ASSEMBLY, No. 5361

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 23, 2021

Sponsored by:
Assemblywoman JOANN DOWNEY
District 11 (Monmouth)

SYNOPSIS

Establishes requirements for OLS to review pending legislation for prospective effects on individuals with disabilities.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning review of the prospective effects of pending legislation on individuals with a disability and supplementing Title 52 of the Revised Statutes.

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

1. a. The Legislative Services Commission shall direct that, when so requested by a member of the Senate or the General Assembly, the Office of Legislative Services shall conduct a disability impact assessment on a specific legislative bill affecting transportation, labor, or human services, and produce a statement of its findings based on that assessment. To this end, the Executive Director of the Office of Legislative Services shall establish at least one full-time analyst position, and subject to the availability of resources and funding to support the position, at least one half-time analyst position, within the Office of Legislative Services. The primary responsibility of the full-time analyst shall be performing disability impact assessments and preparing disability impact statements; the half-time analyst, if any, shall be responsible for assisting in the performance of disability impact assessments and the preparation of disability impact statements pursuant to this section.

b. At a minimum, each disability impact statement prepared pursuant to this section shall include an analysis of any disparate effects the bill will or may be expected to have on individuals in New Jersey who have an intellectual or developmental disability.

c. A disability impact assessment prepared pursuant to this section shall be based on the best available empirical information and professional assumptions available to the Office of Legislative Services within the time allotted for completing the assessment. In preparing a disability impact assessment pursuant to this section, the Office of Legislative Services may request any necessary information as may be held by any State department, division, office, or agency or any other State, county, or local governmental entity, and any department, division, office, agency, or other governmental entity that is in possession of information requested by the Office of Legislative Services in connection with a disability impact assessment that receives or is made aware of the request for information shall promptly furnish the requested information to the Office of Legislative Services.

Nothing in this section shall be deemed to require or authorize the disclosure of any personal identifying or confidential information in violation of State or federal privacy laws.

d. Subject to the provisions of subsection e. of this section, the Office of Legislative Services shall have 14 days from the date a request for a disability impact assessment is received to complete the assessment and produce a statement, provided that the Office of

Legislative Services shall have the authority to request that the individual requesting the assessment approve an extension of this deadline for good cause shown. For the purposes of this section, "good cause" shall include, but shall not be limited to: situations in which the scope or nature of the request will necessitate additional time to complete the assessment and prepare the statement; the overall volume of requests currently pending before the Office of Legislative Services would make compliance with the 14-day deadline functionally impossible; or the Office of Legislative Services will not be able to access and analyze the needed resource materials, complete the assessment, and prepare the statement within 14 days.

e. The Office of Legislative Services shall seek to perform between 10 and 20 disability impact assessments each year, but may limit the number of disability impact assessments it performs pursuant to this section to retain quality while operating within its available resources, and may decline a request for a disability impact assessment if complying with the request would not be feasible while operating within available resources. To facilitate the optimal use of the resources available to the Office of Legislative Services, the Executive Director of the Office of Legislative Services shall develop a system to prioritize requests for disability impact assessments made pursuant to this section, which may include declining or providing lower priority to requests relating to legislation that has not been scheduled for consideration by a Senate or General Assembly standing reference committee or that has not otherwise advanced in the legislative process.

Nothing in this subsection shall be construed to establish a limit on the number of disability impact assessments the Office of Legislative Services may perform in a year, provided that all such assessments can be performed within the limits of the resources and funding available to the Office of Legislative Services and the assessments continue to meet content and quality standards established pursuant to this section.

f. A disability impact statement prepared pursuant to this section shall constitute a public document that shall be published on the Legislature's Internet website together with any other legislative materials pertaining to the bill that is the subject of the statement.

g. (1) The Office of Legislative Services shall have the authority to decline to perform a disability impact assessment requested pursuant to subsection a. of this section in the event that, based on its preliminary analysis, the Office of Legislative Services determines that a legislative bill is not likely to have any material effect on individuals who have an intellectual or developmental disability or if the Office of Legislative Services determines that the effects of the legislative bill on individuals who have an intellectual or developmental disability will be impossible to determine with any reasonable degree of certainty using the information and

resources available to the Office of Legislative Services to perform assessments under this section.

(2) The Office of Legislative Services shall promptly transmit to the requester, in writing, any determination made pursuant to paragraph (1) of this subsection that a legislative bill is not expected to have a material effect on individuals who have an intellectual or developmental disability, or that the effects of the legislative bill on individuals who have an intellectual or developmental disability will be impossible to determine with any reasonable degree of certainty. A written determination prepared pursuant to this subsection shall constitute a public document that shall be published on the Legislature's Internet website together with any other legislative materials pertaining to the bill that is the subject of the determination.

h. The Legislature shall include in each annual appropriations act an appropriation from the General Fund to the Office of Legislative Services that is sufficient to implement the provisions of this section.

i. As used in this section, "individual with a disability" means a natural person who has a physical disability, infirmity, malformation, or disfigurement which is caused by bodily injury, birth defect, or illness including epilepsy, and which shall include, but not be limited to, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impairment, deafness or deaf-blindness or hearing impairment, inability to speak or speech impairment, or physical reliance on a service animal, wheelchair, or other remedial appliance or device, or from any mental, psychological, or developmental disability resulting from anatomical, psychological, physiological, or neurological conditions which prevents the normal exercise of any bodily or mental functions or is demonstrable, medically or psychologically, by accepted clinical or laboratory diagnostic techniques.

2. This act shall take effect on the first day of the seventh month next following the date of enactment.

STATEMENT

This bill requires the Legislative Services Commission to direct that, when so requested by a member of the Senate or the General Assembly, the Office of Legislative Services (OLS) will perform a disability impact assessment, and prepare a disability impact statement based on that assessment, for a specific legislative bill affecting transportation, labor, or human services. To this end, the Executive Director of the OLS will be required to create at least one full-time analyst position, and subject to the availability of resources and funding to support the position, at least one half-time

analyst position, in the OLS. The primary responsibility of the full-time analyst will be performing disability impact assessments and preparing disability impact statements; the half-time analyst, if any, will be responsible for assisting in the performance of disability impact assessments and the preparation of disability impact statements.

At a minimum, each disability impact assessment will include an analysis of any disparate effects the bill will or may be expected to have on individuals with a disability in New Jersey. The bill defines "individual with a disability" to mean a natural person who has a physical disability, infirmity, malformation, or disfigurement which is caused by bodily injury, birth defect, or illness including epilepsy, and which shall include, but not be limited to, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impairment, deafness or deaf-blindness or hearing impairment, inability to speak or speech impairment, or physical reliance on a service animal, wheelchair, or other remedial appliance or device, or from any mental, psychological, or developmental disability resulting from anatomical, psychological, physiological, or neurological conditions which prevents the normal exercise of any bodily or mental functions or is demonstrable, medically or psychologically, by accepted clinical or laboratory diagnostic techniques.

Each disability impact assessment is to be based on the best available empirical information and professional assumptions available to the OLS within the time allotted for completing the assessment. In preparing a disability impact assessment pursuant to this section, the OLS may request any necessary information as may be held by any State department, division, office, or agency or any other State, county, or local governmental entity, and any department, division, office, agency, or other governmental entity that is in possession of information requested by the OLS in connection with a disability impact assessment that receives or is made aware of the request for information shall promptly furnish the requested information to the OLS.

In general, the OLS will have 14 days from the date a request for a disability impact assessment is received to complete the assessment and prepare the statement, provided that the OLS will have the authority to request an extension of this deadline for good cause shown. Examples of “good cause” may include, but will not be limited to, situations in which the scope or nature of the request will necessitate additional time to complete the assessment and prepare the statement, the overall volume of requests currently pending before the OLS would make compliance with the 14-day deadline functionally impossible, or the OLS will not be able to access and analyze the needed resource materials, complete the assessment, and prepare the statement within 14 days.

The bill requires that the OLS seek to perform between 10 and 20 disability impact assessments per year. However, the OLS may limit the number of disability impact assessments it performs to retain quality while operating within its available resources, and may decline a request for a disability impact assessment if complying with the request would not be feasible while operating within available resources. To facilitate the optimal use of resources, the Executive Director of the OLS will be required to develop a system to prioritize requests for disability impact assessments, which may include declining or providing lower priority to requests relating to legislation that has not been scheduled for consideration by a legislative standing reference committee or that has not otherwise advanced in the legislative process. Nothing in the bill is to be construed to establish a limit on the number of disability impact assessments the OLS may perform in a year, provided that all such assessments can be performed within the limits of the resources and funding available to the OLS and the assessments continue to meet content and quality standards established pursuant to the bill.

Disability impact statements will constitute a public document that will be published on the Legislature's Internet website together with any other legislative materials pertaining to the bill that is the subject of the statement.

The OLS will have the authority to decline to perform a disability impact assessment requested under the bill in the event that, based on its preliminary analysis, the OLS determines that a legislative bill is not likely to have any material effect on individuals who have a disability or that the effects of the legislative bill will be impossible to determine with any reasonable degree of certainty using available information and resources. The OLS will be required to promptly transmit to the requester, in writing, any determination it makes that a legislative bill is not expected to have a material effect on individuals who have a disability or that the effects will be impossible to determine with any reasonable degree of certainty. The written determination will constitute a public document that will be published on the Legislature's Internet website together with any other legislative materials pertaining to the bill that is the subject of the determination.

The bill requires the Legislature to include in each annual appropriations act an appropriation from the General Fund to the Office of Legislative Services that is sufficient to implement the provisions of the bill.