

SENATE, No. 2188

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED MARCH 16, 2020

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

SYNOPSIS

Clarifies DHS authority to regulate sober living homes and halfway houses as residential substance abuse aftercare facilities; requires background checks and other protections for residents of residential substance abuse facilities.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** concerning the regulation of certain facilities by the
2 Department of Human Services and amending and
3 supplementing P.L.1975, c.305 and P.L.1970, c.334, amending
4 P.L.1982, c.149, and supplementing Titles 26 and 53 of the
5 Revised Statues.

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

9
10 1. Section 2 of P.L.1975, c.305 (C.26:2B-8) is amended to read
11 as follows:

12 2. The following words as used in P.L.1975, c.305 (C.26:2B-7
13 et seq.) shall, unless the context requires otherwise, have the
14 following meanings:

15 "Administrator" means the person in charge of the operation of a
16 facility, or his designee.

17 "Admitted" means accepted for treatment at a facility.

18 "Alcoholic" means a person with an alcohol use disorder, as
19 defined in this section.

20 "Authorized persons" means persons who serve as volunteer first
21 aid or ambulance squad members, para-professional medical
22 personnel, and rehabilitated persons with alcohol use disorder.

23 "Commissioner" means the Commissioner of **【Health】** Human
24 Services.

25 "Department" means the Department of **【Health】** Human
26 Services.

27 "Director" means the Director of the Division of **【Alcoholism】**
28 Mental Health and Addiction Services.

29 "Division" means the Division of **【Alcoholism】** Mental Health
30 and Addiction Services in the Department of Human Services.

31 "Facility" means any public, private place, or portion thereof
32 providing services especially designed for the treatment of
33 intoxicated persons or persons with alcohol use disorder; including,
34 but not limited to intoxication treatment centers, inpatient treatment
35 facilities, outpatient facilities, and residential aftercare facilities.

36 "Incapacitated" means the condition of a person who is: a. as a
37 result of the use of alcohol, unconscious or has judgment so
38 impaired that the person is incapable of realizing and making a
39 rational decision with respect to the person's need for treatment, b.
40 in need of substantial medical attention, or c. likely to suffer
41 substantial physical harm.

42 "Independent physician" means a physician other than one
43 holding an office or appointment in any department, board or
44 agency of the State or in any public facility.

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

Matter underlined thus is new matter.

1 "Intoxicated person" means a person whose mental or physical
2 functioning is substantially impaired as a result of the use of
3 alcoholic beverages.

4 "Patient" means any person admitted to a facility.

5 "Person with an alcohol use disorder" means any person who
6 chronically, habitually, or periodically consumes alcoholic
7 beverages to the extent that: a. such use substantially injures the
8 person's health or substantially interferes with the person's social or
9 economic functioning in the community on a continuing basis, or b.
10 the person has lost the power of self-control with respect to the use
11 of such beverages.

12 "Private facility" means a facility other than one operated by the
13 federal government, the State of New Jersey, or any political
14 subdivision thereof.

15 "Public facility" means a facility operated by the State of New
16 Jersey or any political subdivision thereof.

17 "Treatment" means services and programs for the care or
18 rehabilitation of intoxicated persons and persons with alcohol use
19 disorder, including, but not limited to, medical, psychiatric,
20 psychological, vocational, educational, recreational, and social
21 services and programs.

22 (cf: P.L.2017, c.131, s.70)

23

24 2. Section 6 of P.L.1975, c.305 (C.26:2B-12) is amended to
25 read as follows:

26 6. The department shall take cognizance of all matters affecting
27 alcohol use disorder in the State and shall establish and conduct a
28 program for the treatment of intoxicated persons and persons with
29 an alcohol use disorder.

30 The program may encourage regionalization of services and, if
31 not otherwise available, provide for the following facilities, which
32 need not be separately located:

33 a. Intoxication treatment centers, which centers shall render
34 emergency medical care, including detoxification, shall be open 24
35 hours every day, and shall be located conveniently near population
36 centers. Services shall be provided for the immediate physical and
37 social needs, including the needs for medication and shelter, of
38 intoxicated persons, and shall also provide for initial examination,
39 diagnosis and referral. To the extent possible, such treatment
40 centers shall be affiliated with a general or other hospital.

41 b. Inpatient facilities, for treatment of persons with an alcohol
42 use disorder, which shall, to the extent possible, be affiliated with
43 the medical service of a general hospital, mental hospital,
44 community mental health center, or other hospital.

45 c. Outpatient facilities.

46 d. Residential aftercare facilities, such as halfway houses or
47 transitional sober living homes.

1 The department shall maintain, supervise and control all
2 facilities operated by it pursuant to P.L.1975, c.305 (C.26:2B-7 et
3 seq.) and all such facilities shall be staffed with an adequate number
4 of qualified and trained personnel. The administrator of each
5 **【such】** facility shall make an annual report of its activities to the
6 director in such manner and form as the director may deem
7 appropriate. All appropriate resources, particularly community
8 mental health centers, shall whenever possible be utilized in and
9 coordinated with the program.

10 Services delivered by the department pursuant to P.L.1975, c.305
11 (C.26:2B-7 et seq.) may be administered on the premises of
12 institutions operated in whole or in part by the department of
13 institutions and agencies. Such services shall be administered as
14 such services are administered in the other facilities of the
15 department and shall in all respects be therapeutic in nature rather
16 than penal or correctional.

17 The department shall annually prepare and publish **【annually】** a
18 list of all **【services】** facilities and service-providing entities
19 operating in accordance with P.L.1975, c.305 (C.26:2B-7 et seq.)
20 **【and】** , shall make the list available , upon request , to members of
21 the public , and shall include the information on its website in
22 accordance with the registry established pursuant to section 17 of
23 P.L. , c. (C.) (pending before the Legislature as this bill).
24 The department shall notify all law enforcement agencies and
25 judges in the State of the location and capacity of intoxication
26 treatment centers and other **【services】** service-providing entities
27 operating in accordance with **【this act】** P.L.1975, c.305 (C.26:2B-7
28 et seq.), which are situated in or near their jurisdictions.
29 (cf: P.L.2017, c.131, s.73)
30

31 3. Section 2 of P.L.1970, c.334 (C.26:2G-22) is amended to
32 read as follows:

33 2. As used in this act:

34 “Commissioner” means the Commissioner of Human Services.

35 “Department” means the Department of Human Services.

36 “Narcotic drug” means any narcotic, drug, or dangerous
37 controlled substance, as defined in any law of the State of New
38 Jersey or of the United States.

39 "Narcotic and substance use disorder treatment center" means
40 any establishment, facility or institution, public or private, whether
41 operated for profit or not, which primarily offers, or purports to
42 offer, maintain, or operate facilities for the residential or outpatient
43 diagnosis, care, treatment, or rehabilitation of two or more
44 nonrelated individuals, who are patients as defined herein,
45 excluding, however, any hospital or mental hospital otherwise
46 licensed by Title 30 of the Revised Statutes.

1 "Patient" means a person who is addicted to, or otherwise has a
2 physical or mental impairment from the use of narcotic drugs and
3 who requires continuing care of a narcotic and substance use
4 disorder treatment center.

5 ["Narcotic drug" means any narcotic, drug, or dangerous
6 controlled substance, as defined in any law of the State of New
7 Jersey or of the United States.

8 "Commissioner" means the Commissioner of Health.】
9 (cf: P.L.2017, c.131, s.88)

10
11 4. Section 5 of P.L.1970, c.334 (C.26:2G-25) is amended to
12 read as follows:

13 5. The commissioner shall adopt, amend, promulgate and
14 enforce such rules, regulations and minimum standards for the
15 treatment of patients of narcotic and substance use disorder
16 treatment centers as may be reasonably necessary to accomplish the
17 purposes of P.L.1970, c.334 (C.26:2G-21 et seq.). Such narcotic
18 and substance use disorder treatment centers may be classified into
19 two or more classes with appropriate rules, regulations and
20 minimum standards for each such class. The department's
21 classification system shall account for all types of narcotic and drug
22 abuse treatment centers, including, but not limited to: (1) facilities
23 that provide patients with detoxification, medication-assisted
24 treatment, or other intensive or emergency-level drug abuse
25 treatment on an inpatient basis; (2) facilities that provide patients
26 with detoxification, medication-assisted treatment, or other drug
27 abuse treatment, on an outpatient basis; and (3) residential aftercare
28 facilities, such as halfway houses and transitional sober living
29 homes, which help recovering drug addicts and abusers make a
30 successful and sober transition back into the community-at-large.

31 No narcotic or drug abuse treatment center, transitional sober
32 living home, halfway house, or other residential aftercare facility
33 shall be permitted to deny admission to a prospective client on the
34 basis that the person is currently receiving medication assisted
35 treatment for a substance use disorder administered by a licensed
36 treatment provider, including but not limited to methadone,
37 buprenorphine, naltrexone, or any other medication approved by the
38 Food and Drug Administration for the treatment of a substance use
39 disorder.

40 The rules and regulations adopted pursuant to this section shall,
41 at a minimum, require a transitional sober living home, halfway
42 house, or other residential aftercare facility to provide notice to a
43 patient's spouse, parent, legal guardian, designated next of kin, or
44 other designated emergency contact, whenever the patient
45 voluntarily withdraws, or is involuntarily evicted from, such
46 facility, provided that: (1) such notice is provided in a manner that
47 is consistent with federal requirements under 42 CFR Part 2 and
48 federal HIPAA requirements under 45 CFR Parts 160 and 164; and

1 (2) the patient, if an adult, has not withheld consent for such notice
2 or expressly requested that notification not be given. If a patient
3 who is not incapacitated withholds consent for such notice, or
4 expressly requests that notification not be given, the department
5 shall require the patient's wishes to be respected unless the patient
6 is a minor child or adolescent, in which case, the department shall
7 require the minor's parent, legal guardian, designated next of kin, or
8 other designated emergency contact to be notified, provided that
9 such notification is not inconsistent with, and would not violate,
10 federal requirements under 42 CFR Part 2 and federal HIPAA
11 requirements under 45 CFR Parts 160 and 164.

12 (cf: P.L.2017, c.256, s.2)

13

14 5. Section 1 of P.L.1982, c.149 (C.26:2H-11.1) is amended to
15 read as follows:

16 1. In the case of an application for a certificate of need or
17 initial licensure, as applicable, for a narcotic and drug abuse
18 treatment center to be located within 500 feet from any building in
19 this State used for the instruction of children between the ages of
20 five and 18 years, the applicant shall notify the governing body of
21 the municipality within which the applicant proposes to locate the
22 treatment center of the applicant's intention to apply for the
23 certificate of need or licensure and the proposed location of the
24 center. Documentation of the notice shall be filed with the
25 certificate of need or license application. The Commissioner of
26 Health is hereby authorized to adopt reasonable rules and
27 regulations, in accordance with the provisions of the
28 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
29 seq.), to effectuate the purposes of this act. For the purposes of this
30 act, the definition of "narcotic and drug abuse treatment center"
31 shall be identical to the definition in [subsection (a) of] section 2 of
32 P.L.1970, c.334 (C.26:2G-22). This act shall not apply to any
33 narcotic and drug abuse treatment center for which an application
34 was filed prior to the effective date of this act.

35 (cf: P.L.2012, c.17, s.177)

36

37 6. (New section) a. Except as provided in subsection b. of this
38 section, a facility regulated by the department pursuant to P.L.1975,
39 c.305 (C.26:2B-7 et seq.) shall not remove a resident from the
40 facility until at least one week following the date of delivery by the
41 facility to the resident of a written notice that advises the resident
42 that the resident shall be removed from the facility no less than one
43 week from the date of delivery of the notice.

44 b. The provisions of subsection a. of this section shall not
45 apply if the resident of the facility poses an immediate and serious
46 threat to other residents of the facility or to the facility.

47 c. As used in this section, "immediate and serious threat"
48 means that the resident causes or will imminently cause a serious

1 injury, harm, impairment, or death to a resident of the facility, or
2 causes or will imminently cause an incident affecting the safety of
3 the facility.

4
5 7. (New section) In addition to any other inspection of a
6 facility regulated by the department pursuant to P.L.1975,
7 c.305 (C.26:2B-7 et seq.), the department shall conduct a biweekly
8 inspection of a facility if the facility is under investigation for a
9 violation of P.L.1975, c.305 (C.26:2B-7 et seq.) or any rules and
10 regulations adopted pursuant thereto, or under any other authority.
11 The biweekly inspection shall continue until such time as the
12 investigation is concluded.

13
14 8. (New section) a. Except as provided in subsection b. of this
15 section, a narcotic and drug abuse treatment center regulated by the
16 department pursuant to P.L.1970, c.334 (C.26:2G-21 et seq.) shall
17 not remove a resident from the center until at least one week
18 following the date of delivery by the center to the resident of a
19 written notice that advises the resident that the resident shall be
20 removed from the center no less than one week from the date of
21 delivery of the notice.

22 b. The provisions of subsection a. of this section shall not
23 apply if the resident of the center poses an immediate and serious
24 threat to other residents of the center or to the center.

25 c. As used in this section, "immediate and serious threat"
26 means that the resident causes or will imminently cause a serious
27 injury, harm, impairment, or death to a resident of the center, or
28 causes or will imminently cause an incident affecting the safety of
29 the center.

30
31 9. (New section) In addition to any other inspection of a
32 narcotic and drug abuse treatment center regulated by the
33 department pursuant to P.L.1970, c.334 (C.26:2G-21 et seq.), the
34 department shall conduct a biweekly inspection of a center if the
35 center is under investigation for a violation of P.L.1970,
36 c.334 (C.26:2G-21 et seq.) or any rules and regulations adopted
37 pursuant thereto, or under any other authority. The biweekly
38 inspection shall continue until such time as the investigation is
39 concluded.

40
41 10. (New section) As used in sections 10 through 14 of P.L. ,
42 c. (C.) (pending before the Legislature as this bill):

43 "Administrator" means the person in charge of the operation of a
44 facility.

45 "Commissioner" means the Commissioner of Human Services.

46 "Department" means the Department of Human Services.

47 "Facility" means a facility as defined in section 2 of P.L.1975,
48 c.305 (C.26:2B-8) or a narcotic and drug abuse treatment center as

1 defined in section 2 of P.L.1975, c.305 (C.26:2G-22), and includes
2 a residential aftercare facility, such as a halfway house or
3 transitional sober living home.

4 "Owner of the physical plant" or "owner" means the person who
5 owns the property on which the facility is located.

6 "Representative payee" means a person who is employed by a
7 facility and receives government benefits on behalf of an individual
8 residing in the facility.

9
10 11. (New section) a. The commissioner shall not issue a license
11 or certificate of approval, as applicable, to a facility pursuant to
12 P.L.1975, c.305 (C.26:2B-7 et seq.) or P.L.1970, c.334 (C.26:2G-21
13 et seq.), unless the Commissioner of Human Services determines,
14 consistent with the requirements of sections 10 through 14 of P.L. ,
15 c. (C.) (pending before the Legislature as this bill), that no
16 criminal history record information exists on file in the Federal
17 Bureau of Investigation, Identification Division, or in the State
18 Bureau of Identification in the Division of State Police in the
19 Department of Law and Public Safety, which would: disqualify a
20 person from employment as an administrator or representative
21 payee at the facility; or reveal that an owner of the physical plant of
22 a facility has been convicted of crimes or offenses that would
23 disqualify a person from securing or maintaining a license or
24 certificate of approval for a facility.

25 b. If an administrator, representative payee, or owner of the
26 physical plant of a facility refuses to consent to, or cooperate in, the
27 securing of a criminal history record background check pursuant to
28 P.L. , c. (C.) (pending before the Legislature as this bill),
29 the department shall suspend, deny, revoke, or refuse to renew the
30 license or certificate of approval of a facility, as applicable.

31
32 12. (New section) In the case of a facility established prior to
33 the effective date of P.L. , c. (C.) (pending before the
34 Legislature as this bill), the commissioner shall require each
35 administrator, representative payee, or owner of the physical plant
36 of a facility to submit to the department a request for a criminal
37 history record background check within 60 days of the effective
38 date of P.L. , c. (C.) (pending before the Legislature as this
39 bill) for processing by the Division of State Police and the Federal
40 Bureau of Investigation.

41
42 13. (New section) a. A person shall be disqualified from
43 securing or maintaining a license or certificate of approval, as
44 applicable, of a facility if the criminal history record background
45 check of the person who is the owner of the physical plant of the
46 facility or a person who seeks and is subsequently employed or is
47 currently employed as an administrator or representative payee

1 reveals a record of conviction of any of the following crimes and
2 offenses:

3 (1) In New Jersey, any crime or disorderly persons offense:

4 (a) involving danger to the person, meaning those crimes and
5 disorderly persons offenses set forth in N.J.S.2C:11-1 et seq.,
6 N.J.S.2C:12-1 et seq., N.J.S.2C:13-1 et seq., N.J.S.2C:14-1 et seq.
7 or N.J.S.2C:15-1 et seq.; or

8 (b) against the family, children or incompetents, meaning those
9 crimes and disorderly persons offenses set forth in N.J.S.2C:24-1 et
10 seq.; or

11 (c) involving theft as set forth in chapter 20 of Title 2C of the
12 New Jersey Statutes; or

13 (d) involving any controlled dangerous substance or controlled
14 substance analog as set forth in chapter 35 of Title 2C of the New
15 Jersey Statutes except paragraph (4) of subsection a. of
16 N.J.S.2C:35-10.

17 (2) In any other state or jurisdiction, conduct which, if
18 committed in New Jersey, would constitute any of the crimes or
19 disorderly persons offenses described in paragraph (1) of this
20 subsection.

21 b. Notwithstanding the provisions of subsection a. of this
22 section, no person shall be disqualified pursuant to this section on
23 the basis of any conviction disclosed by a criminal history record
24 background check performed pursuant to P.L. , c.
25 (C.)(pending before the Legislature as this bill) if the person
26 has affirmatively demonstrated to the commissioner clear and
27 convincing evidence of the person's rehabilitation. In determining
28 whether a person has affirmatively demonstrated rehabilitation, the
29 following factors shall be considered:

30 (1) the nature and responsibility of the position which the
31 convicted person would hold, has held or currently holds, as the
32 case may be;

33 (2) the nature and seriousness of the offense;

34 (3) the circumstances under which the offense occurred;

35 (4) the date of the offense;

36 (5) the age of the person when the offense was committed;

37 (6) whether the offense was an isolated or repeated incident;

38 (7) any social conditions which may have contributed to the
39 offense; and

40 (8) any evidence of rehabilitation, including good conduct in
41 prison or in the community, counseling or psychiatric treatment
42 received, acquisition of additional academic or vocational
43 schooling, successful participation in correctional work-release
44 programs, or the recommendation of those who have had the person
45 under their supervision.

46

47 14. (New section) a. A person who is required to undergo a
48 criminal history record background check pursuant to sections 10

1 through 13 of P.L. , c. (C.) (pending before the Legislature
2 as this bill) shall submit to the commissioner that person's name,
3 address, and fingerprints. The commissioner is authorized to
4 exchange fingerprint data with and receive criminal history record
5 information from the Federal Bureau of Investigation and the
6 Division of State Police in the Department of Law and Public
7 Safety for use in making the determinations required by P.L. , c.
8 (C.) (pending before the legislature as this bill).

9 b. Upon receipt of the criminal history record information for a
10 person from the Federal Bureau of Investigation or the Division of
11 State Police, the commissioner shall immediately notify, in writing:

12 (1) the person and the person's employer, as applicable, or the
13 person's prospective employer, if known, of the person's
14 qualification or disqualification for employment as an administrator
15 or payee representative. If the person is disqualified, the conviction
16 or convictions which constitute the basis for the disqualification
17 shall be identified in the notice to the person, but shall not be
18 identified in the notice to the person's employer or prospective
19 employer; or, as applicable,

20 (2) the person who is the owner of the physical plant and the
21 facility which is located on the property of the owner, of a person's
22 qualification or disqualification for securing or maintaining a
23 license pursuant to P.L.1975, c.305 (C.26:2B-7 et seq.) or
24 certificate of approval pursuant to P.L.1970, c.334 (C.26:2G-21 et
25 seq.). The owner shall be notified of the conviction or convictions
26 which constitute the results of the owner's criminal history record
27 background check. If the results reveal that a person would be
28 disqualified from securing or maintaining a license or certificate of
29 approval, the crimes and offenses shall be identified in the notice to
30 the owner, but shall not be identified in the notice to the facility
31 which is located on the property of the owner.

32 c. The person who is the subject of the background check shall
33 have 30 days from the date of the written notice of disqualification
34 to petition the commissioner for a hearing on the accuracy of the
35 person's criminal history record information or to establish the
36 person's rehabilitation under subsection b. of section 13 of P.L. ,
37 c. (C.) (pending before the Legislature as this bill). The
38 commissioner shall notify the person's employer or prospective
39 employer or the person securing or maintaining a license or
40 certificate of approval, as applicable, of the person's petition for a
41 hearing within five days following the receipt of the petition from
42 the person. Upon the issuance of a final decision on a petition filed
43 with the commissioner pursuant to this subsection, the
44 commissioner shall notify the person and the person's employer or
45 prospective employer or the owner of the physical plant and the
46 person securing or maintaining a license or certificate of approval,
47 as applicable, as to whether the person remains disqualified for
48 employment or whether a person securing or maintaining a license

1 or certificate of approval remains disqualified under P.L. , c.
2 (C.) (pending before the Legislature as this bill).

3 d. A facility that has received an employment application from
4 a person who is seeking employment as an administrator or
5 representative payee, or that currently employs an administrator or
6 representative payee and:

7 (1) receives notice from the commissioner that the prospective
8 or current administrator or representative payee has been
9 determined by the commissioner to be disqualified to be an
10 administrator or representative payee; or

11 (2) terminates its employment of an administrator or
12 representative payee because the person was disqualified from
13 employment as an administrator or representative payee on the basis
14 of a conviction of a crime or offense as described in section 13 of
15 P.L. , c. (C.) (pending before the Legislature as this bill);
16 shall be immune from liability for disclosing that disqualification or
17 termination in good faith to another facility that may employ that
18 person as an administrator or representative payee.

19

20 15. (New section) A person who undergoes a criminal history
21 record background check pursuant to sections 10 through 14 of P. ,
22 c. (C.) (pending before the Legislature as this bill) shall
23 assume the cost of the criminal history record background check
24 conducted pursuant to P.L. , c. (C.) (pending before the
25 Legislature as this bill).

26

27 16. (New section) a. The Commissioner of Human Services is
28 authorized to exchange fingerprint data with, and to receive
29 information from, the Division of State Police in the Department of
30 Law and Public Safety and the Federal Bureau of Investigation, in
31 accordance with the provisions of sections 10 through 14 of P.L. ,
32 c. (C.) (pending before the Legislature as this bill).

33 b. The Division of State Police shall promptly notify the
34 Department of Human Services in the event that a person who was
35 the subject of a criminal history record background check
36 conducted pursuant to sections 10 through 14 of P.L. , c. (C.)
37 (pending before the Legislature as this bill) is convicted of a crime
38 or offense in this State after the date the background check was
39 performed. Upon receipt of such notification, the department shall
40 make a determination regarding the employment of the
41 administrator or representative payee, or the maintenance of a
42 license or certificate of approval, as applicable, of a facility
43 pursuant to sections 10 through 14 of P.L. , c. (C.)
44 (pending before the Legislature as this bill).

45

46 17. (New section) a. The Division of Mental Health and
47 Addiction Services in the Department of Human Services shall
48 oversee the development and maintenance of a registry, which shall

1 collect and track the information received pursuant to subsection e.
2 of this section about the number of openings available for persons
3 seeking residency in each facility licensed pursuant to P.L.1975,
4 c.305 (C.26:2B-7 et seq.) and each narcotic and drug abuse
5 treatment center issued a certificate of approval pursuant to
6 P.L.1970, c.334 (C.26:2G-21 et seq.) in the State.

7 b. The information maintained in the registry shall include, by
8 county:

9 (1) the name, address and telephone number of the facility or
10 center;

11 (2) the type of services provided by the facility or center;

12 (3) the maximum occupancy of the facility or center; and

13 (4) the number of openings available for persons seeking
14 residency, based on the information received pursuant to subsection
15 e. of this section.

16 c. The information described in subsection b. of this section
17 shall be:

18 (1) prominently displayed on the website of the department and
19 searchable by county or the name of the facility or center;

20 (2) made available to the public, upon request, through the
21 addictions telephone hotline and the Statewide 2-1-1 telephone
22 system; and

23 (3) made available using any other means that the
24 Commissioner of Human Services deems appropriate.

25 d. The commissioner is authorized to solicit, receive, and
26 accept grants, funds, or anything of value from any public or private
27 entity, and receive and accept contributions of money, property,
28 labor, or any other thing of value from any legitimate source, for the
29 purpose of the development and maintenance of a registry pursuant
30 to this section.

31 e. Each facility licensed pursuant to P.L.1975, c.305 (C.26:2B-
32 7 et seq.) and each narcotic and drug abuse treatment center issued a
33 certificate of approval pursuant to P.L.1970, c.334 (C.26:2G-21 et
34 seq.) shall submit to the registry developed and maintained pursuant
35 to this section, no less than once a day, information advising of the
36 number of openings that are available in the facility or center on
37 that day.

38
39 18. The Commissioner of Human Services shall, in accordance
40 with the "Administrative Procedure Act," P.L.1968,
41 c.410 (C.52:14B-1 et seq.), adopt any rules and regulations as the
42 commissioner deems necessary to carry out the provisions of this
43 act.

44
45 19. This act shall take effect on the first day of the seventh
46 month next following the date of enactment, except the
47 Commissioner of Human Services may take any anticipatory

1 administrative action in advance as shall be necessary for the
2 implementation of this act.

3
4
5 STATEMENT

6
7 This bill would amend the State's substance use disorder
8 treatment laws in relation to the regulation of sober living homes
9 and halfway houses. In particular, the bill would expressly clarify
10 that the existing statutory authority of the Department of Human
11 Services (DHS) to license and regulate residential substance use
12 disorder facilities, pursuant to the provisions of P.L.1975, c.305
13 (C.26:2B-7 et seq.) which concerns alcohol and P.L.1970, c.334
14 (C.26:2G-21 et seq.) which concerns narcotic drugs, includes the
15 authority to license and regulate residential substance abuse
16 aftercare facilities such as transitional sober living homes and
17 halfway houses.

18 The bill also provides for criminal history record background
19 checks of a person employed or seeking employment as an
20 administrator of these residential substance abuse facilities, or as a
21 representative payee who receives government benefits on behalf of
22 an individual residing in a facility. The background checks are also
23 to be conducted on a person who is the owner of the physical plant
24 on which a facility is located. A person would be disqualified from
25 securing or maintaining a license pursuant to P.L.1975,
26 c.305 (C.26:2B-7 et seq.) or a certificate of approval pursuant to
27 P.L.1970, c.334 (C.26:2G-21 et seq.) if the criminal history record
28 background check of the person who is the owner of the physical
29 plant of the facility or of a person who is employed as an
30 administrator or representative payee at the facility reveals a record
31 of conviction of the crimes or offenses enumerated in the bill.

32 If a person refuses to consent to, or cooperate in, securing a
33 criminal history record background check, DHS is to suspend, deny,
34 revoke, or refuse to renew the license or certificate of approval of
35 the facility. The criminal history record background checks are to
36 be processed by the Division of State Police and the Federal Bureau
37 of Investigation, and the person who undergoes the background
38 check is to assume the cost of the background check.

39 The bill also provides that the facilities are not to remove a
40 resident from a facility until at least one week following the date of
41 delivery by the facility to the resident of a written notice advising
42 that the resident is to be removed. However, this provision would
43 not apply if the resident poses an immediate and serious threat to
44 other residents or the facility. DHS is also required to conduct
45 inspections every two weeks if there is an investigation for a
46 violation of the laws and regulations governing these facilities or
47 under any other authority.

1 The Division of Mental Health and Addiction Services in DHS is
2 to oversee the development and maintenance of a registry to collect
3 and track information about the number of openings available for
4 persons seeking residency in these facilities. The facilities are
5 required to submit to the registry, no less than once a day,
6 information as to the number of openings that are available on that
7 day. The registry would contain, by county, the following
8 information: the name, address and telephone number of the
9 facility; the type of services provided; the maximum occupancy;
10 and the number of openings available. The registry would: be
11 prominently displayed on the DHS website; provide for a search by
12 county or name; be made available to the public, upon request,
13 through the addictions telephone hotline and the Statewide 2-1-1
14 telephone system; and also be made available using any other
15 means that the Commissioner of Human Services deems
16 appropriate.

17 Lastly, the bill would update the language used in this area of
18 law, in order to ensure grammatical correctness, maintain
19 consistency with current rules of statutory drafting, and correctly
20 reference the Division of Mental Health and Addiction Services in
21 DHS, which is the agency and division currently responsible for the
22 regulation of substance use disorder treatment facilities.