

SENATE, No. 3477

STATE OF NEW JERSEY
219th LEGISLATURE

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Sponsored by:

Senator VIN GOPAL

District 11 (Monmouth)

Senator NELLIE POU

District 35 (Bergen and Passaic)

Co-Sponsored by:

Senator Greenstein

SYNOPSIS

Requires group homes and other community-based residential programs, as condition of licensure, to implement policies to prevent social isolation of residents.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 4/19/2021)

1 **AN ACT** concerning the implementation, by group homes and other
2 community-based residential programs, of policies, protocols,
3 and procedures to prevent the social isolation of residents and
4 supplementing Title 30 of the Revised Statutes.

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

8
9 1. As used in this act:

10 “Community-based residential program” or “community-based
11 residence” means a developmental center, group home, supervised
12 apartment, community care residence, or other residential setting for
13 individuals with developmental disabilities, which is licensed and
14 regulated by the Department of Human Services.

15 “Department” means the Department of Human Services.

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

18 “Group home” means a living arrangement that is operated in a
19 residence or residences leased or owned by an individual who is
20 licensed by the Department of Human Services; which provides the
21 opportunity for multiple individuals with developmental disabilities to
22 live together in a home, sharing in chores and the overall management
23 of the residence; and in which on-site staff provides supervision,
24 training, or assistance, in a variety of forms and intensity, as required
25 to assist the individuals as they move toward independence.

26 “Licensee” means an individual, partnership, or corporation that is
27 licensed by the Division of Developmental Disabilities in the
28 Department of Human Services and is responsible for providing
29 services associated with the operation of a group home or other
30 community-based residential program.

31 “Religious and recreational activities” includes any religious,
32 social, or recreational activity that is consistent with the resident’s
33 preferences and choosing, regardless of whether the activity is
34 coordinated, offered, provided, or sponsored by program staff or by an
35 outside activities provider.

36 “Resident” means a child or adult with developmental disabilities
37 who resides in a group home or other community-based residence.

38 “Social isolation” means a state of isolation wherein a resident in a
39 community-based residential program is unable to engage in social
40 interactions and religious and recreational activities with other
41 program residents or with family members, friends, and external
42 support systems.

43
44 2. a. The Division of Developmental Disabilities in the
45 Department of Human Services shall require the licensed operator
46 of a group home or other community-based residential program in
47 the State, as a condition of licensure, to adopt and implement
48 written policies, provide for the practical availability of technology

1 to residents, and ensure that appropriate staff and other capabilities
2 are in place, to prevent the social isolation of residents.

3 b. The social isolation prevention policies adopted by a
4 licensee shall:

5 (1) authorize, and include specific protocols and procedures to
6 encourage and enable, residents in the community-based residential
7 program to engage in in-person contact, communications, and
8 religious and recreational activities with other residents of the
9 community-based residence and with family members, friends, and
10 other external support systems, except when such in-person contact,
11 communication, or activities are prohibited, restricted, or limited, as
12 permitted by federal and State statute, rule, or regulation;

13 (2) authorize, and include specific protocols and procedures to
14 encourage and enable, residents to engage in face-to-face or
15 verbal/auditory-based contact, communication, and religious and
16 recreational activities with other residents of the community-based
17 residence and with family members, friends, and other external
18 support systems, through the use of electronic or virtual means and
19 methods, including, but not limited to, computer technology, the
20 Internet, social media, videoconferencing, and other innovative
21 technological means or methods, whenever such residents are
22 subject to restrictions that limit their ability to engage in in-person
23 contact, communications, or religious and recreational activities as
24 authorized by paragraph (1) of this subsection;

25 (3) provide for residents to be given access to assistive and
26 supportive technology as may be necessary to facilitate the
27 residents' engagement in face-to-face or verbal/auditory-based
28 contact, communications, and religious and recreational activities
29 with other residents, family members, friends, and other external
30 support systems, through electronic means, as provided by
31 paragraph (2) of this subsection;

32 (4) include specific administrative policies, procedures, and
33 protocols governing: (a) the acquisition, maintenance, and
34 replacement of computers, videoconferencing equipment, distance-
35 based communications technology, assistive and supportive
36 technology and devices, and other technological equipment,
37 accessories, and electronic licenses, as may be necessary to ensure
38 that residents are able to engage in face-to-face or verbal/auditory-
39 based contact, communications, and religious and recreational
40 activities with other program residents and with family members,
41 friends, and external support systems, through electronic means, in
42 accordance with the provisions of paragraphs (2) and (3) of this
43 subsection; (b) the use of environmental barriers and other controls
44 when the equipment and devices acquired pursuant to this act are in
45 use, especially in cases where the equipment or devices are likely to
46 become contaminated with bodily substances, are touched
47 frequently with gloved or ungloved hands, or are difficult to clean;
48 and (c) the regular cleaning of the equipment and devices acquired

1 pursuant to this act and of any environmental barriers or other
2 physical controls used in association therewith;

3 (5) require appropriate program staff to assess and regularly
4 reassess the individual needs and preferences of residents with
5 respect to the residents' participation in social interactions and
6 religious and recreational activities, and include specific protocols
7 and procedures to ensure that the quantity of devices and equipment
8 maintained on-site at the residence remains sufficient, at all times,
9 to meet the assessed social and activities needs and preferences of
10 each individual resident;

11 (6) require appropriate program staff, upon the request of a
12 resident or the resident's family members or guardian, to develop an
13 individualized visitation plan for the resident, which plan shall: (a)
14 identify the assessed needs and preferences of the resident and any
15 preferences specified by the resident's family members; (b) address
16 the need for a visitation schedule, and establish a visitation schedule
17 if deemed to be appropriate; (c) describe the location and modalities
18 to be used in visitation; and (d) describe the respective
19 responsibilities of staff, visitors, and the resident when engaging in
20 visitation pursuant to the individualized visitation plan;

21 (7) include specific policies, protocols, and procedures
22 governing a resident's requisition, use, and return of devices and
23 equipment maintained pursuant to this act, and require appropriate
24 program staff to communicate those policies, protocols, and
25 procedures to residents; and

26 (8) designate at least one program staff member to train other
27 appropriate on-site staff, including, but not limited to, activities
28 professionals and volunteers, social workers, occupational
29 therapists, and therapy assistants, to provide direct assistance to
30 residents, upon request and on an as-needed basis, as necessary to
31 ensure that each resident is able to successfully access and use, for
32 the purposes specified in paragraphs (2) and (3) of this subsection,
33 the technology, devices, and equipment acquired pursuant to this
34 act.

35 c. The department shall distribute available federal and State
36 funds, upon request, to assist community-based residential
37 programs in acquiring the communicative technologies and
38 accessories needed for the purposes of this act.

39

40 3. a. Whenever the department conducts an inspection of a
41 community-based residence, the department's inspector shall
42 determine whether the community-based residence is in compliance
43 with the provisions of this act and the policies, protocols, and
44 procedures adopted pursuant thereto.

45 b. In addition to any other applicable penalties provided by law,
46 whenever a community-based residential program fails to comply with
47 the provisions of this act or to properly implement the policies,
48 protocols, and procedures adopted pursuant thereto, the licensee:

1 (1) shall be liable to pay an administrative penalty, the amount of
2 which shall be determined in accordance with a schedule established
3 by department regulation, which schedule shall provide for an
4 enhanced administrative penalty in the case of a repeat or ongoing
5 violation; and

6 (2) may be subject to adverse licensure action, as deemed by the
7 department to be appropriate.

8 c. Whenever a complaint received or an investigation conducted
9 by the Office of the Ombudsman for Individuals with Intellectual or
10 Developmental Disabilities and Their Families, or by Disability Rights
11 New Jersey, discloses evidence indicating that a community-based
12 residential program has failed to comply with the provisions of this act
13 or to properly implement the policies, protocols, and procedures
14 adopted pursuant thereto, the ombudsman or the executive director, as
15 the case may be, shall refer the matter to the department for
16 disciplinary action and, notwithstanding such referral, may take any
17 other appropriate investigatory or enforcement action, with respect to
18 the matter, as may be authorized by law.

19
20 4. a. Within 60 days after the enactment of this act, and
21 notwithstanding the provisions of the “Administrative Procedure
22 Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the
23 Commissioner of Human Services, in consultation with the
24 Department of Health, shall adopt rules and regulations
25 immediately upon the filing of proper notice with the Office of
26 Administrative Law, as may be necessary to implement the
27 provisions of this act. The rules and regulations shall include, but
28 need not be limited to, minimum standards for the social isolation
29 prevention policies to be adopted pursuant to section 2 of this act
30 and a penalty schedule to be used pursuant to section 3 of this act.

31 b. The rules and regulations adopted pursuant to this section
32 shall remain in effect for a period of not more than one year after
33 the date of filing and, thereafter, shall be adopted, amended, or
34 readopted by the commissioner in accordance with the requirements
35 of the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-
36 1 et seq.).

37
38 5. This act shall take effect immediately.
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41 STATEMENT

42
43 This bill would require the operator of each community-based
44 residential program in the State, as a condition of licensure, to adopt
45 and implement written policies and have appropriate technology,
46 staff, and other capabilities in place, to prevent the social isolation
47 of residents at all times during operation. “Community-based
48 residential program” is defined to include a developmental center,

1 group home, supervised apartment, community care residence, or
2 any other residential setting for individuals with developmental
3 disabilities, which is licensed and regulated by the Department of
4 Human Services (DHS).

5 The bill would require the social isolation prevention policies
6 adopted by each community-based residential program to authorize,
7 and include specific protocols and procedures to encourage and
8 enable, residents to engage in in-person contact, communications,
9 and religious and recreational activities with other program
10 residents and with family members, friends, and other external
11 support systems, except when such in-person contact,
12 communication, or activities are prohibited, restricted, or limited, as
13 permitted by federal and State statute, rule, or regulation. The
14 social isolation prevention policies would additionally be required
15 to:

16 1) authorize, and include specific protocols and procedures to
17 encourage and enable, residents to engage in face-to-face or
18 verbal/auditory-based contact, communication, and religious and
19 recreational activities with other program residents and with family
20 members, friends, and other external support systems, through the
21 use of electronic or virtual means and methods, including, but not
22 limited to, computer technology, the Internet, social media,
23 videoconferencing, and other innovative technological means or
24 methods, whenever such residents are subject to restrictions that
25 limit their ability to engage in in-person contact, communications,
26 or religious and recreational activities;

27 2) provide for residents to be given access to assistive and
28 supportive technology as may be necessary to facilitate the
29 residents' engagement in social interactions and religious and
30 recreational activities with other program residents, and with family
31 members, friends, and other external support systems, through
32 electronic means;

33 3) include specific administrative policies, procedures, and
34 protocols governing: a) the acquisition, maintenance, and
35 replacement of computers, videoconferencing equipment, distance-
36 based communications technology, assistive and supportive
37 technology and devices, and other technological equipment,
38 accessories, and electronic licenses, as may be necessary to enable
39 residents to engage in electronic communications and activities, as
40 specified in the bill; b) the use of environmental barriers and other
41 controls when the equipment and devices acquired pursuant to the
42 bill are in use, especially in cases where the equipment or devices
43 are likely to become contaminated with bodily substances, are
44 touched frequently with gloved or ungloved hands, or are difficult
45 to clean; and c) the regular cleaning of the equipment and devices
46 acquired pursuant to the bill and any environmental barriers or other
47 physical controls used in association therewith;

1 4) require appropriate staff to assess and regularly reassess the
2 individual needs and preferences of residents with respect to their
3 participation in social interactions and religious and recreational
4 activities, and include specific protocols and procedures to ensure
5 that the quantity of devices and equipment maintained on-site at the
6 residence remains sufficient, at all times, to meet the assessed social
7 and activities needs and preferences of each program resident;

8 5) require appropriate staff, upon the request of a resident or
9 the resident's family members or guardian, to develop an
10 individualized visitation plan for the resident, which plan is to: a)
11 identify the assessed needs and preferences of the resident and any
12 preferences specified by the resident's family members; b) address
13 the need for a visitation schedule, and establish a visitation schedule
14 if deemed to be appropriate; c) describe the location and modalities
15 to be used in visitation; and d) describe the respective
16 responsibilities of staff, visitors, and the resident when engaging in
17 visitation pursuant to the individualized visitation plan;

18 6) include specific policies, protocols, and procedures
19 governing a resident's requisition, use, and return of devices and
20 equipment maintained pursuant to the bill, and require appropriate
21 staff to communicate those policies, protocols, and procedures to
22 residents; and

23 7) designate at least one program staff member to train other
24 appropriate on-site staff, including, but not limited to, activities
25 professionals and volunteers, social workers, occupational
26 therapists, and therapy assistants, to provide direct assistance to
27 residents, upon request and on an as-needed basis, as necessary to
28 ensure that each resident is able to successfully access and use the
29 technology, devices, and equipment acquired pursuant to the bill.

30 The bill would require the DHS to distribute available federal
31 and State funds, upon request, to assist community-based residential
32 programs in acquiring the communicative technologies and
33 accessories needed for the bill's purposes.

34 The bill would require the DHS, when conducting an inspection
35 of a community-based residence, to determine whether the
36 residence is in compliance with the bill's provisions and the
37 policies, protocols, and procedures adopted pursuant thereto. In
38 addition to any other applicable penalties provided by law, the
39 licensed operator of a community-based residence that fails to
40 comply with the bill's provisions or to properly implement the
41 policies, protocols, and procedures adopted pursuant thereto will be
42 liable to pay an administrative penalty and may be subject to
43 adverse licensure action, as deemed by the DHS to be appropriate.
44 The amount of the administrative penalty imposed is to be
45 determined in accordance with a schedule established by DHS
46 regulation, which schedule is to provide for an enhanced
47 administrative penalty in the case of a repeat or ongoing violation.

1 The bill would further specify that, whenever a complaint
2 received or an investigation conducted by the Office of the
3 Ombudsman for Individuals with Intellectual or Developmental
4 Disabilities and Their Families, or by Disability Rights New Jersey,
5 discloses evidence indicating that a community-based residence has
6 failed to comply with the bill's provisions or has failed to properly
7 implement the policies, protocols, and procedures adopted pursuant
8 thereto, the ombudsman or executive director, as the case may be,
9 will be required to refer the matter to the DHS for disciplinary
10 action and, notwithstanding such referral, may take any other
11 appropriate investigatory or enforcement action, with respect to the
12 matter, as may be authorized by law.

13 The bill would require the DHS to adopt rules and regulations to
14 implement its provisions, on an emergency basis and in consultation
15 with the DOH, within 60 days after the bill's effective date. The
16 rules and regulations are to include, but need not be limited to,
17 minimum standards for social isolation prevention policies adopted
18 under the bill and a penalty schedule to be used when penalizing
19 violations of the bill. The emergency rules and regulations are to
20 remain in effect for a period of not more than one year before being
21 subject to re-adoption or amendment.