

SENATE, No. 2654

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED FEBRUARY 26, 2009

Sponsored by:

Senator JOSEPH F. VITALE

District 19 (Middlesex)

Senator THOMAS H. KEAN, JR.

District 21 (Essex, Morris, Somerset and Union)

Co-Sponsored by:

Senators Gordon and Allen

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: 6/16/2009)

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

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. The Legislature finds and declares that:

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

18 b. According to the New Jersey Olmstead Plan, "Path to
19 Progress," issued in 2007, there are over 2,400 persons with
20 developmental disabilities who have received a recommendation
21 from their interdisciplinary team for community placement but who
22 continue to reside in State developmental centers, and there are
23 about 7,800 persons who remain on the Division of Developmental
24 Disabilities waiting list for community services, which has grown
25 by more than 60% in the last ten years;

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

32 d. New Jersey has an obligation to make significant progress to
33 meet the intent of the decision of the United States Supreme Court
34 in *Olmstead v. L.C.* (1999), and make a systems transformation that
35 enables persons with developmental disabilities to receive
36 appropriate services and supports in a timely manner, by shifting its
37 significant investment in developmental center-based care to,
38 instead, develop and expand the community-based services and
39 support systems;

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

45 f. To achieve these goals, it is necessary to shift financial and
46 human resources from the State developmental centers and, instead,
47 use these resources to strengthen and expand community-based
48 services, supports, and residential options to address unmet need by

1 consolidating and closing developmental centers and retaining one
2 center each in the northern and southern regions of the State.

3

4 2. As used in this act:

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

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

12 "Department" means the Department of Human Services.

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

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

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

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

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

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

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

32

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

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

46 c. The fund shall consist of the moneys generated by:

47 (1) the amount of Capital Construction funds appropriated for
48 Other State Projects and Energy Efficiencies - Statewide Projects on

1 page 243 of P.L. 2008, c.35, which are intended to fund capital
2 projects at the State developmental centers, excluding capital
3 project costs that: (a) will result in a reduction in overall operational
4 expenditures at developmental centers; (b) are required for life
5 safety or environmental enhancements at developmental centers; (c)
6 are required as a condition of licensure, accreditation, or receipt of
7 federal Medicaid reimbursement; or (d) are required as part of an
8 agreement between the State and the federal Department of Justice;

9 (2) fiscal year 2009 and each successive fiscal year through the
10 end of fiscal year 2013 savings by the division in "salaries and
11 wages expenditures" due to reductions in overtime expenditures;

12 (3) fiscal year 2009 community care waiver federal financial
13 participation funds received in excess of the amount identified on
14 page 15 of P.L.2008, c.35, as modified by the Governor's
15 recommended budget for fiscal year 2010, and each successive
16 fiscal year through the end of fiscal year 2013;

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

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

23 (6) unspent funds from the division's fiscal year 2009 budget
24 and each successive fiscal year through the end of fiscal year 2013.

25

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

32 b. The moneys shall be used to:

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

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

40 (b) respite care;

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

47 (d) community medical, behavioral health, dental, and specialty
48 care similar to that care provided to other members of the

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

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

3

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

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

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

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

18 (2) 10 public members, to be appointed by the Commissioner of
19 Human Services, as follows: two advocates for persons with
20 developmental disabilities who are persons living with
21 developmental disabilities; two family members of persons
22 receiving services from the division who have transitioned to
23 community living from a developmental center; a representative
24 from the Family Education Project in the School of Public Health in
25 the University of Medicine and Dentistry of New Jersey; a
26 representative from the New Jersey Association of Community
27 Providers; a representative from the Autistic Self Advocacy
28 Network; a representative from Advocates for Alternatives, Inc.; a
29 representative from a labor union; and a recognized national expert
30 on developmental disabilities, public policy, and systems design
31 and development.

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

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

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

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

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

- 1 6. a. The council shall create a preliminary and comprehensive
2 implementation plan, including timetables and benchmarks, which
3 shall:
- 4 (1) provide an overall strategy for the reduction of the
5 population in the developmental centers by 80% within five years of
6 the effective date of this act, and for the reduction in the number of
7 developmental centers to one each in the northern and southern
8 regions of the State;
- 9 (2) provide for the transfer into the community of persons with
10 developmental disabilities residing in the developmental centers
11 whose interdisciplinary teams have made recommendations for
12 community placement and who choose such placement;
- 13 (3) provide details about the reduction, transition, and
14 redeployment of the workforce, and of the downsizing and sale of
15 developmental centers, which shall include the ongoing costs for
16 preparing for the sale of developmental centers and a fiscal analysis
17 of the redirection of funds to support community living;
- 18 (4) provide details about: the development and expansion of
19 community services, supports, and residential options to meet the
20 unmet needs of persons on the community services waiting list; the
21 moratorium on future placements in developmental centers, and the
22 needs of persons in the developmental centers who will remain in a
23 developmental center; the needs of youth with developmental
24 disabilities to transition to the adult system in a seamless and timely
25 manner; and support services to persons with developmental
26 disabilities who are residing with their families;
- 27 (5) specify clear procedures for accomplishing the tasks
28 necessary to carry out the provisions of this act within five years of
29 the effective date of this act, and define positions of responsibility
30 to accomplish these tasks in a timely, effective, and efficient
31 manner;
- 32 (6) specify measureable objectives for carrying out the
33 provisions of this act, and benchmarks and timeframes for meeting
34 those objectives within five years of the effective date of this act;
- 35 (7) stipulate the use of moneys in the fund to strengthen and
36 expand access to community services and supports; and
- 37 (8) specify a timetable and funding necessary to shift resources
38 from institutional to community support.
- 39 b. The plan shall include a minority report, if applicable.
40
- 41 7. The council shall submit the plan to the Governor, and to the
42 Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1),
43 within 180 days of the date of organization of the council.
44
- 45 8. a. There is established a steering committee of not more
46 than 30 members who shall monitor the implementation of the plan.

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

4 (1) the deputy and assistant directors or regional administrators
5 of the division, or both, who shall serve ex officio;

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

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

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

13
14 9. The Commissioner of Human Services shall provide
15 quarterly progress reports on the development and implementation
16 of the plan to the Governor, and to the Legislature pursuant to
17 section 2 of P.L.1991, c.164 (C.52:14-19.1).

18
19 10. This act shall take effect immediately.

20
21
22 STATEMENT

23
24 This bill changes the way in which the Division of
25 Developmental Disabilities (DDD) in the Department of Human
26 Services (DHS) will use resources to provide services to persons
27 with developmental disabilities by reducing DDD's reliance on
28 developmental centers and strengthening and expanding
29 community-based services and supports. Instead of investing a
30 disproportionate share of DDD's budget to support an inappropriate
31 level of care through the State's seven developmental centers, the
32 bill provides for the development and expansion of access to
33 community services and supports to meet the unmet needs of
34 persons on the community services waiting list, those persons in
35 developmental centers whose interdisciplinary teams have made
36 recommendations for community placement and who choose such
37 placement, youth with developmental disabilities to transition to the
38 adult system in a seamless and timely manner, and persons with
39 developmental disabilities who are residing with their families.

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

47 To make these changes, the bill establishes: the "Community
48 Services and Support for Persons with Developmental Disabilities

1 Bridge Fund"; the Community Services Planning Council for
2 Persons with Developmental Disabilities in DHS which would
3 create an implementation plan; and a steering committee to oversee
4 the implementation of the plan.

5 The fund would be established in the Department of the Treasury
6 as a nonlapsing, revolving fund which would be the repository for
7 moneys generated by:

- 8 • the amount of Capital Construction funds appropriated for Other
9 State Projects and Energy Efficiencies - Statewide Projects,
10 which are intended to fund capital projects at the State
11 developmental centers, excluding capital project costs that: will
12 result in a reduction in overall operational expenditures at
13 developmental centers; are required for life safety or
14 environmental enhancements at developmental centers; are
15 required as a condition of licensure, accreditation, or receipt of
16 federal Medicaid reimbursement; or are required as part of an
17 agreement between the State and the federal Department of
18 Justice;
- 19 • fiscal year 2009 and each successive fiscal year through the end
20 of fiscal year 2013 savings by DDD in "salaries and wages
21 expenditures" due to reductions in overtime expenditures;
- 22 • fiscal year 2009 community care waiver federal financial
23 participation funds received in excess of the amount identified
24 in the appropriations act, as modified by the Governor's
25 recommended budget for fiscal year 2010, and each successive
26 fiscal year through the end of fiscal year 2013;
- 27 • reductions in developmental center operational costs achieved
28 through consolidation in the first year and each subsequent year;
- 29 • proceeds achieved through the sale of developmental centers, to
30 be utilized in accordance with the provisions of section 5 of
31 P.L.1997, c.258 (C.30:4-177.57) (for capital and equipment
32 costs associated with the development of community
33 placement); and
- 34 • unspent funds from DDD's fiscal year 2009 budget and each
35 successive fiscal year through the end of fiscal year 2013.

36 The bill specifies that the moneys in the fund would be
37 distributed in a planned and expedient manner, through a request for
38 proposal or other purchasing model that utilizes contract systems
39 which promote timely access to services and supports. The moneys
40 would be used to:

- 41 • build service capacity and expand access to certain services
42 and supports in the community, as listed in the bill;
- 43 • establish a moratorium on new placements in developmental
44 centers, except for court-ordered placements or in instances
45 of imminent danger to life or safety; and concurrently
46 develop, strengthen and expand community-based services,
47 supports, and residential options to meet emergency needs;

- 1 • consolidate, downsize, and reduce reliance on developmental
2 centers;
- 3 • afford the workforce of current developmental centers the
4 opportunity for early retirement or alternate workplace
5 opportunities within the State, including, but not limited to,
6 employment at the consolidated developmental centers or at
7 other State institutions;
- 8 • redeploy staff positions from developmental centers utilizing
9 a staff without walls approach that retains State employment
10 status to: undertake regional or county assignments that
11 support community-based services systems, fill gaps in
12 regional and county operations, including but not limited to
13 community case management, specialty care such as
14 occupational therapy, physical therapy, and medical, dental
15 and other health related services, and address gaps in
16 professional and direct care positions in the community;
- 17 • meet the unmet needs of persons on the community services
18 waiting list in order to: reduce continued growth of the
19 waiting list; avert the need for emergency out-of-home
20 placement in a developmental center; and support persons
21 with developmental disabilities who live with their families
22 and afford them quality, engaged lives in the community,
23 while also providing stability to families caring for loved
24 ones at home;
- 25 • provide a seamless transition for young adults with
26 developmental disabilities who are leaving the education
27 system but are in need of continuing services and supports;
28 and
- 29 • maximize available federal funds and direct those funds
30 toward community-based services.

31 The Community Services Planning Council for Persons with
32 Developmental Disabilities established under the bill would consist
33 of 17 members as follows:

34 -- the Commissioner of Human Services and the State Treasurer,
35 or their designees; the Assistant Commissioner of the Division of
36 Developmental Disabilities in the Department of Human Services;
37 and the chairs of the Assembly Budget and Human Services
38 Committees and of the Senate Budget and Appropriations and
39 Health, Human Services and Senior Citizens Committees, or their
40 designees, who shall serve ex officio; and

41 -- 10 public members, to be appointed by the Commissioner of
42 Human Services, as follows: two advocates for persons with
43 developmental disabilities who are persons living with
44 developmental disabilities; two family members of persons
45 receiving services from DDD who have transitioned to community
46 living from a developmental center; a representative from the
47 Family Education Project in the School of Public Health in the
48 University of Medicine and Dentistry of New Jersey; a

1 representative from the New Jersey Association of Community
2 Providers; a representative from the Autistic Self Advocacy
3 Network; a representative from Advocates for Alternatives, Inc.; a
4 representative from a labor union; and a recognized national expert
5 on developmental disabilities, public policy, and systems design
6 and development.

7 The council is required to create a preliminary and
8 comprehensive implementation plan that would:

- 9 • provide an overall strategy for the reduction of the population
10 in the developmental centers by 80% within five years of the
11 bill's effective date, and for the reduction in the number of
12 developmental centers to one each in the northern and
13 southern regions of the State;
- 14 • provide for the transfer into the community of persons with
15 developmental disabilities residing in the developmental
16 centers whose interdisciplinary teams have made
17 recommendations for community placement and who choose
18 such placement;
- 19 • provide details about the reduction, transition, and
20 redeployment of the workforce, and of the downsizing and
21 sale of developmental centers, which shall include the
22 ongoing costs for preparing for the sale of developmental
23 centers and a fiscal analysis of the redirection of funds to
24 support community living;
- 25 • provide details about: the development and expansion of
26 community services, supports, and residential options to meet
27 the unmet needs of persons on the community services
28 waiting list; the moratorium on future placements in
29 developmental centers and the needs of persons in the
30 developmental centers who will remain in a developmental
31 center; the needs of youth with developmental disabilities to
32 transition to the adult system in a seamless and timely
33 manner; and support services to persons with developmental
34 disabilities who are residing with their families;
- 35 • specify clear procedures for accomplishing the tasks
36 necessary to carry out the provisions of the bill, and define
37 positions of responsibility to accomplish these tasks in a
38 timely, effective, and efficient manner;
- 39 • specify measureable objectives, and benchmarks and
40 timeframes for meeting those objectives within five years of
41 the bill's effective date;
- 42 • stipulate the use of moneys in the fund to strengthen and
43 expand access to community services and supports; and
- 44 • specify a timetable and funding necessary to shift resources
45 from institutional to community support.

46 The bill requires the council to submit the plan, which shall
47 include a minority report, if applicable, to the Governor and

1 Legislature within 180 days of the date of organization of the
2 council.

3 In addition, the steering committee, established under the bill to
4 monitor the plan's implementation, would consist of not more than
5 30 members and would include:

6 -- the members of the council; and

7 -- other members appointed by the Commissioner of Human
8 Services as follows: the deputy and assistant directors or regional
9 administrators of DDD, or both, who shall serve ex officio;
10 representatives from developmental disabilities community provider
11 organizations; and persons with developmental disabilities who are
12 residing in the developmental centers or are on the community
13 services waiting list, or their family members, or both.

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