investigation, or judicial proceeding. If access to  
29      specific information is denied on this basis, the requesting entity  
30      may seek disclosure through the Superior Court. The bill specifies  
31      that nothing in the bill shall be construed to permit the disclosure of  
32      any information deemed confidential by federal or State law.

33      In addition, the bill requires DHS to maintain a 24-hours a day,  
34      seven days a week emergency telephone service for the receipt of  
35      calls involving a report, complaint, or allegation of abuse, neglect,  
36      exploitation, or abandonment under the bill.

37      The bill also provides immunity from any civil or criminal  
38      liability that might otherwise be incurred or imposed. The  
39      immunity extends to testimony given in any judicial proceeding  
40      resulting from the report. A person who reports or causes to report  
41      in good faith an allegation of abuse, neglect, exploitation, or  
42      abandonment pursuant to this bill and as a result thereof is  
43      discharged from employment or in any manner discriminated  
44      against with respect to compensation, hire, tenure, or terms,  
45      conditions, or privileges of employment, may file a cause of action  
46      for appropriate relief in the Superior Court in the county in which  
47      the discharge or alleged discrimination occurred or in the county of  
48      the person's primary residence. If the court finds that the person

1 was discharged or discriminated against as a result of the person's  
2 reporting an allegation of abuse, neglect, exploitation, or  
3 abandonment pursuant to this bill, the court may grant reinstatement  
4 of employment with back pay or other legal or equitable relief.

5 In addition to the establishment of the registry, case managers,  
6 who are required under current law to visit individuals with  
7 developmental disabilities at least monthly in community care  
8 residences, are required under the bill to provide written reports  
9 upon completion of the monthly visits. The reports would be  
10 provided to the case manager's supervisor and to the parents or legal  
11 guardian of the individual with developmental disabilities residing  
12 in a community care residence. The bill specifies that reports must  
13 include information pertaining to the care and safety of the  
14 individual with developmental disabilities, including, but not  
15 limited to, personal hygiene and grooming, nutritional and clothing  
16 needs, and overall general well-being of the person with  
17 developmental disabilities.

18 Lastly, the bill has a delayed effective date of 180 days after  
19 enactment, but allows the commissioner to take such anticipatory  
20 administrative action in advance thereof as necessary for  
21 implementation of the bill.

22 It is intended that this legislation, by establishing the Registry of  
23 Offending Community Care Residence Providers, and requiring a  
24 written report upon completion of a case manager's monthly visit,  
25 will help to prevent the reoccurrence of tragedies such as the one  
26 that occurred in November 2008. Tara, a 28-year old woman with  
27 developmental disabilities, who had been receiving services from  
28 the Division of Developmental Disabilities and had been placed in a  
29 community care residence, lost a dangerous amount of weight, was  
30 relocated to a developmental center, and was subsequently admitted  
31 to a hospital weighing 48 pounds and suffering from dehydration,  
32 malnutrition, and bedsores. When her overall condition did not  
33 improve despite the use of a feeding tube to increase her weight by  
34 more than 20 pounds, she was disconnected from life support and  
35 died. The bill is designated "Tara's Law" in her memory.