

[First Reprint]

**SENATE, No. 516**

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**STATE OF NEW JERSEY**  
**217th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

**Sponsored by:**

**Senator JENNIFER BECK**

**District 11 (Monmouth)**

**Senator STEPHEN M. SWEENEY**

**District 3 (Cumberland, Gloucester and Salem)**

**Co-Sponsored by:**

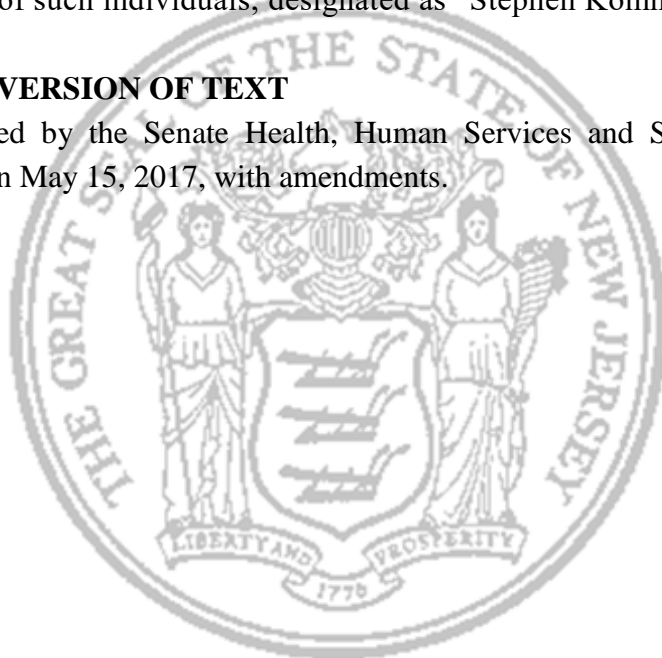
**Senators T.Kean, Weinberg, Pou, Holzapfel, Bateman, A.R.Bucco,  
Diegnan, Addiego, Gordon and Ruiz**

**SYNOPSIS**

Provides protections for individuals with developmental disabilities; upgrades crimes committed against such individuals; and improves transparency and accountability in investigations of abuse, neglect, and exploitation of such individuals; designated as “Stephen Komninos’ Law.”

**CURRENT VERSION OF TEXT**

As reported by the Senate Health, Human Services and Senior Citizens Committee on May 15, 2017, with amendments.



**(Sponsorship Updated As Of: 6/20/2017)**

1 AN ACT concerning individuals with developmental disabilities,  
2 designated as Stephen Komninos' Law, supplementing <sup>1</sup>**[Title]**  
3 Titles 2C and<sup>1</sup> 30 of the Revised Statutes, and amending  
4 <sup>1</sup>**[P.L.2010, c.5]** various parts of the statutory law<sup>1</sup>.

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

8  
9 <sup>1</sup>1. (New section) Endangering Welfare of Individuals with  
10 Developmental Disabilities.

11 a. A caregiver or other person who has a legal duty to care for  
12 an individual with a developmental disability, or who has assumed  
13 responsibility for the care of a individual with a developmental  
14 disability, and who subjects the individual with a developmental  
15 disability to abuse, neglect, or exploitation, is guilty of a crime of  
16 the second degree. Any other person who engages in conduct or  
17 who causes harm as described in this section to an individual with a  
18 developmental disability is guilty of a crime of the third degree.

19 b. As used in this section:

20 “Abuse,” “caregiver,” “exploitation,” and “neglect” each mean  
21 the same as those terms are defined by section 2 of P.L.2010, c.5  
22 (C.30:6D-74).

23 “Developmental disability” means the same as that term is  
24 defined by section 3 of P.L.1977, c.82 (C.30:6D-3).<sup>1</sup>

25  
26 <sup>1</sup>2. (New section) As used in sections 3 through 7 of P.L. ,  
27 c. (C. ) (pending before the Legislature as this bill):

28 “Abuse” means the same as that term is defined by section 2 of  
29 P.L.2010, c.5 (C.30:6D-74).

30 “Commissioner” means the Commissioner of Human Services.

31 “Community-based residential program” or “residential program”  
32 means a group home or supervised apartment, which is licensed and  
33 regulated by the department.

34 “Day program” means a program that is certified to provide day  
35 habilitation services or sheltered workshops for individuals with  
36 developmental disabilities.

37 “Department” means the Department of Human Services.

38 “Department employee” means a direct employee of the  
39 Department of Human Services, or an employee of a department-  
40 funded case management agency.

41 “Developmental disability” means the same as that term is  
42 defined by section 3 of P.L.1977, c.82 (C.30:6D-3).

43 “Direct care staff member” means a person 18 years of age or  
44 older who is employed by a program, facility, or living arrangement

**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.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SHH committee amendments adopted May 15, 2017.

1 identified in subsection a. of section 6 of P.L. , c. (C. )  
2 (pending before the Legislature as this bill), and who may come  
3 into direct contact with individuals with developmental disabilities  
4 during the course of such employment.

5 “Exploitation” means the same as that term is defined by section  
6 2 of P.L.2010, c.5 (C.30:6D-74).

7 “Group home” means a living arrangement that is operated in a  
8 residence or residences leased or owned by a licensee; which  
9 provides the opportunity for individuals with developmental  
10 disabilities to live together in a home, sharing in chores and the  
11 overall management of the residence; and in which staff provides  
12 supervision, training, or assistance in a variety of forms and  
13 intensity as required to assist the individuals.

14 “Licensee” means an individual, partnership, or corporation that  
15 is licensed by the department, and is responsible for providing  
16 services associated with the operation of a community-based  
17 residential program.

18 “Major physical injury” means an injury that requires treatment  
19 that can only be performed at a general hospital or special hospital  
20 licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), and which  
21 may additionally include admission to the hospital for further  
22 treatment or observation.

23 “Minor physical injury” means an injury that does not constitute  
24 a major physical injury or a moderate physical injury, and which  
25 can be treated with basic first aid, and without the assistance of a  
26 health care professional.

27 “Moderate physical injury” means an injury that does not  
28 constitute a major injury, but which requires treatment, beyond  
29 basic first aid, that can only be performed by a health care  
30 professional.

31 “Neglect” means the same as that term is defined by section 2 of  
32 P.L.2010, c.5 (C.30:6D-74).

33 “Program” means any program that is licensed or funded by the  
34 department for the purpose of providing services to individuals with  
35 developmental disabilities. “Program” includes, but is not limited  
36 to, a day program or a community-based residential program.

37 “Supervised apartment” means an apartment that is occupied by  
38 individuals with developmental disabilities; is leased or owned by a  
39 licensee; and in which staff provides supervision, guidance, and  
40 training, as needed, to assist individual occupants in the activities of  
41 daily living, in accordance with each individual's needs and targeted  
42 future goals.<sup>1</sup>

43  
44 <sup>1</sup>**[1.] 3.**<sup>1</sup> (New section) a. The <sup>1</sup>**[Commissioner of Human**  
45 **Services] commissioner**<sup>1</sup>, or the commissioner's designee, shall  
46 designate <sup>1</sup>**[one or more members of the public to serve as an**  
47 **advocate for individuals with developmental disabilities and one or**  
48 **more staff members from the Special Response Unit in the**

1 department, to participate in an unannounced site visit conducted  
2 pursuant to this section.

3 b. An advocate and staff member designated pursuant to  
4 subsection a. of this section and a member of a law enforcement  
5 agency shall employees of the Department of Human Services,  
6 who are not employees of a State developmental center, but who  
7 may be case managers employed by the department or an agency  
8 under contract with the department, to annually<sup>1</sup> conduct <sup>1</sup>[at least  
9 six bi-monthly unannounced] not less than two<sup>1</sup> site visits <sup>1</sup>[during  
10 a calendar year at a facility, as defined in section 3 of P.L.1977,  
11 c.82 (C.30:6D-3),] of every community-based residential program  
12 and every day program, in order<sup>1</sup> to <sup>1</sup>[check] evaluate<sup>1</sup> whether the  
13 individuals with developmental disabilities who are receiving  
14 services from <sup>1</sup>[the facility] each such program, facility, or living  
15 arrangement licensed or funded by the department, other than a  
16 community care residence which is subject to visits pursuant to  
17 section 7 of P.L.2012, c.69 (C.30:6D-5.13),<sup>1</sup> are at risk of, or are  
18 being subjected to, abuse, neglect, or exploitation by a caregiver,  
19 and report the <sup>1</sup>[same] results of each site visit<sup>1</sup> pursuant to section  
20 3 of P.L.2010, c.5 (C.30:6D-75).

21 <sup>1</sup>b. (1) In the case of a community-based residential program  
22 that is a group home, not less than two annual site visits that are  
23 conducted for each such group home shall be unannounced site  
24 visits conducted by a department employee who is assigned to a  
25 resident of the group home.

26 (2) In the case of a community-based residential program that is  
27 a supervised apartment, not less than two annual site visits that are  
28 conducted for each such supervised apartment shall be unannounced  
29 site visits of the apartment, which shall be conducted by a  
30 department employee who is unaffiliated and unfamiliar with the  
31 assigned case.

32 (3) In the case of a day program, not less than one annual site  
33 visit that is conducted for each day habilitation service provider and  
34 each sheltered workshop provider shall be an unannounced site visit  
35 conducted by a department employee who is assigned to a  
36 participant in the day program; and not less than one annual site  
37 visits shall be an unannounced site visit conducted by a department  
38 employee who is unaffiliated and unfamiliar with the assigned case.

39 c. Nothing in this section shall be interpreted to authorize a  
40 staff member or agent of a community-based residential program, or  
41 a staff member or agent of a day program, to perform the site visits  
42 required by this section.<sup>1</sup>

43

44 <sup>1</sup>[2.] <sup>1</sup>4.<sup>1</sup> (New section) a. <sup>1</sup>[The commissioner, or the  
45 commissioner's designee, shall notify the guardian or authorized  
46 family member of an individual with a developmental disability  
47 receiving services from the Division of Developmental Disabilities

1 of any] A provider or licensee of a program, facility, community  
2 care residence, or living arrangement licensed or funded by the  
3 department, shall provide notification, in accordance with the  
4 provisions of subsection b. of this section, of any major physical  
5 injury, moderate physical injury, or minor physical<sup>1</sup> injury<sup>1</sup> [to  
6 the], as prescribed by department regulation, that is suffered by an<sup>1</sup>  
7 individual with a developmental disability<sup>1</sup> [,] who is receiving  
8 services from the provider or licensee.

9 b. Except as otherwise provided by subsection c. of this  
10 section, notification required under this section shall be provided:

11 (1)<sup>1</sup> as soon as possible, but no later than<sup>1</sup> [one hour] 60  
12 minutes<sup>1</sup> after the occurrence of the injury<sup>1</sup> [. Notification shall be  
13 in person] ;

14 (2) to the guardian of the injured individual with a  
15 developmental disability, or, if there is no guardian of the  
16 individual, to a family member who requests such notification; and

17 (3) through in-person means<sup>1</sup> , or by telephone<sup>1</sup> ,<sup>1</sup> and<sup>1</sup> [the use  
18 of] also through email or<sup>1</sup> other electronic means<sup>1</sup> [to follow up  
19 the telephoned] . Electronic means may be used to engage in  
20 follow-up communications after the initial<sup>1</sup> notification.

21 <sup>1</sup>[b. As used in this section "authorized family member" means  
22 a relative of the individual with a developmental disability  
23 authorized by the individual's guardian, or by the individual if the  
24 individual is his own guardian, to receive information pursuant to  
25 this section.]

26 c. Notwithstanding the provisions of this section to the  
27 contrary, notification pursuant to this section shall not be required if  
28 the guardian or family member expresses, in a written document  
29 filed with the caretaker, that they do not want to receive notification  
30 of injury pursuant to this section.<sup>1</sup>

31  
32 <sup>1</sup>5. (New section) Within 48 hours after receipt of a report of an  
33 incident involving moderate physical injury, major physical injury,  
34 or abuse, neglect, or exploitation in a State developmental center,  
35 community-based residential program, or day program, the  
36 commissioner shall send an employee of the department, who is not  
37 an employee of a State developmental center, but who may be a  
38 case manager employed either by the department, or by an agency  
39 under contract with the department, to the location of the reported  
40 incident, in order to verify the level of severity of the incident. In  
41 investigating the incident, the department shall comply with the  
42 provisions of section 4 of P.L.2010, c.5 (C.30:6D-76).<sup>1</sup>

43  
44 <sup>1</sup>6. (New section) a. (1) A person applying for employment as  
45 a direct care staff member at a program, facility, or living  
46 arrangement licensed or funded by the department, other than a

1 developmental center that is already subject to the provisions of  
2 section 1 of P.L.2009, c.220 (C.30:4-3.27), shall consent to and  
3 undergo drug testing for controlled dangerous substances as a  
4 condition of such employment.

5 (2) If a person applying for employment pursuant to this  
6 subsection, on or after the effective date of P.L. , c. (C. )  
7 (pending before the Legislature as this bill), tests positive for the  
8 unlawful use of any controlled dangerous substance, or refuses to  
9 submit to drug testing as required by this subsection, the person  
10 shall be removed from consideration for employment.

11 b. (1) Direct care staff members employed at a program,  
12 facility, or living arrangement identified in subsection a. of this  
13 section, shall be subject, during the course of employment, to  
14 random drug testing for controlled dangerous substances, as  
15 provided by this subsection.

16 (2) At least once a year, the employing program, facility, or  
17 living arrangement shall require one or more of the direct care staff  
18 members employed thereby to undergo random drug testing for  
19 controlled dangerous substances. The person who is responsible for  
20 the overall operation of the program, facility, or living arrangement  
21 shall have the discretion to determine the total number of direct care  
22 staff members who will be required to undergo random drug testing,  
23 each year, pursuant to this subsection.

24 c. In addition to the annual performance of random drug  
25 testing, as provided by subsection b. of this section, a program,  
26 facility, or living arrangement identified in subsection a. of this  
27 section may additionally require a direct care staff member  
28 employed thereby to undergo drug testing for controlled dangerous  
29 substances, at any time, if the direct care staff member's immediate  
30 supervisor has reasonable suspicion to believe that the staff member  
31 is illegally using a controlled dangerous substance, based on the  
32 staff member's visible impairment or professional misconduct  
33 which relates adversely to patient care or safety. The supervisor  
34 shall report this information to his immediate supervisor in a form  
35 and manner specified by the commissioner, and, if the latter concurs  
36 that there is reasonable suspicion to believe that a direct care staff  
37 member is illegally using a controlled dangerous substance, that  
38 supervisor shall notify the person who is responsible for the overall  
39 operation of the program, facility, or living arrangement, and  
40 request written approval therefrom to order the direct care staff  
41 member to undergo drug testing pursuant to this subsection. Drug  
42 testing under this subsection shall not be ordered without the  
43 written approval of the person who is responsible for the overall  
44 operation of the program, facility, or living arrangement.

45 d. If a direct care staff member is subjected to a drug test under  
46 subsection b. or c. of this section, and tests positive for the unlawful  
47 use of any controlled dangerous substance, the direct care staff  
48 member may be referred for treatment services or terminated from

1 employment. A direct care staff member who refuses to submit to  
2 drug testing, as required by subsection b. or c. of this section, shall  
3 be terminated from employment.

4 e. Any drug testing performed pursuant to this section shall be  
5 done at the expense of the department.

6 f. Any program, facility, or living arrangement identified in  
7 subsection a. of this section, which employs a direct care staff  
8 member, shall notify the staff member of the provisions of this  
9 section.<sup>1</sup>

10  
11 <sup>1</sup>~~3.~~ 7.<sup>1</sup> (New section) a. Each State developmental center  
12 <sup>1</sup>~~and private licensed facility for persons with developmental~~  
13 <sup>1</sup>~~disabilities~~<sup>1</sup> shall <sup>1</sup>~~bi-annually host an event and invite~~  
14 biannually schedule a meeting with<sup>1</sup> parents and guardians of  
15 individuals with developmental disabilities <sup>1</sup>~~to the event~~ residing  
16 in the developmental center,<sup>1</sup> in order to provide an opportunity for  
17 parents and guardians to share experiences about <sup>1</sup>~~their family~~  
18 <sup>1</sup>~~members and wards with developmental disabilities~~ the  
19 individuals<sup>1</sup>.

20 b. The provider of a <sup>1</sup>~~community residence for the~~  
21 <sup>1</sup>~~developmentally disabled, as defined in section 2 of P.L.1977, c.448~~  
22 <sup>1</sup>~~(C.30:11B-2),~~ community-based residential program<sup>1</sup> shall request  
23 contact information from each parent or guardian of an individual  
24 with a developmental disability <sup>1</sup>~~who is~~<sup>1</sup> residing in the  
25 <sup>1</sup>~~residence~~ residential program,<sup>1</sup> and <sup>1</sup>~~shall~~<sup>1</sup> advise the parent or  
26 guardian that, if the parent or guardian agrees, the provider <sup>1</sup>~~shall~~  
27 will<sup>1</sup> exchange contact information with other parents and guardians  
28 of individuals with developmental disabilities residing in the  
29 <sup>1</sup>~~residence~~ residential program<sup>1</sup>, in order to provide an  
30 opportunity for parents and guardians to share experiences about  
31 <sup>1</sup>~~their family members and wards with developmental disabilities~~  
32 the individuals.

33 c. The provider of a day program shall request contact  
34 information from each parent or guardian of an individual with a  
35 developmental disability who is participating in the day program,  
36 and shall advise the parent or guardian that, if the parent or  
37 guardian agrees, the provider will exchange contact information  
38 with other parents and guardians of individuals with developmental  
39 disabilities who are participating in the same program, in order to  
40 provide an opportunity for parents and guardians to share  
41 experiences about the individuals<sup>1</sup> .

42  
43 <sup>1</sup>8. Section 4 of P.L.2003, c.191 (C.30:6D-5.4) is amended to  
44 read as follows:

45 4. **[A]** a. Any member of the staff at a facility for persons  
46 with developmental disabilities or **[a facility]** for persons with

1 traumatic brain injury **[or a]** , and any member of the staff at a  
2 public or private agency , who violates the provisions of section 3  
3 of **[this act]** P.L.2003, c.191 (C.30:6D-5.3) shall be liable to a civil  
4 penalty of \$5,000 for the first offense, \$10,000 for the second  
5 offense, and \$25,000 for the third and each subsequent offense, to  
6 be sued for and collected in a summary proceeding by the  
7 commissioner pursuant to the "Penalty Enforcement Law of 1999,"  
8 P.L.1999, c.274 (C.2A:58-10 et seq.).

9 b. A penalty collected pursuant to this section shall be  
10 dedicated to providing funding for training caregivers, as defined in  
11 section 2 of P.L.2010, c.5 (C.30:6D-74), and for site visits  
12 conducted pursuant to P.L. , c. (C. ) (pending before the  
13 Legislature as this bill).<sup>1</sup>

14 (cf: P.L.2003, c.191, s.4)

15  
16 <sup>1</sup>**[4.] 9.**<sup>1</sup> Section 2 of P.L.2010, c.5 (C.30:6D-74) is amended  
17 to read as follows:

18 2. As used in this act:

19 "Abuse" means wrongfully inflicting or allowing to be inflicted  
20 physical abuse, sexual abuse, or verbal or psychological abuse or  
21 mistreatment by a caregiver upon an individual with a  
22 developmental disability.

23 "Authorized family member" means a relative of <sup>1</sup>**[the]** an<sup>1</sup>  
24 individual with a developmental disability <sup>1</sup>who is<sup>1</sup> authorized by  
25 the individual's guardian, or by the individual if the individual is his  
26 own guardian, to receive information pursuant to P.L.2010, c.5  
27 (C.30:6D-73 et seq.).

28 "Caregiver" means a person who receives State funding, directly  
29 or indirectly, in whole or in part, to provide services or supports, or  
30 both, to an individual with a developmental disability; except that  
31 "caregiver" shall not include an immediate family member of a  
32 person with a developmental disability.

33 "Central registry" means the Central Registry of Offenders  
34 Against Individuals with Developmental Disabilities established  
35 pursuant to **[this act]** P.L.2010, c.5 (C.30:6D-73 et seq.).

36 "Commissioner" means the Commissioner of Human Services.

37 "Department" means the Department of Human Services.

38 "Developmental disability" means <sup>1</sup>**[developmental disability]**  
39 the same<sup>1</sup> as <sup>1</sup>that term is<sup>1</sup> defined <sup>1</sup>**[in]** by<sup>1</sup> section 3 of P.L.1977,  
40 c.82 (C.30:6D-3).

41 "Exploitation" means the act or process of a caregiver using an  
42 individual with a developmental disability or his resources for  
43 another person's profit or advantage.

44 "Intimate parts" means the following body parts of a person:  
45 sexual organs, genital area, anal area, inner thigh, groin, buttock, or  
46 breast.



1 "Lewdness" means the exposing of the genitals for the purpose  
2 of arousing or gratifying the sexual desire of a caregiver or an  
3 individual with a developmental disability, or any flagrantly lewd  
4 and offensive act which the caregiver knows or reasonably expects  
5 is likely to be observed by an individual with a developmental  
6 disability.

7 "Neglect" shall consist of any of the following acts by a  
8 caregiver on an individual with a developmental disability: willfully  
9 failing to provide proper and sufficient food, clothing, maintenance,  
10 medical care, or a clean and proper home; or <sup>1</sup>**failure** failing<sup>1</sup> to  
11 do or permit to be done any act necessary for the well-being of an  
12 individual with a developmental disability.

13 "Physical abuse" means a physical act directed at an individual  
14 with a developmental disability by a caregiver of a type that causes  
15 one or more of the following: pain, injury, anguish, or suffering.  
16 Such acts include, but are not limited to, the individual with a  
17 developmental disability being kicked, pinched, bitten, punched,  
18 slapped, hit, pushed, dragged, or struck with a thrown or held  
19 object.

20 <sup>1</sup>"Program" means any program that is licensed or funded by the  
21 department for the purpose of providing services to individuals with  
22 developmental disabilities. "Program" includes, but is not limited  
23 to, a day program or a community-based residential program, as  
24 those terms are defined by section 2 of P.L. , c. (C. )  
25 (pending before the Legislature as this bill).<sup>1</sup>

26 "Sexual abuse" means an act or attempted act of lewdness, sexual  
27 contact, or sexual penetration between a caregiver and an individual  
28 with a developmental disability. Any form of sexual contact or  
29 activity between a caregiver and an individual with a developmental  
30 disability, absent marriage, domestic partnership, or civil union, is  
31 sexual abuse, regardless of whether the individual with a  
32 developmental disability gives consent or the caregiver is on or off  
33 duty.

34 "Sexual contact" means an intentional touching by a caregiver or  
35 individual with a developmental disability, either directly or  
36 through clothing, of the intimate parts of the individual with a  
37 developmental disability or the caregiver for the purpose of  
38 sexually arousing or sexually gratifying the caregiver. Sexual  
39 contact of the caregiver with himself must be in view of the  
40 individual with a developmental disability whom the caregiver  
41 knows to be present.

42 "Sexual penetration" means vaginal intercourse, cunnilingus,  
43 fellatio, or anal intercourse between a caregiver and an individual  
44 with a developmental disability or insertion of the hand, finger, or  
45 object into the anus or vagina, either by the caregiver or upon the  
46 caregiver's instruction.

47 "Verbal or psychological abuse or mistreatment" means any  
48 verbal or non-verbal act or omission by a caregiver that inflicts one

1 or more of the following: emotional harm; mental distress; or  
 2 invocation of fear, humiliation, intimidation, or degradation to an  
 3 individual with a developmental disability. Examples include, but  
 4 are not limited to: bullying; ignoring need; verbal assault; use of  
 5 racial or ethnic slurs; or intimidating gestures, such as shaking a fist  
 6 at an individual with a developmental disability.

7 (cf: P.L.2010, c.5, s.2)

8  
 9 **10.**<sup>1</sup> Section 3 of P.L.2010, c.5 (C.30:6D-75) is amended  
 10 to read as follows:

11 3. a. (1) A case manager or case manager's supervisor in the  
 12 department, a person employed or volunteering in a program,  
 13 facility, community care residence, or living arrangement licensed  
 14 or funded by the department, **a person conducting** <sup>1</sup>**[an**  
 15 **unannounced]** <sup>1</sup>a site visit pursuant to section **[1]** 3<sup>1</sup> of P.L. ,  
 16 c. (C. ) (pending before the Legislature as this bill), or a person  
 17 providing community-based services with indirect State funding to  
 18 a person with a developmental disability, as applicable, having  
 19 reasonable cause to believe that an individual with a developmental  
 20 disability has been subjected to abuse, neglect, or exploitation by a  
 21 caregiver shall report the same immediately to the department by  
 22 telephone or otherwise <sup>1</sup>**], and if appropriate the department shall**  
 23 **notify.]** .

24 (2) As soon as possible, but<sup>1</sup> no later than **[one hour]** 60  
 25 minutes<sup>1</sup> after the occurrence of the abuse, neglect, or exploitation,  
 26 the <sup>1</sup>department shall provide notice of the incident to the<sup>1</sup> guardian  
 27 or authorized family member of the individual with a  
 28 developmental disability who was the subject of the abuse, neglect,  
 29 or exploitation <sup>1</sup>**], as required by section 2 of P.L. , c. (C. )**  
 30 (pending before the Legislature as this bill)]<sup>1</sup>.

31 <sup>1</sup>**[(2) Such]** (3) A<sup>1</sup> report <sup>1</sup>made pursuant to paragraph (1) of  
 32 this subsection<sup>1</sup>, where possible, shall contain <sup>1</sup>: (a)<sup>1</sup> the name and  
 33 address of the individual with a developmental disability <sup>1</sup>**[and]** ,  
 34 as well as the name and address of<sup>1</sup> the caregiver responsible for the  
 35 care, custody, or control of the individual with a developmental  
 36 disability, and the guardian, or other person having custody and  
 37 control of the individual <sup>1,1</sup> and <sup>1</sup>**],** (b)<sup>1</sup> if known, the condition of  
 38 the individual with a developmental disability, the nature and  
 39 possible extent of the individual's injuries, maltreatment, abuse,  
 40 neglect <sup>1,1</sup> or exploitation, including any evidence of previous  
 41 injuries, maltreatment, abuse, neglect, or exploitation, and any other  
 42 information that the person believes may be helpful with respect to  
 43 the injuries, maltreatment, abuse, neglect, or exploitation of the  
 44 individual with a developmental disability and the identity of the  
 45 alleged offender.

46 b. Within the department, the commissioner shall <sup>1</sup>:

- 1       (1)<sup>1</sup> maintain a unit to receive and prioritize <sup>1</sup>**["such"]**<sup>1</sup> reports  
2 <sup>1</sup>**[","]** that are filed pursuant to this section;
- 3       (2) provide for verification of the unit's prioritization of the  
4 reports by sending an employee or case manager to the appropriate  
5 location within 48 hours to verify the level of severity of the report,  
6 as provided by section 5 of P.L. , c. (C. ) (pending before  
7 the Legislature as this bill);
- 8       (3)<sup>1</sup> initiate appropriate responses through timely and appropriate  
9 investigative activities <sup>1</sup>**[","]**;
- 10       (4)<sup>1</sup> alert appropriate staff <sup>1</sup>**[","]**;<sup>1</sup> and
- 11       <sup>1</sup>(5)<sup>1</sup> ensure that findings are reported in a uniform and timely  
12 manner.
- 13       c. (1) A person employed or volunteering in a program,  
14 facility, community care residence, or living arrangement licensed  
15 or funded by the department, or a person providing community-  
16 based services with indirect State funding to a person with a  
17 developmental disability, as applicable, who fails to report an act of  
18 abuse, neglect, or exploitation against an individual with a  
19 developmental disability while having reasonable cause to believe  
20 that such an act has been committed, is a disorderly person.
- 21       (2) A case manager or case manager's supervisor in the  
22 department who fails to report an act of abuse, neglect, or  
23 exploitation of an individual with a developmental disability while  
24 having reasonable cause to believe that such an act has been  
25 committed, shall be guilty of a **["disorderly person's offense"]** crime  
26 of the fourth degree, unless the abuse, neglect, or exploitation  
27 results in the death of an individual with a developmental disability,  
28 in which case the case manager or case manager's supervisor shall  
29 be guilty of a crime of the **["fourth"]** third degree.
- 30       d. In addition to any penalty imposed pursuant to this section, a  
31 person convicted under this section shall be subject to a penalty in  
32 the amount of \$350 for each day that the abuse, neglect, or  
33 exploitation was not reported, payable to the Treasurer of the State  
34 of New Jersey, which shall be used by the department to fund the  
35 provision of food and care to individuals with developmental  
36 disabilities residing in community care residences.
- 37       e. A case manager or case manager's supervisor <sup>1</sup>, or a  
38 caregiver suspected of abuse, neglect, or exploitation of an  
39 individual with a developmental disability,<sup>1</sup> who is charged with  
40 failure to report an act of abuse, neglect, or exploitation of an  
41 individual with a developmental disability while having reasonable  
42 cause to believe that such an act has been committed, shall be  
43 temporarily reassigned to duties that do not involve contact with  
44 individuals with developmental disabilities or other vulnerable  
45 populations and shall be terminated from employment if convicted.
- 46       In the case of a case manager or case manager's supervisor <sup>1</sup>, or  
47 of a caregiver suspected of abuse, neglect, or exploitation,<sup>1</sup> who is

1 employed by the department, the case manager <sup>1</sup>**or** <sup>1</sup>supervisor<sup>1</sup>,  
2 or caregiver<sup>1</sup> shall retain any available right of review by the Civil  
3 Service Commission.  
4 (cf: P.L.2012, c.69, s.9)

5  
6 <sup>1</sup>**[6.] 11.**<sup>1</sup> Section 4 of P.L.2010, c.5 (C.30:6D-76) is amended  
7 to read as follows:

8 4. a. Upon receipt of a report pursuant to section 3 of **[this**  
9 **act]** P.L.2010, c.5 (C.30:6D-75), the department shall designate an  
10 entity, as established by the commissioner, that shall immediately  
11 take such action as shall be necessary to ensure the safety of the  
12 individual with a developmental disability and to that end may  
13 request appropriate assistance from local and State law enforcement  
14 officials or contact Adult Protective Services to provide assistance  
15 in accordance with the provisions of P.L.1993, c.249 (C.52:27D-  
16 406 et seq.). The guardian of the individual with a developmental  
17 disability <sup>1</sup>**[also]**<sup>1</sup> shall <sup>1</sup>also<sup>1</sup> be authorized to request appropriate  
18 assistance from local and State law enforcement officials.  
19 <sup>1</sup>Assistance from local and State law enforcement officials pursuant  
20 to this subsection shall be provided by such an official who has  
21 undergone education or training in working with individuals with  
22 developmental disabilities.<sup>1</sup>

23 b. <sup>1</sup>(1)<sup>1</sup> The commissioner shall adopt rules and regulations  
24 necessary to provide for an investigation of a reported incident and  
25 subsequent substantiation or non-substantiation of an allegation of  
26 abuse, neglect, or exploitation of an individual with a  
27 developmental disability by a caregiver, **[by]** which shall include:

28 <sup>1</sup>**[(1)] (a)**<sup>1</sup> maintaining <sup>1</sup>**[a Special Response Unit]** an Office of  
29 Investigations<sup>1</sup> to investigate serious unusual incidents, as defined  
30 by applicable rules and regulations, in facilities or <sup>1</sup>**[community]**<sup>1</sup>  
31 programs licensed, contracted, or regulated by the department <sup>1</sup>**;**  
32 (2) notification of the name of the individual who is investigating  
33 an incident that occurred at a developmental center to the guardian  
34 or authorized family member of the individual with a  
35 developmental disability who is the subject of the incident] , and to  
36 investigate incidents that occur in State developmental centers<sup>1</sup> ;  
37 and

38 <sup>1</sup>**[(3)] (b)**<sup>1</sup> providing <sup>1</sup>**[an opportunity for a]** the<sup>1</sup> guardian or  
39 authorized family member <sup>1</sup>of the individual with prior notice of the  
40 commencement of an investigation under this section, and  
41 providing an opportunity for the guardian or authorized family  
42 member, as appropriate,<sup>1</sup> to submit information to facilitate an  
43 investigation <sup>1</sup>, to represent the individual, to be informed of the  
44 progress of the investigation, to be present while the individual is  
45 being interviewed, and to terminate the interview at any time,  
46 unless it would impede the investigation; and

1       (c) providing the guardian or authorized family member of the  
2 individual with a written progress report that shows the status of the  
3 investigation, and includes any medical records or reports about the  
4 individual, within seven calendar days of the incident, and weekly  
5 thereafter<sup>1</sup>.

6       <sup>1</sup>(2) Before commencing an investigation in response to a report  
7 of alleged abuse, neglect, or exploitation, the department shall first  
8 notify the guardian or authorized family member of the alleged  
9 victim, either in person or by telephone, that an investigation will  
10 be undertaken pursuant to this section. The department shall also  
11 notify the guardian or authorized family member before any  
12 investigative interview of the alleged victim is commenced. The  
13 guardian or authorized family member, upon request, shall be  
14 permitted to attend or observe the investigative interview of the  
15 person the guardian or family member represents, unless the  
16 attendance or observation would impede the investigation. If the  
17 guardian or authorized family member expressly requests, at any  
18 time, that the department terminate an interview that has been  
19 commenced under this section, the department, and its Office of  
20 Investigations, shall immediately comply with the request, unless it  
21 would impede the investigation.

22       (3)<sup>1</sup> During its investigation of an allegation of abuse, neglect,  
23 or exploitation of an individual with a developmental disability by a  
24 caregiver, the <sup>1</sup>**[Special Response Unit or the chief executive**  
25 **officer of a developmental center or the officer's designee, as**  
26 **applicable,]** Office of Investigations<sup>1</sup> shall make a good faith effort  
27 to notify the caregiver of the possibility of the caregiver's inclusion  
28 on the registry, and give the caregiver an opportunity to respond to  
29 the department concerning the allegation. <sup>1</sup>**[A guardian of an**  
30 **individual with a developmental disability, upon request, shall be**  
31 **permitted to attend, or observe if attendance would impede the**  
32 **investigation, an investigative interview concerning an allegation of**  
33 **abuse, neglect, or exploitation of the individual.]**<sup>1</sup>

34       c. The <sup>1</sup>**[Special Response Unit]** Office of Investigations<sup>1</sup>, the  
35 department, or other investigating entity shall forward to the  
36 commissioner, or the commissioner's designee, a substantiated  
37 incident of abuse, neglect, or exploitation of an individual with a  
38 developmental disability for inclusion of an offending caregiver on  
39 the central registry. The <sup>1</sup>**[Special Response Unit]** Office of  
40 Investigations<sup>1</sup>, the department, or other investigating entity shall  
41 also forward to the commissioner, or the commissioner's designee,  
42 all unsubstantiated incidents of abuse, neglect, or exploitation of an  
43 individual with a developmental disability. As soon as possible,  
44 and no later than <sup>1</sup>**[14]** seven<sup>1</sup> days after receipt of the incident of  
45 abuse, neglect, or exploitation, the commissioner or the  
46 commissioner's designee shall review the incident. The offending  
47 caregiver of a substantiated incident shall be included on the central

1 registry as expeditiously as possible. The <sup>1</sup>~~Special Response~~  
2 ~~Unit~~ Office of Investigations<sup>1</sup> shall retain a record of all  
3 unsubstantiated incidents.

4 d. Upon the initiation of an investigation, the department shall:  
5 (1) ensure that any communication concerning the alleged abuse,  
6 neglect, or exploitation of an individual with a developmental  
7 disability between a caregiver, case manager of the caregiver, the  
8 case manager's supervisor, or a person at the appropriate Regional  
9 Office of the Division of Developmental Disabilities is identified,  
10 safeguarded from loss or destruction, and maintained in a secure  
11 location; and (2) contact the Office of the Attorney General, which  
12 shall determine whether to participate in the investigation.

13 e. (1) <sup>1</sup>~~The Special Response Unit~~ No later than 14 days  
14 after an investigation under this section is concluded, the Office of  
15 Investigations<sup>1</sup> shall issue a written report of the investigation that  
16 includes the conclusions of the unit, the rationale for the  
17 <sup>1</sup>~~conclusion~~ conclusions<sup>1</sup>, and a detailed summary of any  
18 communication secured pursuant to subsection d. of this section.  
19 The report shall also include an assessment of the role of any case  
20 manager of a caregiver or the case manager's supervisor, if  
21 applicable, in the allegation of abuse, neglect, or exploitation, and a  
22 recommendation about whether any civil or criminal action should  
23 be brought against the case manager or supervisor. The report shall  
24 be made part of the record for review in any civil or criminal  
25 proceeding that may ensue.

26 (2) A written summary of the <sup>1</sup>~~conclusions of the~~<sup>1</sup>  
27 investigation<sup>1</sup>, as provided for in paragraph (3) of this subsection,<sup>1</sup>  
28 shall be provided to the guardian or authorized family member of  
29 the individual with a developmental disability who is the subject of  
30 the alleged abuse, neglect, or exploitation; <sup>1</sup>~~except that~~ ;  
31 however, the actual<sup>1</sup> records and reports of an investigation shall  
32 also<sup>1</sup> be provided to a guardian or <sup>1</sup>~~other person who is~~  
33 responsible for the welfare of the individual with a developmental  
34 disability <sup>1</sup>~~authorized family member~~<sup>1</sup> if <sup>1</sup>~~:~~<sup>1</sup> the information is  
35 needed in connection with the provision of care, treatment,  
36 assessment, evaluation, or supervision to the individual; and the  
37 provision of information is in the best interests of the individual  
38 with a <sup>1</sup>~~developmental~~<sup>1</sup> disability as determined by the Division of  
39 Developmental Disabilities<sup>1</sup>, or by the individual's guardian or  
40 authorized family member.

41 (3) The written summary of an investigation of an alleged  
42 incident of abuse, neglect, or exploitation shall include, but need  
43 not be limited to:

44 (a) the name of the individual with a developmental disability  
45 who is the subject of the alleged abuse, neglect, or exploitation;

46 (b) the date of the incident, or the date the incident was reported  
47 if the incident date is unknown;

- 1     (c) whether the incident is an allegation of abuse, neglect, or  
2 exploitation;  
3     (d) the incident number;  
4     (e) a summary of the allegation of abuse, neglect, or  
5 exploitation;  
6     (f) a finding that the incident is substantiated or  
7 unsubstantiated;  
8     (g) the rationale for the finding and, if the incident is  
9 substantiated, a description of the action or inaction that  
10 precipitated the finding;  
11     (h) if known at the time of issuing the summary, whether or not  
12 criminal charges against the alleged offending caregiver are  
13 pending; and  
14     (i) whether remedial action was taken<sup>1</sup>.

15     f. A licensed provider in another state shall be permitted access  
16 to the central registry.

17 (cf: P.L.2012, c.69, s.10)

18

19     <sup>1</sup>**[7.] 12.**<sup>1</sup> Section 5 of P.L.2010, c.5 (C.30:6D-77) is amended  
20 to read as follows:

21     5. a. There is established a Central Registry of Offenders  
22 Against Individuals with Developmental Disabilities in the  
23 department.

24     b. The commissioner shall adopt rules and regulations that  
25 define the procedures and standards for inclusion of an offending  
26 caregiver on the central registry, and for notification of such  
27 inclusion to the caregiver and to the guardian or authorized family  
28 member of the individual with a developmental disability who was  
29 the subject of the abuse, neglect, or exploitation that led to the  
30 caregiver's inclusion on the central registry. The commissioner, or  
31 the commissioner's designee, shall notify the guardian or authorized  
32 family member of the individual of any action taken by the  
33 department to remediate a condition that may have contributed to  
34 the occurrence of the abuse, neglect, or exploitation of the  
35 individual.

36     (1) For inclusion on the central registry in the case of a  
37 substantiated incident of abuse, the caregiver shall have acted with  
38 intent, recklessness, or careless disregard to cause or potentially  
39 cause injury to an individual with a developmental disability.

40     (2) For inclusion on the central registry in the case of a  
41 substantiated incident of neglect, the caregiver shall have acted with  
42 gross negligence, recklessness, or in a pattern of behavior that  
43 causes or potentially causes harm to an individual with a  
44 developmental disability.

45     (3) In the case of a substantiated incident of exploitation, the  
46 commissioner shall establish a dollar amount for inclusion on the  
47 central registry.

48     c. The commissioner also shall adopt rules and regulations:

1 (1) necessary to provide for an appeals process, through the  
2 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
3 seq.), of the commissioner's determination to include an alleged  
4 offending caregiver's name on the central registry. The  
5 commissioner's determination shall be a final agency decision  
6 subject to review by the Appellate Division of the Superior Court;

7 (2) concerning the dissemination of information in the central  
8 registry;

9 (3) that will prohibit persons included on the central registry  
10 from employment in facilities or programs of the Division of  
11 Developmental Disabilities in the department and those facilities or  
12 programs licensed, contracted, or regulated by the department, or  
13 from providing community-based services with indirect State  
14 funding to <sup>1</sup>**persons** individuals<sup>1</sup> with developmental disabilities;  
15 and

16 (4) necessary to provide for the removal of a person's name  
17 from the central registry. A person may apply for removal of his  
18 name to the commissioner after a period of five years of being  
19 placed on the central registry. The person shall affirmatively  
20 demonstrate to the commissioner clear and convincing evidence of  
21 rehabilitation, using the provisions of P.L.1968, c.282 (C.2A:168A-  
22 1 et seq.) as a guide.

23 d. The commissioner may adopt rules and regulations that will  
24 allow bona fide employers serving vulnerable populations to inquire  
25 of the department if potential or current employees are included on  
26 the central registry, consistent with federal and State privacy and  
27 confidentiality laws.

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

32 (cf: P.L.2010, c.5, s.5)

33  
34 <sup>1</sup>**[8.] 13.**<sup>1</sup> Section 6 of P.L.2010, c.5 (C.30:6D-78) is amended  
35 to read as follows:

36 6. <sup>1</sup>**a.**<sup>1</sup> All records of a report made pursuant to **[this act]**  
37 section 3 of P.L.2010, c.5 (C.30:6D-75), all information obtained by  
38 the department in investigating such reports, and all reports of  
39 findings forwarded to the central registry pursuant to **[this act]**  
40 P.L.2010, c.5 (C.30:6D-73 et seq.) shall be kept confidential and  
41 may be disclosed only:

42 <sup>1</sup>**[a.] (1)**<sup>1</sup> insofar as information is shared with a guardian in  
43 connection with a guardian's attendance at, or observation of, an  
44 investigative interview as provided for in subsection b. of section 4  
45 of P.L.2010, c.5 (C.30:6D-76); or

46 <sup>1</sup>**[b.] (2)**<sup>1</sup> under circumstances expressly authorized by  
47 paragraph (2) of subsection e. of section 4 of P.L.2010, c.5



1 (C.30:6D-76), or by rules and regulations promulgated by the  
2 commissioner.

3 <sup>1</sup>b.<sup>1</sup> The department shall only disclose information that is  
4 relevant to the purpose for which the information is required <sup>1</sup>【or is  
5 authorized as provided for in subsections a. and b. of this section】<sup>1</sup>;  
6 except that the department shall not disclose information which  
7 would likely endanger the life, safety, or physical or emotional  
8 well-being of an individual with a developmental disability or the  
9 life or safety of any other person, or which may compromise the  
10 integrity of a department investigation, civil or criminal  
11 investigation, or judicial proceeding. If the department denies  
12 access to specific information on this basis, the requesting entity  
13 may seek disclosure through the Superior Court. Nothing in **【this**  
14 **act】** P.L.2010, c.5 (C.30:6D-73 et seq.) shall be construed to permit  
15 the disclosure of any information deemed confidential by federal or  
16 State law.

17 (cf: P.L.2010, c.5, s.6)

18

19 <sup>1</sup>**【9.】** 14.<sup>1</sup> The Commissioner of Human Services, pursuant to  
20 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
21 seq.), shall adopt rules and regulations necessary to effectuate the  
22 purposes of this act.

23

24 <sup>1</sup>**【10.】** 15.<sup>1</sup> This act shall take effect on the first day of the  
25 seventh month next following the date of enactment, but the  
26 Commissioner of Human Services may take such anticipatory  
27 administrative action in advance thereof as shall be necessary for  
28 the implementation of this act.