

# ASSEMBLY, No. 1750

## STATE OF NEW JERSEY 217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

**Sponsored by:**

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**District 6 (Burlington and Camden)**

**Assemblyman DANIEL R. BENSON**

**District 14 (Mercer and Middlesex)**

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**SYNOPSIS**

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

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



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

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

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

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

47 f. While making significant progress to meet the unmet needs  
48 of persons with developmental disabilities and provide timely

1 access to community-based services and supports, it is important for  
2 New Jersey to do so in a manner that makes it easy for individuals  
3 and their families to access services; and

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

10

11 2. As used in this act:

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

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

19 "Department" means the Department of Human Services.

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

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

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

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

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

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

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

39

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

45 b. The State Treasurer is the custodian of the fund and all  
46 disbursements from the fund shall be made by the State Treasurer  
47 upon vouchers signed by the Commissioner of Human Services, or  
48 his designee. The moneys in the fund shall be invested and

A1750 GREENWALD, BENSON

1 reinvested by the Director of the Division of Investment in the  
2 Department of the Treasury as are other trust funds in the custody  
3 of the State Treasurer, in the manner provided by law. Interest  
4 received on the moneys in the fund shall be credited to the fund.

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

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

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

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

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

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

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

32

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

39 b. The moneys shall be used to:

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

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

47 (b) respite care;

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

1 avert the need for emergency out-of-home placement in a  
2 developmental center; and support persons with developmental  
3 disabilities who live with their families and afford them quality,  
4 engaged lives in the community, while also providing stability to  
5 families caring for loved ones at home;

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

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

11

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

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

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

19 (1) the Commissioner of Human Services and the State  
20 Treasurer, or their designees; the Deputy Commissioner of the  
21 Division of Developmental Disabilities in the Department of  
22 Human Services; and the chairs of the Assembly Budget and  
23 Human Services Committees and of the Senate Budget and  
24 Appropriations and Health, Human Services and Senior Citizens  
25 Committees, or their designees, who shall serve ex officio; and

26 (2) 10 public members, to be appointed by the Commissioner of  
27 Human Services, as follows: two advocates for persons with  
28 developmental disabilities who are persons living with  
29 developmental disabilities; two family members of persons  
30 receiving services from the division who have transitioned to  
31 community living from a developmental center; a representative  
32 from the Community Living Education Project in the School of  
33 Public Health at Rutgers, The State University; a representative  
34 from the New Jersey Association of Community Providers; a  
35 representative from the Autistic Self Advocacy Network; a  
36 representative from Advocates for Alternatives, Inc.; a  
37 representative from a labor union; and a recognized national expert  
38 on developmental disabilities, public policy, and systems design  
39 and development.

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

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

- 1 d. The public members shall serve without compensation, but  
2 shall be reimbursed for necessary expenses incurred in the  
3 performance of their duties and within the limits of funds available  
4 to the council.
- 5 e. The council shall be entitled to call to its assistance and avail  
6 itself of the services of the employees of any State, county, or  
7 municipal department, board, bureau, commission, or agency as it  
8 may require and as may be available to it for its purposes.
- 9 f. The department shall provide staff support to the council.  
10
- 11 6. a. The council shall create a preliminary and comprehensive  
12 implementation plan, including timetables and benchmarks, which  
13 shall:
- 14 (1) provide an overall strategy for the reduction of the  
15 population in the developmental centers by 80% within five years of  
16 the effective date of this act, and for the reduction in the number of  
17 developmental centers to one each in the northern and southern  
18 regions of the State;
- 19 (2) provide for the transfer into the community of persons with  
20 developmental disabilities residing in the developmental centers  
21 whose interdisciplinary teams have made recommendations for  
22 community placement and who choose such placement;
- 23 (3) provide details about the reduction, transition, and  
24 redeployment of the workforce, and of the downsizing and sale of  
25 developmental centers, which shall include the ongoing costs for  
26 preparing for the sale of developmental centers and a fiscal analysis  
27 of the redirection of funds to support community living;
- 28 (4) provide details about: the development and expansion of  
29 community services, supports, and residential options to meet the  
30 unmet needs of persons on the community services waiting list; the  
31 moratorium on future placements in developmental centers, and the  
32 needs of persons in the developmental centers who will remain in a  
33 developmental center; the needs of youth with developmental  
34 disabilities to transition to the adult system in a seamless and timely  
35 manner; and support services to persons with developmental  
36 disabilities who are residing with their families;
- 37 (5) specify clear procedures for accomplishing the tasks  
38 necessary to carry out the provisions of this act within five years of  
39 the effective date of this act, and define positions of responsibility  
40 to accomplish these tasks in a timely, effective, and efficient  
41 manner;
- 42 (6) specify measureable objectives for carrying out the  
43 provisions of this act, and benchmarks and timeframes for meeting  
44 those objectives within five years of the effective date of this act;
- 45 (7) stipulate the use of moneys in the fund to strengthen and  
46 expand access to community services and supports; and
- 47 (8) specify a timetable and funding necessary to shift resources  
48 from institutional to community support.

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

2

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

6

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

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

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

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

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

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

22

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

27

28       10. This act shall take effect immediately.

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30

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#### STATEMENT

32

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



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

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

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

36 The moneys in the fund would be used to: build service capacity  
37 and expand access to certain services and supports in the  
38 community; establish a moratorium on new placements in  
39 developmental centers, except for court-ordered placements or in  
40 instances of imminent danger while also developing, strengthening,  
41 and expanding community-based services, supports, and residential  
42 options to meet emergency needs; consolidate, downsize, and  
43 reduce reliance on developmental centers; afford the workforce of  
44 developmental centers the opportunity for early retirement or  
45 alternate workplace opportunities within the State, including, but  
46 not limited to, employment at the consolidated developmental  
47 centers or other State institutions; redeploy staff positions from  
48 developmental centers utilizing a staff without walls approach that

1 retains State employment status to undertake assignments that  
2 support community-based services systems, fill gaps in regional and  
3 county operations, specialty care such as occupational therapy,  
4 physical therapy, and medical, dental and other health related  
5 services, and address gaps in professional and direct care positions  
6 in the community.

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

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

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

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