SENATE, No. 1082

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED JANUARY 31, 2022

Sponsored by:
Senator JOSEPH F. VITALE
District 19 (Middlesex)
Senator ROBERT W. SINGER
District 30 (Monmouth and Ocean)

SYNOPSIS

Provides a plan to rebalance State resources to provide community services and supports for persons with developmental disabilities.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 3/24/2022)

AN ACT concerning community services and supports for persons with developmental disabilities and supplementing chapter 6D of Title 30 of the Revised Statutes.

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

1. The Legislature finds and declares that:

a. Persons with developmental disabilities for whom it has been determined that community placement is appropriate but who are still residing in State developmental centers and for whom State resources are being expended to support this inappropriate level of care, and those persons with developmental disabilities who are on community services waiting lists, should be able to live quality, engaged lives in the community, with ready access to a broad range of community-based services and supports in the communities of their choice;

b. According to the Settlement Agreement entered into between Disability Rights New Jersey, Inc. and the Department of Human Services in February 2013, which together with the Path to Progress issued in 2007 and the Addendum to the State's Olmstead Plan, "Blueprint for the June 30, 2013 Closure of Vineland Developmental Center" dated May 2011, constitute the State's Olmstead Plan, there are about 600 individuals residing in developmental centers who are determined to be "community placement-eligible"; this term includes individuals for whom their individual treatment team professionals have determined that community placement is appropriate and the individual or guardian, if applicable, does not oppose community placement;

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

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

e. New Jersey has an obligation to make significant progress to meet the intent of the decision of the United States Supreme Court in Olmstead v. L.C., 527 U.S. 581 (1999), and to make a systems transformation that enables persons with developmental disabilities to receive appropriate services and supports in a timely manner, by shifting its significant investment in developmental center-based care to, instead, develop and expand the community-based services and support systems;

f. While making significant progress to meet the unmet needs of persons with developmental disabilities and provide timely access to community-based services and supports, it is important for New Jersey to do so in a manner that makes it easy for individuals and their families to access services; and

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

2. As used in this act:

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

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

"Department" means the Department of Human Services.

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

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

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

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

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

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

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

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

b. The State Treasurer is the custodian of the fund and all disbursements from the fund shall be made by the State Treasurer upon vouchers signed by the Commissioner of Human Services, or the commissioner's designee. The moneys in the fund shall be invested and reinvested by the Director of the Division of Investment in the Department of the Treasury as are other trust funds in the custody of the State Treasurer, in the manner provided by law. Interest received on the moneys in the fund shall be credited to the fund.

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

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

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

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

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

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

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

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

b. The moneys shall be used to:

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

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

(b) respite care;

(c) timely and flexible residential options that maximize choice and fiscal and personal independence, incorporate demonstrated best practices and market availability, and are available for persons with developmental disabilities who wish to leave community residences for the developmentally disabled for other residential options;

(d) community medical, behavioral health, dental, and specialty care similar to that care provided to other members of the community, including training and regulatory or policy changes necessary to provide such care;

(e) flexible case management and support services that are responsive to individual needs;

(f) employment and skills training to meet the changing job market;

(g) education and training of staff to enhance skills;

(h) social, recreational, and meaningful daytime activities that include programs that are responsive to persons throughout their lifespan;

(i) peer and family supports and in-home and family preservation services; and

(j) assistive and adaptive technology, including vehicle and environmental modifications to promote independence;

(2) establish a moratorium on new placements in developmental centers after the effective date of this act with the exception of court-ordered placements or in instances of imminent danger to life or safety, and concurrently develop, strengthen, and expand community-based services, supports, and residential options to meet emergency needs;

(3) consolidate, downsize, and reduce reliance on developmental centers, so that there are no more than two developmental centers remaining, one each in the northern and southern regions of the State, within five years of the effective date of this act;

(4) afford the workforce of current developmental centers the opportunity for early retirement or alternate workplace opportunities within the State, including, but not limited to, employment at the consolidated developmental centers or other State institutions;

(5) redeploy staff positions from developmental centers utilizing a staff without walls approach that retains State employment status to: undertake regional or county assignments that support community-based services systems; fill gaps in regional and county operations, including but not limited to community case

management, specialty care such as occupational therapy, physical therapy, and medical, dental and other health related services; and address gaps in other professional and direct care positions in the community;

(6) meet the unmet needs of persons on the community services waiting list in order to: reduce continued growth of the waiting list; avert the need for emergency out-of-home placement in a developmental center; and support persons with developmental disabilities who live with their families and afford them quality, engaged lives in the community, while also providing stability to families caring for loved ones at home;

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

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

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

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

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

(1) the Commissioner of Human Services and the State Treasurer, or their designees; the Assistant Commissioner of the Division of Developmental Disabilities in the Department of Human Services; and the chairs of the Assembly Budget and Human Services Committees, and of the Senate Budget and Appropriations and Health, Human Services, and Senior Citizens Committees, or their designees, who shall serve ex officio; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10. This act shall take effect immediately.

STATEMENT

This bill changes the way in which the Division of Developmental Disabilities (DDD) in the Department of Human Services (DHS) will use resources to provide services to persons with developmental disabilities by reducing DDD's reliance on developmental centers and strengthening and expanding community-based services and supports. Instead of investing a disproportionate share of DDD's budget to support an inappropriate level of care through the State's seven developmental centers, the

bill provides for the development and expansion of access to community services and supports to meet the unmet needs of persons on the community services waiting list, those persons in developmental centers whose interdisciplinary teams have made recommendations for community placement and who choose such placement, youth with developmental disabilities to transition to the adult system in a seamless and timely manner, and persons with developmental disabilities who are residing with their families.

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

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

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

The moneys in the fund would be used to: build service capacity and expand access to certain services and supports in the community; establish a moratorium on new placements in developmental centers, except for court-ordered placements or in

instances of imminent danger while also developing, strengthening, and expanding community-based services, supports, and residential options to meet emergency needs; consolidate, downsize, and reduce reliance on developmental centers; afford the workforce of developmental centers the opportunity for early retirement or alternate workplace opportunities within the State, including, but not limited to, employment at the consolidated developmental centers or other State institutions; redeploy staff positions from developmental centers utilizing a staff without walls approach that retains State employment status to undertake assignments that support community-based services systems, fill gaps in regional and county operations, specialty care such as occupational therapy, physical therapy, and medical, dental and other health related services, and address gaps in professional and direct care positions in the community.

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

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

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

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