

ASSEMBLY, No. 1272

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

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District 6 (Burlington and Camden)

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Co-Sponsored by:

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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.



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 Settlement Agreement entered into between
19 Disability Rights New Jersey, Inc. and the Department of Human
20 Services in February 2013, which together with the Path to Progress
21 issued in 2007 and the Addendum to the State's Olmstead Plan,
22 "Blueprint for the June 30, 2013 Closure of Vineland
23 Developmental Center" dated May 2011, constitute the State's
24 Olmstead Plan, there are about six hundred individuals residing in
25 developmental centers who are determined to be "community
26 placement-eligible"; this term includes individuals for whom their
27 individual treatment team professionals have determined that
28 community placement is appropriate and the individual or guardian,
29 if applicable, does not oppose community placement.

30 c. There are about 8,000 persons who remain on the Division of
31 Developmental Disabilities waiting list for community services,
32 which has grown dramatically over the last ten years;

33 d. In addition, youth with developmental disabilities who are
34 transitioning into the adult system of care remain at home, with
35 limited or no opportunity to pursue employment or meaningful
36 daytime activities, and there is an obligation to help create the
37 opportunity for independent lives in the community for these
38 individuals as well, with the support of community-based services;

39 e. New Jersey has an obligation to make significant progress to
40 meet the intent of the decision of the United States Supreme Court
41 in *Olmstead v. L.C.* (1999), and make a systems transformation that
42 enables persons with developmental disabilities to receive
43 appropriate services and supports in a timely manner, by shifting its
44 significant investment in developmental center-based care to,
45 instead, develop and expand the community-based services and
46 support systems;

47 f. While making significant progress to meet the unmet needs
48 of persons with developmental disabilities and provide timely

1 access to community-based services and supports, it is important for
2 New Jersey to do so in a manner that makes it easy for individuals
3 and their families to access services; and

4 g. To achieve these goals, it is necessary to shift financial and
5 human resources from the State developmental centers and, instead,
6 use these resources to strengthen and expand community-based
7 services, supports, and residential options to address unmet need by
8 consolidating and closing developmental centers and retaining one
9 center each in the northern and southern regions of the State.

10
11 2. As used in this act:

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

16 "Council" means the Community Services Planning Council for
17 Persons with Developmental Disabilities established pursuant to
18 section 5 of this act.

19 "Department" means the Department of Human Services.

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

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

24 "Division" means the Division of Developmental Disabilities in
25 the department.

26 "Fund" means the "Community Services and Supports for
27 Persons with Developmental Disabilities Bridge Fund" established
28 pursuant to section 3 of this act.

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

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

33 "Significant risk" means the primary caregiver for the person
34 with a developmental disability is over the age of 55 or has chronic
35 physical or psychiatric conditions that limit the ability to care for
36 the person with a disability, or there is a risk to the health or safety
37 of any person residing in the home or a clear risk of abuse, neglect,
38 or exploitation of the person with a developmental disability.

39
40 3. a. There is established in the Department of the Treasury a
41 nonlapsing, revolving fund to be known as the "Community
42 Services and Supports for Persons with Developmental Disabilities
43 Bridge Fund." This fund shall be the repository for moneys
44 generated pursuant to subsection c. of this section.

45 b. The State Treasurer is the custodian of the fund and all
46 disbursements from the fund shall be made by the State Treasurer
47 upon vouchers signed by the Commissioner of Human Services, or
48 his designee. The moneys in the fund shall be invested and

1 reinvested by the Director of the Division of Investment in the
2 Department of the Treasury as are other trust funds in the custody
3 of the State Treasurer, in the manner provided by law. Interest
4 received on the moneys in the fund shall be credited to the fund.

5 c. The fund shall consist of the moneys generated from:

6 (1) the amount of Capital Construction funds appropriated for
7 Life Safety and Emergency Projects - Statewide, which are intended
8 to fund capital projects at the State developmental centers,
9 excluding capital project costs that: (a) will result in a reduction in
10 overall operational expenditures at developmental centers; (b) are
11 required for life safety or environmental enhancements at
12 developmental centers; (c) are required as a condition of licensure,
13 accreditation, or receipt of federal Medicaid reimbursement; or (d)
14 are required as part of an agreement between the State and the
15 federal Department of Justice;

16 (2) fiscal year 2014 and each successive fiscal year through the
17 end of fiscal year 2018 savings by the division in "salaries and
18 wages expenditures" due to reductions in overtime expenditures;

19 (3) fiscal year 2014 community care waiver federal financial
20 participation funds received in excess of the amount identified in
21 P.L.2013, c.77, as modified by the Governor's recommended budget
22 for fiscal year 2015, and each successive fiscal year through the end
23 of fiscal year 2018;

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

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

30 (6) unspent funds from the division's fiscal year 2014 budget
31 and each successive fiscal year through the end of fiscal year 2018.

32
33 4. a. The moneys in the fund shall be distributed by the
34 department in a planned and expedient manner, through a request
35 for proposal or other purchasing model that promotes timely access
36 to services and supports, in order to promote such access and
37 provide support for community living for persons with
38 developmental disabilities.

39 b. The moneys shall be used to:

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

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

47 (b) respite care;

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

1 avert the need for emergency out-of-home placement in a
2 developmental center; and support persons with developmental
3 disabilities who live with their families and afford them quality,
4 engaged lives in the community, while also providing stability to
5 families caring for loved ones at home;

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

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

11

12 5. a. There is established the Community Services Planning
13 Council for Persons with Developmental Disabilities in the
14 department.

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

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

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

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

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

42 c. The council shall organize as soon as practicable following
43 the appointment of its members and hold hearings as it deems
44 appropriate to carry out its purpose. The Commissioner of Human
45 Services, or the commissioner's designee, shall be the chair of the
46 council and shall appoint a secretary who need not be a member of
47 the council.

1 d. The public members shall serve without compensation, but
2 shall be reimbursed for necessary expenses incurred in the
3 performance of their duties and within the limits of funds available
4 to the council.

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

9 f. The department shall provide staff support to the council.
10

11 6. a. The council shall create a preliminary and comprehensive
12 implementation plan, including timetables and benchmarks, which
13 shall:

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

19 (2) provide for the transfer into the community of persons with
20 developmental disabilities residing in the developmental centers
21 whose interdisciplinary teams have made recommendations for
22 community placement and who choose such placement;

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

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

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

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

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

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

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

2

3 7. The council shall submit the plan to the Governor, and to the
4 Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1),
5 within 180 days of the date of organization of the council.

6

7 8. a. There is established a steering committee of not more
8 than 30 members who shall monitor the implementation of the plan.

9 The steering committee shall consist of the members of the
10 council and other members appointed by the Commissioner of
11 Human Services, as follows:

12 (1) the Deputy Commissioner of the Division of Developmental
13 Disabilities and assistant directors or regional administrators of the
14 division, or both, who shall serve ex officio;

15 (2) representatives from developmental disabilities community
16 provider organizations; and

17 (3) persons with developmental disabilities who are residing in
18 the developmental centers or are on the community services waiting
19 list, or their family members, or both.

20 b. The steering committee shall organize upon completion of
21 the plan.

22

23 9. The Commissioner of Human Services shall provide
24 quarterly progress reports on the development and implementation
25 of the plan to the Governor, and to the Legislature pursuant to
26 section 2 of P.L.1991, c.164 (C.52:14-19.1).

27

28 10. This act shall take effect immediately.

29

30

31

STATEMENT

32

33 This bill changes the way in which the Division of
34 Developmental Disabilities (DDD) in the Department of Human
35 Services (DHS) will use resources to provide services to persons
36 with developmental disabilities by reducing DDD's reliance on
37 developmental centers and strengthening and expanding
38 community-based services and supports. Instead of investing a
39 disproportionate share of DDD's budget to support an inappropriate
40 level of care through the State's seven developmental centers, the
41 bill provides for the development and expansion of access to
42 community services and supports to meet the unmet needs of
43 persons on the community services waiting list, those persons in
44 developmental centers whose interdisciplinary teams have made
45 recommendations for community placement and who choose such
46 placement, youth with developmental disabilities to transition to the
47 adult system in a seamless and timely manner, and persons with
48 developmental disabilities who are residing with their families.

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

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

14 The fund would be established in the Department of the Treasury
15 as a nonlapsing, revolving fund which would be the repository for
16 moneys generated from: 1) Capital Construction funds appropriated
17 for Life Safety and Emergency Projects - Statewide, which are
18 intended to fund capital projects at the State developmental centers,
19 excluding capital project costs that: (a) will result in a reduction in
20 overall operational expenditures at developmental centers; (b) are
21 required for life safety or environmental enhancements at
22 developmental centers; (c) are required as a condition of licensure,
23 accreditation, or receipt of federal Medicaid reimbursement; or (d)
24 are required as part of an agreement between the State and the
25 federal Department of Justice; 2) savings by DDD in "salaries and
26 wages expenditures" due to reductions in overtime expenditures; 3)
27 fiscal year 2014 community care waiver federal financial
28 participation funds received in excess of the amount identified in
29 the appropriations act, as modified by the Governor's recommended
30 budget for fiscal year 2015, and each successive fiscal year through
31 the end of fiscal year 2018; 4) reductions in developmental center
32 operational costs achieved through consolidations; 5) proceeds
33 achieved through the sale of developmental centers; and 6) unspent
34 funds from DDD's fiscal year 2014 budget and successive years,
35 through the end of fiscal year 2018.

36 The moneys in the fund would be used to: build service capacity
37 and expand access to certain services and supports in the
38 community; establish a moratorium on new placements in
39 developmental centers, except for court-ordered placements or in
40 instances of imminent danger while also developing, strengthening,
41 and expanding community-based services, supports, and residential
42 options to meet emergency needs; consolidate, downsize, and
43 reduce reliance on developmental centers; afford the workforce of
44 developmental centers the opportunity for early retirement or
45 alternate workplace opportunities within the State, including, but
46 not limited to, employment at the consolidated developmental
47 centers or other State institutions; redeploy staff positions from
48 developmental centers utilizing a staff without walls approach that

1 retains State employment status to undertake assignments that
2 support community-based services systems, fill gaps in regional and
3 county operations, specialty care such as occupational therapy,
4 physical therapy, and medical, dental and other health related
5 services, and address gaps in professional and direct care positions
6 in the community.

7 In addition, funds would be used to: meet the unmet needs of
8 persons on the community services waiting list in order to: reduce
9 continued growth of the waiting list; avert the need for emergency
10 placement in developmental centers; and support persons with
11 developmental disabilities who live with their families, while also
12 providing stability to their families; provide a seamless transition
13 for young adults with developmental disabilities who are leaving
14 the education system but are in need of continuing services and
15 supports; and maximize available federal funds and direct those
16 funds toward community-based services.

17 The Community Services Planning Council for Persons with
18 Developmental Disabilities established under the bill would consist
19 of 17 members. The council is required to create a preliminary and
20 comprehensive implementation plan and would submit the plan,
21 which would include a minority report, if applicable, to the
22 Governor and Legislature.

23 The bill also establishes a 30-member steering committee to
24 monitor the plan's implementation.

25 Lastly, the bill requires the Commissioner of Human Services to
26 provide quarterly progress reports on the development and
27 implementation of the plan to the Governor and the Legislature.