

**ASSEMBLY, No. 1673**

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**STATE OF NEW JERSEY**

**214th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

**Sponsored by:**

**Assemblyman LOUIS D. GREENWALD**

**District 6 (Camden)**

**Assemblyman JOHN F. MCKEON**

**District 27 (Essex)**

**Assemblyman JON M. BRAMNICK**

**District 21 (Essex, Morris, Somerset and Union)**

**Assemblywoman CHARLOTTE VANDERVALK**

**District 39 (Bergen)**

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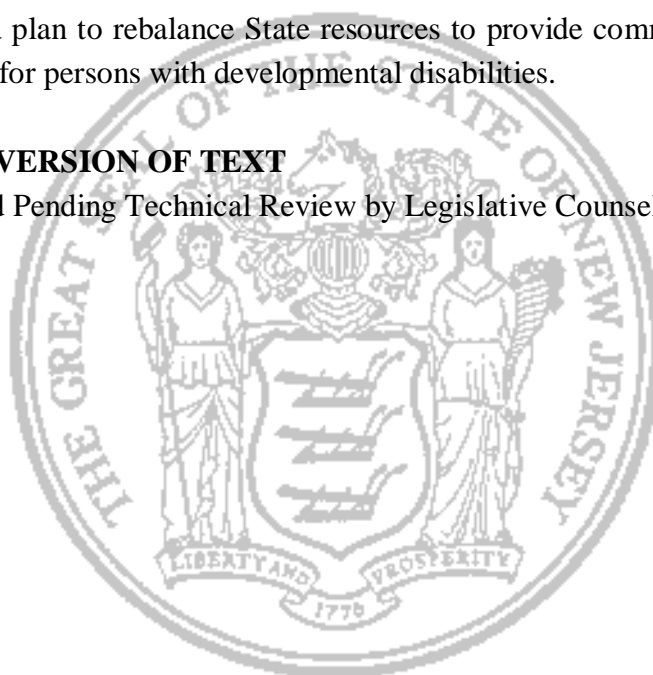
**Assemblywoman Angelini, Assemblymen Prieto, Chivukula,  
Assemblywoman Jasey, Assemblyman Fuentes and Assemblywoman  
N.Munoz**

**SYNOPSIS**

Provides a plan to rebalance State resources to provide community services and supports for persons with developmental disabilities.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel



**(Sponsorship Updated As Of: 10/8/2010)**

1    **AN ACT** concerning community services and supports for persons  
2       with developmental disabilities and supplementing chapter 6D of  
3       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. The Legislature finds and declares that:

9       a. Persons with developmental disabilities for whom it has  
10      been determined that community placement is appropriate but who  
11      are still residing in State developmental centers and for whom State  
12      resources are being expended to support this inappropriate level of  
13      care, and those persons with developmental disabilities who are on  
14      community services waiting lists, should be able to live quality,  
15      engaged lives in the community, with ready access to a broad range  
16      of community-based services and supports in the communities of  
17      their choice;

18      b. According to the New Jersey Olmstead Plan, "Path to  
19      Progress," issued in 2007, there are over 2,400 persons with  
20      developmental disabilities who have received a recommendation  
21      from their interdisciplinary team for community placement but who  
22      continue to reside in State developmental centers, and there are  
23      about 7,800 persons who remain on the Division of Developmental  
24      Disabilities waiting list for community services, which has grown  
25      by more than 60% in the last ten years;

26      c. In addition, youth with developmental disabilities who are  
27      transitioning into the adult system of care remain at home, with  
28      limited or no opportunity to pursue employment or meaningful  
29      daytime activities, and there is an obligation to help create the  
30      opportunity for independent lives in the community for these  
31      individuals as well, with the support of community-based services;

32      d. New Jersey has an obligation to make significant progress to  
33      meet the intent of the decision of the United States Supreme Court  
34      in *Olmstead v. L.C.* (1999), and make a systems transformation that  
35      enables persons with developmental disabilities to receive  
36      appropriate services and supports in a timely manner, by shifting its  
37      significant investment in developmental center-based care to,  
38      instead, develop and expand the community-based services and  
39      support systems;

40      e. While making significant progress to meet the unmet needs  
41      of persons with developmental disabilities and provide timely  
42      access to community-based services and supports, it is important for  
43      New Jersey to do so in a manner that makes it easy for individuals  
44      and their families to access services; and

45      f. To achieve these goals, it is necessary to shift financial and  
46      human resources from the State developmental centers and, instead,  
47      use these resources to strengthen and expand community-based

1 services, supports, and residential options to address unmet need by  
2 consolidating and closing developmental centers and retaining one  
3 center each in the northern and southern regions of the State.

4  
5 2. As used in this act:

6 "Community services waiting list" means a list maintained by the  
7 division that assigns a person with developmental disabilities,  
8 whose legal guardian or caregiver has requested residential services  
9 from the division, to a general or priority category on the list.

10 "Council" means the Community Services Planning Council for  
11 Persons with Developmental Disabilities established pursuant to  
12 section 5 of this act.

13 "Department" means the Department of Human Services.

14 "Developmental center" means a State developmental center  
15 listed in R.S.30:1-7.

16 "Developmental disability" means a 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.

20 "Fund" means the "Community Services and Supports for  
21 Persons with Developmental Disabilities Bridge Fund" established  
22 pursuant to section 3 of this act.

23 "Plan" means the plan created pursuant to section 6 of this act.

24 "Priority category" means that part of the community services  
25 waiting list used to designate that a person with a developmental  
26 disability is at significant risk.

27 "Significant risk" means the primary caregiver for the person  
28 with a developmental disability is over the age of 55 or has chronic  
29 physical or psychiatric conditions that limit the ability to care for  
30 the person with a disability, or there is a risk to the health or safety  
31 of any person residing in the home or a clear risk of abuse, neglect,  
32 or exploitation of the person with a developmental disability.

33  
34 3. a. There is established in the Department of the Treasury a  
35 nonlapsing, revolving fund to be known as the "Community  
36 Services and Supports for Persons with Developmental Disabilities  
37 Bridge Fund." This fund shall be the repository for moneys  
38 generated pursuant to subsection c. of this section.

39 b. The State Treasurer is the custodian of the fund and all  
40 disbursements from the fund shall be made by the State Treasurer  
41 upon vouchers signed by the Commissioner of Human Services, or  
42 his designee. The moneys in the fund shall be invested and  
43 reinvested by the Director of the Division of Investment in the  
44 Department of the Treasury as are other trust funds in the custody  
45 of the State Treasurer, in the manner provided by law. Interest  
46 received on the moneys in the fund shall be credited to the fund.

47 c. The fund shall consist of the moneys generated by:

(1) the amount of Capital Construction funds appropriated for Other State Projects and Energy Efficiencies - Statewide Projects on page 243 of P.L. 2008, c.35, which are intended to fund capital projects at the State developmental centers, excluding capital project costs that: (a) will result in a reduction in overall operational expenditures at developmental centers; (b) are required for life safety or environmental enhancements at developmental centers; (c) are required as a condition of licensure, accreditation, or receipt of federal Medicaid reimbursement; or (d) are required as part of an agreement between the State and the federal Department of Justice;

(2) fiscal year 2009 and each successive fiscal year through the end of fiscal year 2013 savings by the division in "salaries and wages expenditures" due to reductions in overtime expenditures;

(3) fiscal year 2009 community care waiver federal financial participation funds received in excess of the amount identified on page 15 of P.L.2008, c.35, as modified by the Governor's recommended budget for fiscal year 2010, and each successive fiscal year through the end of fiscal year 2013;

(4) reductions in developmental center operational costs achieved through consolidation in the first year and each subsequent year;

(5) proceeds achieved through the sale of developmental centers, to be utilized in accordance with the provisions of section 5 of P.L.1997, c.258 (C.30:4-177.57); and

(6) unspent funds from the division's fiscal year 2009 budget and each successive fiscal year through the end of fiscal year 2013.

4. a. The moneys in the fund shall be distributed by the department in a planned and expedient manner, through a request for proposal or other purchasing model that promotes timely access to services and supports, in order to promote such access and provide support for community living for persons with developmental disabilities.

b. The moneys shall be used to:

(1) build service capacity and expand access to services and supports in the community to meet unmet needs, including, but not limited to:

(a) crisis intervention and stabilization systems, including, but not limited to, mobile response, in-home supports, and crisis respite beds, consistent with the recommendations of the department's Dual Diagnosis Task Force Report;

(b) respite care;

(c) timely and flexible residential options that maximize choice, and fiscal and personal independence, incorporate demonstrated best practices and market availability and shall be available for persons with developmental disabilities who wish to leave

- 1 community residences for the developmentally disabled for other
- 2 residential options;
- 3 (d) community medical, behavioral health, dental, and specialty
- 4 care similar to that care provided to other members of the
- 5 community, including training and regulatory or policy changes
- 6 necessary to provide such care;
- 7 (e) flexible case management and support services that are
- 8 responsive to individual needs;
- 9 (f) employment and skills training to meet the changing job
- 10 market;
- 11 (g) education and training of staff to enhance skills;
- 12 (h) social, recreational, and meaningful daytime activities that
- 13 include programs that are responsive to persons throughout their
- 14 lifespan;
- 15 (i) peer and family supports and in-home and family
- 16 preservation services; and
- 17 (j) assistive and adaptive technology, including vehicle and
- 18 environmental modifications to promote independence;
- 19 (2) establish a moratorium on new placements in developmental
- 20 centers after the effective date of this act with the exception of
- 21 court-ordered placements or in instances of imminent danger to life
- 22 or safety, and concurrently develop, strengthen, and expand
- 23 community-based services, supports, and residential options to meet
- 24 emergency needs;
- 25 (3) consolidate, downsize, and reduce reliance on developmental
- 26 centers, so that there are no more than two developmental centers
- 27 remaining, one each in the northern and southern regions of the
- 28 State, within five years of the effective date of this act;
- 29 (4) afford the workforce of current developmental centers the
- 30 opportunity for early retirement or alternate workplace
- 31 opportunities within the State, including, but not limited to,
- 32 employment at the consolidated developmental centers or other
- 33 State institutions;
- 34 (5) redeploy staff positions from developmental centers utilizing
- 35 a staff without walls approach that retains State employment status
- 36 to: undertake regional or county assignments that support
- 37 community-based services systems; fill gaps in regional and county
- 38 operations, including but not limited to community case
- 39 management, specialty care such as occupational therapy, physical
- 40 therapy, and medical, dental and other health related services; and
- 41 address gaps in other professional and direct care positions in the
- 42 community;
- 43 (6) meet the unmet needs of persons on the community services
- 44 waiting list in order to: reduce continued growth of the waiting list;
- 45 avert the need for emergency out-of-home placement in a
- 46 developmental center; and support persons with developmental
- 47 disabilities who live with their families and afford them quality,

1 engaged lives in the community, while also providing stability to  
2 families caring for loved ones at home;

3 (7) provide a seamless transition for young adults with  
4 developmental disabilities who are leaving the education system but  
5 are in need of continuing services and supports; and

6 (8) maximize available federal funds and direct those funds  
7 toward community-based services.

8

9 5. a. There is established the Community Services Planning  
10 Council for Persons with Developmental Disabilities in the  
11 department.

12 The purpose of the council shall be to create, within 180 days of  
13 the date of the organization of the council, the implementation plan  
14 provided for in section 6 of this act.

15 b. The council shall consist of 17 members as follows:

16 (1) the Commissioner of Human Services and the State  
17 Treasurer, or their designees; the Assistant Commissioner of the  
18 Division of Developmental Disabilities in the Department of  
19 Human Services; and the chairs of the Assembly Budget and  
20 Human Services Committees and of the Senate Budget and  
21 Appropriations and Health, Human Services and Senior Citizens  
22 Committees, or their designees, who shall serve ex officio; and

23 (2) 10 public members, to be appointed by the Commissioner of  
24 Human Services, as follows: two advocates for persons with  
25 developmental disabilities who are persons living with  
26 developmental disabilities; two family members of persons  
27 receiving services from the division who have transitioned to  
28 community living from a developmental center; a representative  
29 from the Family Education Project in the School of Public Health in  
30 the University of Medicine and Dentistry of New Jersey; a  
31 representative from the New Jersey Association of Community  
32 Providers; a representative from the Autistic Self Advocacy  
33 Network; a representative from Advocates for Alternatives, Inc.; a  
34 representative from a labor union; and a recognized national expert  
35 on developmental disabilities, public policy, and systems design  
36 and development.

37 Vacancies in the membership of the council shall be filled in the  
38 same manner provided for the original appointments.

39 c. The council shall organize as soon as practicable following  
40 the appointment of its members and hold hearings as it deems  
41 appropriate to carry out its purpose. The Commissioner of Human  
42 Services, or his designee, shall be the chair of the council and shall  
43 appoint a secretary who need not be a member of the council.

44 d. The public members shall serve without compensation, but  
45 shall be reimbursed for necessary expenses incurred in the  
46 performance of their duties and within the limits of funds available  
47 to the council.

1 e. The council shall be entitled to call to its assistance and avail  
2 itself of the services of the employees of any State, county, or  
3 municipal department, board, bureau, commission, or agency as it  
4 may require and as may be available to it for its purposes.

5 f. The department shall provide staff support to the council.  
6

7 6. a. The council shall create a preliminary and comprehensive  
8 implementation plan, including timetables and benchmarks, which  
9 shall:

10 (1) provide an overall strategy for the reduction of the  
11 population in the developmental centers by 80% within five years of  
12 the effective date of this act, and for the reduction in the number of  
13 developmental centers to one each in the northern and southern  
14 regions of the State;

15 (2) provide for the transfer into the community of persons with  
16 developmental disabilities residing in the developmental centers  
17 whose interdisciplinary teams have made recommendations for  
18 community placement and who choose such placement;

19 (3) provide details about the reduction, transition, and  
20 redeployment of the workforce, and of the downsizing and sale of  
21 developmental centers, which shall include the ongoing costs for  
22 preparing for the sale of developmental centers and a fiscal analysis  
23 of the redirection of funds to support community living;

24 (4) provide details about: the development and expansion of  
25 community services, supports, and residential options to meet the  
26 unmet needs of persons on the community services waiting list; the  
27 moratorium on future placements in developmental centers, and the  
28 needs of persons in the developmental centers who will remain in a  
29 developmental center; the needs of youth with developmental  
30 disabilities to transition to the adult system in a seamless and timely  
31 manner; and support services to persons with developmental  
32 disabilities who are residing with their families;

33 (5) specify clear procedures for accomplishing the tasks  
34 necessary to carry out the provisions of this act within five years of  
35 the effective date of this act, and define positions of responsibility  
36 to accomplish these tasks in a timely, effective, and efficient  
37 manner;

38 (6) specify measureable objectives for carrying out the  
39 provisions of this act, and benchmarks and timeframes for meeting  
40 those objectives within five years of the effective date of this act;

41 (7) stipulate the use of moneys in the fund to strengthen and  
42 expand access to community services and supports; and

43 (8) specify a timetable and funding necessary to shift resources  
44 from institutional to community support.

45 b. The plan shall include a minority report, if applicable.





1 strengthen and expand community-based services, supports, and  
2 residential options to address unmet need by consolidating and  
3 closing developmental centers and retaining one each in the  
4 northern and southern regions of the State within five years of the  
5 bill's effective date.

6 To make these changes, the bill establishes: the "Community  
7 Services and Support for Persons with Developmental Disabilities  
8 Bridge Fund"; the Community Services Planning Council for  
9 Persons with Developmental Disabilities in DHS which would  
10 create an implementation plan; and a steering committee to oversee  
11 the implementation of the plan.

12 The fund would be established in the Department of the Treasury  
13 as a nonlapsing, revolving fund which would be the repository for  
14 moneys generated by:

- 15 • the amount of Capital Construction funds appropriated for Other  
16 State Projects and Energy Efficiencies - Statewide Projects,  
17 which are intended to fund capital projects at the State  
18 developmental centers, excluding capital project costs that: will  
19 result in a reduction in overall operational expenditures at  
20 developmental centers; are required for life safety or  
21 environmental enhancements at developmental centers; are  
22 required as a condition of licensure, accreditation, or receipt of  
23 federal Medicaid reimbursement; or are required as part of an  
24 agreement between the State and the federal Department of  
25 Justice;
- 26 • fiscal year 2009 and each successive fiscal year through the end  
27 of fiscal year 2013 savings by DDD in "salaries and wages  
28 expenditures" due to reductions in overtime expenditures;
- 29 • fiscal year 2009 community care waiver federal financial  
30 participation funds received in excess of the amount identified  
31 in the appropriations act, as modified by the Governor's  
32 recommended budget for fiscal year 2010, and each successive  
33 fiscal year through the end of fiscal year 2013;
- 34 • reductions in developmental center operational costs achieved  
35 through consolidation in the first year and each subsequent year;
- 36 • proceeds achieved through the sale of developmental centers, to  
37 be utilized in accordance with the provisions of section 5 of  
38 P.L.1997, c.258 (C.30:4-177.57) (for capital and equipment  
39 costs associated with the development of community  
40 placement); and
- 41 • unspent funds from DDD's fiscal year 2009 budget and each  
42 successive fiscal year through the end of fiscal year 2013.

43 The bill specifies that the moneys in the fund would be  
44 distributed in a planned and expedient manner, through a request for  
45 proposal or other purchasing model that utilizes contract systems  
46 which promote timely access to services and supports. The moneys  
47 would be used to:

- 1       • build service capacity and expand access to certain services  
2       and supports in the community, as listed in the bill;
- 3       • establish a moratorium on new placements in developmental  
4       centers, except for court-ordered placements or in instances  
5       of imminent danger to life or safety; and concurrently  
6       develop, strengthen and expand community-based services,  
7       supports, and residential options to meet emergency needs;
- 8       • consolidate, downsize, and reduce reliance on developmental  
9       centers;
- 10      • afford the workforce of current developmental centers the  
11      opportunity for early retirement or alternate workplace  
12      opportunities within the State, including, but not limited to,  
13      employment at the consolidated developmental centers or at  
14      other State institutions;
- 15      • redeploy staff positions from developmental centers utilizing  
16      a staff without walls approach that retains State employment  
17      status to: undertake regional or county assignments that  
18      support community-based services systems, fill gaps in  
19      regional and county operations, including but not limited to  
20      community case management, specialty care such as  
21      occupational therapy, physical therapy, and medical, dental  
22      and other health related services, and address gaps in  
23      professional and direct care positions in the community;
- 24      • meet the unmet needs of persons on the community services  
25      waiting list in order to: reduce continued growth of the  
26      waiting list; avert the need for emergency out-of-home  
27      placement in a developmental center; and support persons  
28      with developmental disabilities who live with their families  
29      and afford them quality, engaged lives in the community,  
30      while also providing stability to families caring for loved  
31      ones at home;
- 32      • provide a seamless transition for young adults with  
33      developmental disabilities who are leaving the education  
34      system but are in need of continuing services and supports;  
35      and
- 36      • maximize available federal funds and direct those funds  
37      toward community-based services.

38      The Community Services Planning Council for Persons with  
39      Developmental Disabilities established under the bill would consist  
40      of 17 members as follows:

41      -- the Commissioner of Human Services and the State Treasurer,  
42      or their designees; the Assistant Commissioner of the Division of  
43      Developmental Disabilities in the Department of Human Services;  
44      and the chairs of the Assembly Budget and Human Services  
45      Committees and of the Senate Budget and Appropriations and  
46      Health, Human Services and Senior Citizens Committees, or their  
47      designees, who shall serve ex officio; and

-- 10 public members, to be appointed by the Commissioner of Human Services, as follows: two advocates for persons with developmental disabilities who are persons living with developmental disabilities; two family members of persons receiving services from DDD who have transitioned to community living from a developmental center; a representative from the Family Education Project in the School of Public Health in the University of Medicine and Dentistry of New Jersey; a representative from the New Jersey Association of Community Providers; a representative from the Autistic Self Advocacy Network; a representative from Advocates for Alternatives, Inc.; a representative from a labor union; and a recognized national expert on developmental disabilities, public policy, and systems design and development.

The council is required to create a preliminary and comprehensive implementation plan that would:

- provide an overall strategy for the reduction of the population in the developmental centers by 80% within five years of the bill's effective date, and for the reduction in the number of developmental centers to one each in the northern and southern regions of the State;
- provide for the transfer into the community of persons with developmental disabilities residing in the developmental centers whose interdisciplinary teams have made recommendations for community placement and who choose such placement;
- provide details about the reduction, transition, and redeployment of the workforce, and of the downsizing and sale of developmental centers, which shall include the ongoing costs for preparing for the sale of developmental centers and a fiscal analysis of the redirection of funds to support community living;
- provide details about: the development and expansion of community services, supports, and residential options to meet the unmet needs of persons on the community services waiting list; the moratorium on future placements in developmental centers and the needs of persons in the developmental centers who will remain in a developmental center; the needs of youth with developmental disabilities to transition to the adult system in a seamless and timely manner; and support services to persons with developmental disabilities who are residing with their families;
- specify clear procedures for accomplishing the tasks necessary to carry out the provisions of the bill, and define positions of responsibility to accomplish these tasks in a timely, effective, and efficient manner;

- 1       • specify measureable objectives, and benchmarks and  
2       timeframes for meeting those objectives within five years of  
3       the bill's effective date;
- 4       • stipulate the use of moneys in the fund to strengthen and  
5       expand access to community services and supports; and
- 6       • specify a timetable and funding necessary to shift resources  
7       from institutional to community support.
- 8       The bill requires the council to submit the plan, which shall  
9       include a minority report, if applicable, to the Governor and  
10      Legislature within 180 days of the date of organization of the  
11      council.
- 12      In addition, the steering committee, established under the bill to  
13      monitor the plan's implementation, would consist of not more than  
14      30 members and would include:
- 15      -- the members of the council; and
- 16      -- other members appointed by the Commissioner of Human  
17      Services as follows: the deputy and assistant directors or regional  
18      administrators of DDD, or both, who shall serve ex officio;  
19      representatives from developmental disabilities community provider  
20      organizations; and persons with developmental disabilities who are  
21      residing in the developmental centers or are on the community  
22      services waiting list, or their family members, or both.
- 23      Lastly, the bill requires the Commissioner of Human Services to  
24      provide quarterly progress reports on the development and  
25      implementation of the plan to the Governor and the Legislature.