

**SENATE, No. 1982**

**STATE OF NEW JERSEY**  
**214th LEGISLATURE**

INTRODUCED MAY 27, 2010

**Sponsored by:**

**Senator STEPHEN M. SWEENEY**

**District 3 (Salem, Cumberland and Gloucester)**

**Senator JOSEPH F. VITALE**

**District 19 (Middlesex)**

**SYNOPSIS**

Changes references of “mental retardation” to “intellectual disability” or “developmental disability” and uses person-first language for persons with disabilities.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning terminology referring to persons with various  
2 disabilities and revising parts of statutory law.

3

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

6

7 1. Section 27 of P.L.1982, c.77 (C.2A:4A-46) is amended to  
8 read as follows:

9 27. a. The court may order any disposition in a juvenile-family  
10 crisis provided for in paragraphs (2), (4), (5), (6), (7) and (13) of  
11 subsection b. of section 24 of P.L.1982, c.77 (C.2A:4A-43) or other  
12 disposition specifically provided for in P.L.1982, c.80 (C.2A:4A-76  
13 et seq.).

14 b. No juvenile involved in a juvenile-family crisis shall be  
15 committed to or placed in any institution or facility established for  
16 the care of delinquent children or in any facility, other than an  
17 institution for **the mentally retarded** persons with intellectual  
18 disabilities, a mental hospital or facility for the care of persons  
19 addicted to controlled dangerous substances, which physically  
20 restricts such juvenile committed to or placed in it.

21 (cf: P.L. 1995, c.280, s.14)

22

23 2. Section 3 of P.L.1977, c.200 (C.5:5-44.4) is amended to read  
24 as follows:

25 3. The New Jersey State Developmental Disabilities Council  
26 shall determine annually which organizations in New Jersey shall  
27 receive the moneys to be distributed pursuant to section 2 of this  
28 supplemental act; provided, however, that such organizations shall  
29 be nonprofit organizations which expend funds for direct services  
30 in full-time programs to New Jersey residents who are  
31 developmentally disabled, and provided further, however, that each  
32 such organization shall be affiliated with a national organization of  
33 the same type and purpose. As used herein, "developmentally  
34 disabled" means a disability of a person which (1) is attributable to:

35 (a) **mental retardation** an intellectual disability, cerebral palsy,  
36 epilepsy or autism;

37 (b) any other condition found to be closely related to **mental**  
38 **retardation** an intellectual disability because such condition results  
39 in impairment of general intellectual functioning or adaptive  
40 behavior similar to impairment resulting from **mental retardation**  
41 an intellectual disability or which requires treatment and services  
42 similar to those required for **mental retardation** an intellectual  
43 disability; or

44 (c) dyslexia resulting from a disability described in

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

Matter underlined thus is new matter.

1 subparagraphs (a) and (b);

2 (2) originates before such person attains age 18;

3 (3) has continued or can be expected to continue indefinitely;  
4 and

5 (4) constitutes a substantial handicap to such person's ability to  
6 function normally in society.

7 (cf: P.L.1977, c. 200, s. 3)

8

9 3. Section 6 of P.L.1938, c.366 (C.17:48-6) is amended to read  
10 as follows:

11 6. Every individual contract made by a corporation subject to  
12 the provisions of this chapter to furnish services to a subscriber  
13 shall provide for the furnishing of services for a period of 12  
14 months, and no contract shall be made providing for the inception  
15 of such services at a date later than 1 year after the actual date of  
16 the making of such contract. Any such contract may provide that it  
17 shall be automatically renewed from year to year unless there shall  
18 have been at least 30 days' prior written notice of termination by  
19 either the subscriber or the corporation. In the absence of fraud or  
20 material misrepresentation in the application for a contract or for  
21 reinstatement, no contract with an individual subscriber shall be  
22 terminated by the corporation unless all contracts of the same type,  
23 in the same group or covering the same classification of persons are  
24 terminated under the same conditions.

25 No contract between any such corporation and a subscriber shall  
26 entitle more than one person to services, except that a contract  
27 issued as a family contract may provide that services will be  
28 furnished to a husband and wife, or husband, wife and their  
29 dependent child or children, or the subscriber and his (or her)  
30 dependent child or children. Adult dependent(s) of a subscriber  
31 may also be included for coverage under the contract of such  
32 subscriber.

33 Whenever, pursuant to the provisions of a subscription certificate  
34 or group contract issued by a corporation, the former spouse of a  
35 named subscriber under such a certificate or contract is no longer  
36 entitled to coverage as an eligible dependent by reason of divorce,  
37 separate coverage for such former spouse shall be made available  
38 the corporation on an individual non-group basis under the  
39 following conditions:

40 (a) Application for such non-group coverage shall be made to the  
41 corporation by or on behalf of such former spouse no later than 31  
42 days following the date his or her coverage under the prior  
43 certificate or contract terminated.

44 (b) No new evidence of insurability shall be required in  
45 connection with the application for such non-group coverage but  
46 any health exception, limitation or exclusion applicable to said  
47 former spouse under the prior coverage may, at the option of the  
48 corporation, be carried over to the new non-group coverage.

1 (c) The effective date of the new coverage shall be the day  
2 following the date on which such former spouse's coverage under  
3 the prior certificate or contract terminated.

4 (d) The benefits provided under the non-group coverage issued  
5 to such former spouse shall be at least equal to the basic benefits  
6 provided in contracts then being issued by the corporation to new  
7 non-group applicants of the same age and family status.

8 Family type contracts shall provide that the services applicable  
9 for children shall be payable with respect to a newly-born child of  
10 the subscriber, or his or her spouse from the moment of birth. The  
11 services for newly-born children shall consist of coverage of injury  
12 or sickness including the necessary care and treatment of medically  
13 diagnosed congenital defects and abnormalities. If a subscription  
14 payment is required to provide services for a child, the contract  
15 may require that notification of birth of a newly-born child and the  
16 required payment must be furnished to the service corporation  
17 within 31 days after the date of birth in order to have the coverage  
18 continue beyond such 31-day period.

19 Nonfamily type contracts which provide for services to the  
20 subscriber but not to family members or dependents of that  
21 subscriber, shall also provide services to newly-born children of the  
22 subscriber which shall commence with the moment of birth of each  
23 child and shall consist of coverage of injury or sickness including  
24 the necessary care and treatment of medically diagnosed congenital  
25 defects and abnormalities, provided that application therefor and  
26 payment of the required subscription amount are made to include in  
27 said contract the coverage described in the preceding paragraph of  
28 this section within 31 days from the date of birth of a newborn  
29 child.

30 A contract under which coverage of a dependent of a subscriber  
31 terminates at a specified age shall, with respect to an unmarried  
32 child, covered by the contract prior to attainment of age 19, who is  
33 incapable of self-sustaining employment by reason of **【mental**  
34 **retardation】** an intellectual disability or physical handicap and who  
35 became so incapable prior to attainment of age 19 and who is  
36 chiefly dependent upon such subscriber for support and  
37 maintenance, not so terminate while the contract remains in force  
38 and the dependent remains in such condition, if the subscriber has  
39 within 31 days of such dependent's attainment of the termination  
40 age submitted proof of such dependent's incapacity as described  
41 herein. The foregoing provisions of this paragraph shall not apply  
42 retrospectively or prospectively to require a hospital service  
43 corporation to insure as a covered dependent any **【mentally**  
44 **retarded】** child with an intellectual disability or physically  
45 handicapped child of the applicant where the contract is  
46 underwritten on evidence of insurability based on health factors  
47 required to be set forth in the application. In such cases any  
48 contract heretofore or hereafter issued may specifically exclude

1 such **[mentally retarded]** child with an intellectual disability or  
2 physically handicapped child from coverage.

3 Every individual contract entered into by any such corporation  
4 with any subscriber thereto shall be in writing and a certificate  
5 stating the terms and conditions thereof shall be furnished to the  
6 subscriber to be kept by him. No such certificate form shall be  
7 made, issued or delivered in this State unless it contains the  
8 following provisions:

9 (a) A statement of the contract rate, or amount payable to the  
10 corporation by or on behalf of the subscriber for the original  
11 quarter-annual period of coverage and of the time or times at which,  
12 and the manner in which, such amount is to be paid; and a  
13 provision requiring 30 days written notice to the subscriber before  
14 any change in the contract, including a change in the amount of  
15 subscription rate, shall take effect;

16 (b) A statement of the nature of the services to be furnished and  
17 the period during which they will be furnished; and if there are any  
18 services to be excepted, a detailed statement of such exceptions  
19 printed as hereinafter specified;

20 (c) A statement of the terms and conditions, if any, upon which  
21 the contract may be amended on approval of the commissioner or  
22 canceled or otherwise terminated at the option of either party. Any  
23 notice to the subscriber shall be effective if sent by mail to the  
24 subscriber's address as shown at the time on the plan's record,  
25 except that, in the case of persons for whom payment of the  
26 contract is made through a remitting agent, any such notice to the  
27 subscriber shall also be effective if a personalized notice is sent to  
28 the remitting agent for delivery to the subscriber, in which case it  
29 shall be the responsibility of the remitting agent to make such  
30 delivery. The notice to the subscriber as herein required shall be  
31 sent at least 30 days before the amendment, cancellation or  
32 termination of the contract takes effect. Any rider or endorsement  
33 accompanying such notice, and amending the rates or other  
34 provisions of the contract, shall be deemed to be a part of the  
35 contract as of the effective date of such rider or endorsement;

36 (d) A statement that the contract includes the endorsements  
37 thereon and attached papers, if any, and contains the entire contract  
38 for services;

39 (e) A statement that no statement by the subscriber in his  
40 application for a contract shall avoid the contract or be used in any  
41 legal proceeding thereunder, unless such application or an exact  
42 copy thereof is included in or attached to such contract, and that no  
43 agent or representative of such corporation, other than an officer or  
44 officers designated therein, is authorized to change the contract or  
45 waive any of its provisions;

46 (f) A statement that if the subscriber defaults in making any  
47 payment under the contract, the subsequent acceptance of a  
48 payment by the corporation or by one of its duly authorized agents

1 shall reinstate the contract, but with respect to sickness and injury  
2 may cover such sickness as may be first manifested more than 10  
3 days after the date of such acceptance;

4 (g) A statement of the period of grace which will be allowed the  
5 subscriber for making any payment due under the contract. Such  
6 period shall be not less than 10 days.

7 In every such contract made, issued or delivered in this State:

8 (a) All printed portions shall be plainly printed in type of which  
9 the face is not smaller than 10 point;

10 (b) There shall be a brief description of the contract on its first  
11 page and on its filing back in type of which the face is not smaller  
12 than 14 point;

13 (c) The exceptions of the contract shall appear with the same  
14 prominence as the benefits to which they apply; and

15 (d) If the contract contains any provision purporting to make any  
16 portion of the articles, constitution or bylaws of the corporation a  
17 part of the contract, such portion shall be set forth in full.

18 (cf: P.L. 1980, c. 113, s. 3)

19

20 4. Section 2 of P.L.1964, c.104 (C.17:48-6.1) is amended to  
21 read as follows:

22 2. A hospital service corporation may issue to a policyholder a  
23 group contract, covering at least two employees or members at the  
24 date of issue, if it conforms to the following description:

25 (a) A contract issued to an employer or to the trustees of a fund  
26 established by one or more employers, or issued to a labor union, or  
27 issued to an association formed for purposes other than obtaining  
28 such contract, or issued to the trustees of a fund established by one  
29 or more labor unions, or by one or more employers and one or more  
30 labor unions, covering employees and members of associations or  
31 labor unions.

32 (b) A contract issued to cover any other group which the  
33 Commissioner of Insurance determines may be covered in  
34 accordance with sound underwriting principles.

35 Benefits may be provided for one or more members of the  
36 families or one or more dependents of persons who may be covered  
37 under a group contract referred to in (a) or (b) above.

38 Family type contracts shall provide that the services applicable  
39 for children shall be payable with respect to a newly-born child of  
40 the subscriber, or his or her spouse from the moment of birth. The  
41 services for newly-born children shall consist of coverage of injury  
42 or sickness including the necessary care and treatment of medically  
43 diagnosed congenital defects and abnormalities. If a subscription  
44 payment is required to provide services for a child, the contract may  
45 require that notification of birth of a newly-born child and the  
46 required payment must be furnished to the service corporation  
47 within 31 days after the date of birth in order to have the coverage  
48 continue beyond such 31-day period. Group contracts which

1 provide for services to the subscriber but not to family members or  
2 dependents of that subscriber, other than contracts which provide no  
3 dependent coverage whatsoever for the subscriber's class, shall also  
4 provide services to newly-born children of the subscriber which  
5 shall commence with the moment of birth of each child and shall  
6 consist of coverage of injury or sickness including the necessary  
7 care and treatment of medically diagnosed congenital defects and  
8 abnormalities, provided that application therefor and payment of the  
9 required subscription amount are made to include in said contract  
10 the coverage described in the preceding paragraph of this section  
11 within 31 days from the date of birth of a newborn child.

12 A contract under which coverage of such a dependent terminates  
13 at a specified age shall, with respect to an unmarried child, covered  
14 by the contract prior to attainment of age 19, who is incapable of  
15 self-sustaining employment by reason of **【mental retardation】**  
16 intellectual disability or physical handicap and who became so  
17 incapable prior to attainment of age 19 and who is chiefly  
18 dependent upon the covered employee or member for support and  
19 maintenance, not so terminate while the coverage of the employee  
20 or member remains in force and the dependent remains in such  
21 conditions, if the employee or member has within 31 days of such  
22 dependent's attainment of the termination age submitted proof of  
23 such dependent's incapacity as described herein. The foregoing  
24 provisions of this paragraph shall not apply retrospectively or  
25 prospectively to require a hospital service corporation to insure as a  
26 covered dependent any **【mentally retarded】** child with an  
27 intellectual disability or **【physically handicapped child】** physical  
28 handicap of the applicant where the contract is underwritten on  
29 evidence of insurability based on health factors required to be set  
30 forth in the application. In such cases any contract heretofore or  
31 hereafter issued may specifically exclude such **【mentally retarded】**  
32 child with an intellectual disability or **【physically handicapped**  
33 **child】** physical handicap from coverage.

34 Any group contract which contains provisions for the payment  
35 by the insurer of benefits for members of the family or dependents  
36 of a person in the insured group shall provide that, subject to  
37 payment of the appropriate premium, such family members or  
38 dependents be permitted to have coverage continued for at least 180  
39 days after the death of the person in the insured group.

40 The contract may provide that the term "employees" shall  
41 include as employees of a single employer the employees of one or  
42 more subsidiary corporations and the employees, individual  
43 proprietors and partners of affiliated corporations, proprietorships  
44 and partnerships if the business of the employer and such  
45 corporations, proprietorships or partnerships is under common  
46 control through stock ownership, contract or otherwise. The  
47 contract may provide that the term "employees" shall include the

1 individual proprietor or partners of an individual proprietorship or a  
2 partnership. The contract may provide that the term "employees"  
3 shall include retired employees. A contract issued to trustees may  
4 provide that the term "employees" shall include the trustees or their  
5 employees, or both, if their duties are principally connected with  
6 such trusteeship. A contract issued to the trustees of a fund  
7 established by the members of an association of employers may  
8 provide that the term "employees" shall include the employees of  
9 the association.  
10 (cf: P.L.1993, c.162, s.24)

11  
12 5. Section 5 of P.L.1940, c.74 (C.17-48A-5) is amended to read  
13 as follows:

14 5. Every individual contract made by any corporation subject to  
15 the provisions of this chapter to provide payment for medical  
16 services shall provide for the payment of medical services for a  
17 period of 12 months from the date of issue of the subscription  
18 certificate. Any such contract may provide that it shall be  
19 automatically renewed from year to year unless there shall have  
20 been 1 month's prior written notice of termination by either the  
21 subscriber or the corporation. In the absence of fraud or material  
22 misrepresentation in the application for contract or for  
23 reinstatement, no contract with an individual subscriber shall be  
24 terminated by the corporation unless all contracts of the same type,  
25 in the same group or covering the same classification of persons are  
26 terminated under the same conditions. No contract between such  
27 corporation and subscriber shall allow for the payment for medical  
28 services for more than one person, except that a family contract  
29 may provide that payment will be made for medical services  
30 rendered to a subscriber and any of those dependents defined in  
31 section 1 of this act.

32 Whenever, pursuant to the provisions of a subscription certificate  
33 or group contract issued by a corporation, the former spouse of a  
34 named subscriber under such a certificate or contract is no longer  
35 entitled to coverage as an eligible dependent by reason of divorce,  
36 separate coverage for such former spouse shall be made available  
37 by the corporation on an individual nongroup basis under the  
38 following conditions:

39 (a) Application for such nongroup coverage shall be made to the  
40 corporation by or on behalf of such former spouse no later than 31  
41 days following the date his or her coverage under the prior  
42 certificate or contract terminated.

43 (b) No new evidence of insurability shall be required in  
44 connection with the application for such nongroup coverage but  
45 any health exception, limitation or exclusion applicable to said  
46 former spouse under the prior coverage may, at the option of the  
47 corporation, be carried over to the new nongroup coverage.



1 (c) The effective date of the new coverage shall be the day  
2 following the date on which such former spouse's coverage under  
3 the prior certificate or contract terminated.

4 (d) The benefits provided under the nongroup coverage issued to  
5 such former spouse shall be at least equal to the basic benefits  
6 provided in contracts then being issued by the corporation to new  
7 nongroup applicants of the same age and family status.

8 Family type contracts shall provide that the services applicable  
9 for children shall be payable with respect to a newly-born child of  
10 the subscriber, or his or her spouse from the moment of birth. The  
11 services for newly-born children shall consist of coverage of injury  
12 or sickness including the necessary care and treatment of medically  
13 diagnosed congenital defects and abnormalities. If a subscription  
14 payment is required to provide services for a child, the contract  
15 may require that notification of birth of a newly-born child and the  
16 required payment shall be furnished to the service corporation  
17 within 31 days after the date of birth in order to have the coverage  
18 continue beyond such 31-day period.

19 Nonfamily type contracts which provide for services to the  
20 subscriber but not to family members or dependents of that  
21 subscriber, shall also provide services to newly-born children of the  
22 subscriber which shall commence with the moment of birth of each  
23 child and shall consist of coverage of injury or sickness including  
24 the necessary care and treatment of medically diagnosed congenital  
25 defects and abnormalities, provided that application therefor and  
26 payment of the required subscription amount are made to include in  
27 said contract the coverage described in the preceding paragraph of  
28 this section within 31 days from the date of birth of a newborn  
29 child.

30 A contract under which coverage of a dependent of a subscriber  
31 terminates at a specified age shall, with respect to an unmarried  
32 child, covered by the contract prior to attainment of age 19, who is  
33 incapable of self-sustaining employment by reason of **【mental**  
34 **retardation】** intellectual disability or physical handicap and who  
35 became so incapable prior to attainment of age 19 and who is  
36 chiefly dependent upon such subscriber for support and  
37 maintenance, not so terminate while the contract remains in force  
38 and the dependent remains in such condition, if the subscriber has  
39 within 31 days of such dependent's attainment of the termination  
40 age submitted proof of such dependent's incapacity as described  
41 herein. The foregoing provisions of this paragraph shall not apply  
42 retrospectively or prospectively to require a medical service  
43 corporation to insure as a covered dependent any **【mentally**  
44 **retarded】** child with an intellectual disability or **【physically**  
45 **handicapped child】** physical handicap of the applicant where the  
46 contract is underwritten on evidence of insurability based on health  
47 factors, required to be set forth in the application. In such cases

1 any contract heretofore or hereafter issued may specifically exclude  
2 such **mentally retarded** child with an intellectual disability or  
3 **physically handicapped child** physical handicap from coverage.  
4 (cf: P.L. 1981, c. 511, s. 9)

5  
6 6. Section 1 of P.L.1964, c.105 (C.17:48A-7.1) is amended to  
7 read as follows:

8 1. A medical service corporation may issue to a policyholder a  
9 group contract, covering at least 10 employees or members at the  
10 date of issue, if it conforms to the following description:

11 (a) A contract issued to an employer or to the trustees of a fund  
12 established by one or more employers, or issued to a labor union, or  
13 issued to an association formed for purposes other than obtaining  
14 such contract, or issued to the trustees of a fund established by one  
15 or more labor unions or by one or more employers and one or more  
16 labor unions, covering employees and members of associations or  
17 labor unions.

18 (b) A contract issued to cover any other group which the  
19 Commissioner of Insurance (hereinafter called the commissioner)  
20 determines may be covered in accordance with sound underwriting  
21 principles.

22 Benefits may be provided for one or more members of the  
23 families or one or more dependents of persons who may be covered  
24 under a group contract referred to in (a) or (b) above.

25 Family type contracts shall provide that the services applicable  
26 for children shall be payable with respect to a newly-born child of  
27 the subscriber, or his or her spouse from the moment of birth. The  
28 services for newly-born children shall consist of coverage of injury  
29 or sickness including the necessary care and treatment of medically  
30 diagnosed congenital defects and abnormalities. If a subscription  
31 payment is required to provide services for a child, the contract  
32 may require that notification of birth of a newly-born child and the  
33 required payment must be furnished to the service corporation  
34 within 31 days after the date of birth in order to have the coverage  
35 continue beyond such 31-day period.

36 Group contracts which provide for services to the subscriber but  
37 not to family members or dependents of that subscriber, other than  
38 contracts which provide no dependent coverage whatsoever for the  
39 subscriber's class, shall also provide services to newly-born children  
40 of the subscriber which shall commence with the moment of birth  
41 of each child and shall consist of coverage of injury or sickness  
42 including the necessary care and treatment of medically diagnosed  
43 congenital defects and abnormalities, provided that application  
44 therefor and payment of the required subscription amount are made  
45 to include in said contract the coverage described in the preceding  
46 paragraph of this section within 31 days from the date of birth of a  
47 newborn child.

1 A contract under which coverage of such a dependent terminates  
2 at a specified age shall, with respect to an unmarried child, covered  
3 by the contract prior to attainment of age 19, who is incapable of  
4 self-sustaining employment by reason of **【mental retardation】**  
5 intellectual disability or physical handicap and who became so  
6 incapable prior to attainment of age 19 and who is chiefly  
7 dependent upon the covered employee or member for support and  
8 maintenance, not so terminate while the coverage of the employee  
9 or member remains in force and the dependent remains in such  
10 condition, if the employee or member has within 31 days of such  
11 dependent's attainment of the termination age submitted proof of  
12 such dependent's incapacity as described herein. The foregoing  
13 provisions of this paragraph shall apply retrospectively or  
14 prospectively to require a medical service corporation to insure as a  
15 covered dependent any **【mentally retarded】** child with an  
16 intellectual disability or **【physically handicapped child】** physical  
17 handicap of the applicant where the contract is underwritten on  
18 evidence of insurability based on health factors required to be set  
19 forth in the application. In such cases any contract heretofore or  
20 hereafter issued may specifically exclude such **【mentally retarded】**  
21 child with an intellectual disability or **【physically handicapped**  
22 **child】** physical handicap from coverage.

23 Any group contract which contains provisions for the payment  
24 by the insurer of benefits for members of the family or dependents  
25 of a person in the insured group shall, subject to payment of the  
26 appropriate premium, provide that such family members or  
27 dependents be permitted to have coverage continued for at least 180  
28 days after the death of the person in the insured group.

29 The contract may provide that the term "employees" shall  
30 include as employees of a single employer the employees of one or  
31 more subsidiary corporations and the employees, individual  
32 proprietors and partners of affiliated corporations, proprietorships  
33 and partnerships if the business of the employer and such  
34 corporations, proprietorships or partnerships is under common  
35 control through stock ownership, contract or otherwise. The  
36 contract may provide that the term "employees" shall include the  
37 individual proprietor or partners of an individual proprietorship or  
38 a partnership. The contract may provide that the term "employees"  
39 shall include retired employees. A contract issued to trustees may  
40 provide that the term "employees" shall include the trustees or their  
41 employees, or both, if their duties are principally connected with  
42 such trusteeship. A contract issued to the trustees of a fund  
43 established by the members of an association of employers may  
44 provide that the term "employees" shall include the employees of  
45 the association.

46 (cf: P.L.1976, c. 101, s. 3)

1       7. Section 22 of P.L.1985, c.236 (C.17:48E-22) is amended to  
2 read as follows:

3       22. Coverage of an unmarried child, covered prior to attainment  
4 of age 19 by an individual contract under which coverage  
5 terminates at a specified age, who is incapable of self-sustaining  
6 employment by reason of **【mental retardation】** intellectual  
7 disability or physical handicap and who became so incapable prior  
8 to attainment of age 19 and who is chiefly dependent upon the  
9 subscriber for support and maintenance, shall not terminate while  
10 the contract remains in force and the dependent remains in that  
11 condition, if the subscriber has within 31 days of the dependent's  
12 attainment of the termination age submitted proof of the dependent's  
13 incapacity as described herein. The provisions of this section shall  
14 not apply retrospectively or prospectively to require a health service  
15 corporation to insure as a covered dependent any **【mentally**  
16 **retarded】** child with an intellectual disability or **【physically**  
17 **handicapped child】** physical handicap of the applicant where the  
18 contract is underwritten on evidence of insurability based on health  
19 factors required to be set forth in the application. A contract  
20 heretofore or hereafter issued may, however, specifically exclude  
21 such **【mentally retarded】** child with an intellectual disability or  
22 **【physically handicapped child】** physical handicap from coverage.  
23 (cf: P.L. 1985, c. 236, s. 22)

24  
25       8. Section 30 of P.L.1985, c.236 (C.17:48E-30) is amended to  
26 read as follows:

27       30. Coverage of an unmarried child, covered prior to attainment  
28 of age 19 by a group contract under which coverage terminates at a  
29 specified age, who is incapable of self-sustaining employment by  
30 reason of **【mental retardation】** intellectual disability or physical  
31 handicap and who became so incapable prior to attainment of age  
32 19 and who is chiefly dependent upon the covered employee or  
33 member for support and maintenance, shall not terminate while the  
34 coverage of the employee or member remains in force and the  
35 dependent remains in that condition, if the employee or member has  
36 within 31 days of the dependent's attainment of the termination age  
37 submitted proof of the dependent's incapacity as described herein.  
38 The provisions of this section shall not apply retrospectively or  
39 prospectively to require a health service corporation to insure as a  
40 covered dependent any **【mentally retarded】** child with an  
41 intellectual disability or **【physically handicapped child】** physical  
42 handicap of the applicant where the contract is underwritten on  
43 evidence of insurability based on health factors required to be set  
44 forth in the application. Any contract heretofore or hereafter issued  
45 may, however, specifically exclude a **【mentally retarded】** child with  
46 an intellectual disability or **【physically handicapped child】** physical

1 handicap from coverage.  
2 (cf: P.L. 1985, c. 236, s. 30)

3

4 9. N.J.S.17B:26-2 is amended to read as follows:

5 17B:26-2. a. No such policy of insurance shall be delivered or  
6 issued for delivery to any person in this State unless:

7 (1) The entire money and other considerations therefor are  
8 expressed therein; and

9 (2) The time at which the insurance takes effect and terminates is  
10 expressed therein; and

11 (3) It purports to insure only one person, except that a policy  
12 may insure, originally or by subsequent amendment, upon the  
13 application of an adult member of a family who shall be deemed the  
14 policyholder, any two or more eligible members of that family,  
15 including husband, wife, dependent children or any children under  
16 a specified age which shall not exceed 19 years and any other  
17 person dependent upon the policyholder; and

18 (4) The style, arrangement and over-all appearance of the policy  
19 give no undue prominence to any portion of the text, and unless  
20 every printed portion of the text of the policy and of any  
21 endorsements or attached papers is plainly printed in light-faced  
22 type of a style in general use, the size of which shall be uniform and  
23 not less than 10-point with a lower-case unspaced alphabet length  
24 not less than 120-point (the "text" shall include all printed matter  
25 except the name and address of the insurer, name or title of the  
26 policy, the brief description if any, and captions and subcaptions);  
27 and

28 (5) The exceptions and reductions of indemnity are set forth in  
29 the policy and, except those which are set forth in sections 17B:26-  
30 3 to 17B:26-31 inclusive, are printed, at the insurer's option, either  
31 included with the benefit provision to which they apply, or under an  
32 appropriate caption such as "exceptions," or "exceptions and  
33 reductions," provided that if an exception or reduction specifically  
34 applies only to a particular benefit of the policy, a statement of  
35 such exception or reduction shall be included with the benefit  
36 provision to which it applies; and

37 (6) Each such form, including riders and endorsements, shall be  
38 identified by a form number in the lower left-hand corner of the  
39 first page thereof; and

40 (7) It contains no provision purporting to make any portion of the  
41 charter, rules, constitution, or bylaws of the insurer a part of the  
42 policy unless such portion is set forth in full in the policy, except in  
43 the case of the incorporation of, or reference to, a statement of rates  
44 or classification of risks, or short-rate table filed with the  
45 commissioner.

46 b. A policy under which coverage of a dependent of the  
47 policyholder terminates at a specified age shall, with respect to an  
48 unmarried child covered by the policy prior to the attainment of

1 age 19, who is incapable of self-sustaining employment by reason  
2 of **[mental retardation]** intellectual disability or physical handicap  
3 and who became so incapable prior to attainment of age 19 and who  
4 is chiefly dependent upon such policyholder for support and  
5 maintenance, not so terminate while the policy remains in force  
6 and the dependent remains in such condition, if the policyholder has  
7 within 31 days of such dependent's attainment of the limiting age  
8 submitted proof of such dependent's incapacity as described herein.  
9 The foregoing provisions of this paragraph shall not require an  
10 insurer to insure a dependent who is a **[mentally retarded]** child  
11 with an intellectual disability or **[physically handicapped child]**  
12 physical handicap where the policy is underwritten on evidence of  
13 insurability based on health factors set forth in the application or  
14 where such dependent does not satisfy the conditions of the policy  
15 as to any requirement for evidence of insurability or other  
16 provisions of the policy, satisfaction of which is required for  
17 coverage thereunder to take effect. In any such case the terms of  
18 the policy shall apply with regard to the coverage or exclusion from  
19 coverage of such dependent.

20 c. Notwithstanding any provision of a policy of health  
21 insurance, hereafter delivered or issued for delivery in this State,  
22 whenever such policy provides for reimbursement for any  
23 optometric service which is within the lawful scope of practice of a  
24 duly licensed optometrist, the insured under such policy shall be  
25 entitled to reimbursement for such service, whether the said service  
26 is performed by a physician or duly licensed optometrist.

27 d. If any policy is issued by an insurer domiciled in this State  
28 for delivery to a person residing in another state, and if the official  
29 having responsibility for the administration of the insurance laws of  
30 such other state shall have advised the commissioner that any such  
31 policy is not subject to approval or disapproval by such official, the  
32 commissioner may by ruling require that such policy meet the  
33 standards set forth in subsection a. of this section and in sections  
34 17B:26-3 to 17B:26-31 inclusive.

35 e. Notwithstanding any provision of a policy of health  
36 insurance, hereafter delivered or issued for delivery in this State,  
37 whenever such policy provides for reimbursement for any  
38 psychological service which is within the lawful scope of practice  
39 of a duly licensed psychologist, the insured under such policy shall  
40 be entitled to reimbursement for such service, whether the said  
41 service is performed by a physician or duly licensed psychologist.

42 f. Notwithstanding any provision of a policy of health  
43 insurance, hereafter delivered or issued for delivery in this State,  
44 whenever such policy provides for reimbursement for any service  
45 which is within the lawful scope of practice of a duly licensed  
46 chiropractor, the insured under such policy or the chiropractor  
47 rendering such service shall be entitled to reimbursement for such  
48 service, when the said service is performed by a chiropractor. The

1 foregoing provision shall be liberally construed in favor of  
2 reimbursement of chiropractors.

3 g. All individual health insurance policies which provide  
4 coverage for a family member or dependent of the insured on an  
5 expense incurred basis shall also provide that the health insurance  
6 benefits applicable for children shall be payable with respect to a  
7 newly born child of that insured from the moment of birth.

8 (1) The coverage for newly born children shall consist of  
9 coverage of injury or sickness including the necessary care and  
10 treatment of medically diagnosed congenital defects and birth  
11 abnormalities.

12 (2) If payment of a specific premium is required to provide  
13 coverage for a child, the policy may require that notification of  
14 birth of a newly born child and payment of the required premium  
15 must be furnished to the insurer within 31 days after the date of  
16 birth in order to have the coverage continue beyond such 31-day  
17 period.

18 h. All individual health insurance policies which provide  
19 coverage on an expense incurred basis but do not provide coverage  
20 for a family member or dependent of the insured on an expense  
21 incurred basis shall nevertheless provide for coverage of newborn  
22 children of the insured which shall commence with the moment of  
23 birth of each child and shall consist of coverage of injury or  
24 sickness including the necessary care and treatment of medically  
25 diagnosed congenital defects and birth abnormalities, provided  
26 application therefor and payment of the required premium are made  
27 to the insurer to include in said policy coverage the same or similar  
28 to that of the insured, described in g. (1) above 31 days from the  
29 date of a newborn child.

30 i. Whenever, pursuant to the provisions of an individual or  
31 group contract issued by an insurer, the former spouse of a named  
32 insured is no longer entitled to coverage as an individual dependent  
33 by reason of divorce, separate coverage for such former spouse  
34 shall be made available by the insurer on an individual non-group  
35 basis under the following conditions:

36 (1) Application for such non-group coverage shall be made to the  
37 insurer by or on behalf of such former spouse no later than 31 days  
38 following the date his or her coverage under the prior certificate or  
39 contract terminated.

40 (2) No new evidence of insurability shall be required in  
41 connection with the application for such non-group coverage but  
42 any health exception, limitation or exclusion applicable to said  
43 former spouse under the prior coverage may, at the option of the  
44 insurer, be carried over to the new non-group coverage.

45 (3) The effective date of the new coverage shall be the day  
46 following the date on which such former spouse's coverage under  
47 the prior certificate or contract terminated.

1 (4) The benefits provided under the non-group coverage issued  
2 to such former spouse shall be at least equal to the basic benefits  
3 provided in contracts then being issued by the insurer to acceptable  
4 new non-group applicants of the same age and family status.  
5 (cf: P.L.1980, c. 113, s. 2)

6  
7 10. N.J.S.17B:27-30 is amended to read as follow:

8 17B:27-30. Benefits of group health insurance, except benefits  
9 for loss of time on account of disability, may be provided for one or  
10 more members of the families or one or more dependents of persons  
11 who may be insured under a group policy referred to in sections  
12 17B:27-27, 17B:27-28 or 17B:27-29. Any group health insurance  
13 policy which contains provisions for the payment by the insurer of  
14 benefits for expenses incurred on account of hospital, nursing,  
15 medical, or surgical services for members of the family or  
16 dependents of a person in the insured group must, subject to  
17 payment of the appropriate premium, permit such family members  
18 or dependents to have coverage continued for at least 180 days after  
19 the death of the person in the insured group, subject to the policy  
20 provision as to termination of coverage with respect to family  
21 members or dependents for reasons other than the death of the  
22 person in the insured group.

23 All group health insurance policies which provide coverage for a  
24 family member or dependent of an insured on an expense incurred  
25 basis shall also provide that the benefits applicable for children  
26 shall be payable with respect to a newly-born child of that insured  
27 from the moment of birth. The coverage for newly-born children  
28 shall consist of coverage of injury or sickness including the  
29 necessary care and treatment of medically diagnosed congenital  
30 defects and birth abnormalities. If payment of a specific premium  
31 is required to provide coverage for a child, the policy may require  
32 that notification of birth of a newly-born child and payment of the  
33 required premium must be furnished to the insurer within 31 days  
34 after the date of birth in order to have the coverage continue  
35 beyond such 31-day period.

36 All group health insurance policies which provide coverage on  
37 an expense incurred basis for the insured but do not provide  
38 coverage for a family member or dependent of the insured on an  
39 expense incurred basis, except such group policies as provide no  
40 dependent coverage whatsoever for the insured's class, shall  
41 nevertheless provide for coverage of newborn children of the  
42 insured which shall commence with the moment of birth of each  
43 child and shall consist of coverage of injury or sickness including  
44 the necessary care and treatment of medically diagnosed congenital  
45 defects and birth abnormalities, provided application and payment  
46 of the required premium are made to the insurer to include in said  
47 policy coverage for a newly-born child as described in the previous



1 paragraph of this section within 31 days from the date of birth of a  
2 newborn child.

3 A policy under which coverage of a dependent of an employee or  
4 other member of the insured group terminates at a specified age  
5 shall, with respect to an unmarried child covered by the policy prior  
6 to the attainment of age 19, who is incapable of self-sustaining  
7 employment by reason of **【mental retardation】** intellectual  
8 disability or physical handicap and who became so incapable prior  
9 to attainment of age 19 and who is chiefly dependent upon such  
10 employee or member for support and maintenance, not so terminate  
11 while the insurance of the employee or member remains in force  
12 and the dependent remains in such condition, if the insured  
13 employee or member has within 31 days of such dependent's  
14 attainment of the termination age submitted proof of such  
15 dependent's incapacity as described herein. The foregoing  
16 provision of this paragraph shall not require an insurer to insure a  
17 dependent who is a **【mentally retarded】** child with an intellectual  
18 disability or **【physically handicapped child】** physical handicap  
19 of an employee or other member of the insured group where such  
20 dependent does not satisfy the conditions of the group policy as to  
21 any requirements for evidence of insurability or other provisions as  
22 may be stated in the group policy required for coverage thereunder  
23 to take effect. In any such case the terms of the policy shall apply  
24 with regard to the coverage or exclusion from coverage of such  
25 dependent.

26 (cf: P.L.1976, c. 101, s. 1)

27

28 11. N.J.S.18A:39-1.2 is amended to read as follows:

29 18A:39-1.2. Whenever the governing body of a municipality  
30 finds that for safety reasons it is desirable to provide transportation  
31 to and from a school for pupils living within the municipality, other  
32 than those living remote from the school or those physically  
33 handicapped or **【mentally retarded】** with an intellectual disability,  
34 the governing body and the board of education of the district are  
35 authorized to enter into a contract pursuant to the "Interlocal  
36 Services Act," P.L.1973, c.208 (C.40:8A-1 et seq.) under the terms  
37 of which the board shall provide such transportation. Any funds  
38 required to be paid by the municipality to the board of education  
39 under such a contract shall be appropriated by the governing body  
40 and paid to the custodian of school moneys of the district. The  
41 governing body of the municipality may charge the parents or  
42 guardians of children who are transported for safety reasons in  
43 order to help defray expenses, provided that no charge shall be  
44 imposed on the parent or guardian of any child who meets the  
45 Statewide eligibility standards established by the State Board of  
46 Education for free and reduced price meals under the State school  
47 lunch program. The amount of any charges and the method of  
48 collection shall be specified in the contract between the municipal

1 governing body and the board of education. Nothing in this section  
2 shall prevent a board of education from providing transportation at  
3 its own expense.

4 (cf: P.L.1995, c.271, s.1)

5  
6 12. N.J.S.18A:43A-5 is amended to read as follows:

7 18A:43A-5. The bureau may, subject to the approval of the  
8 board of education, provide for or administer any or all of the  
9 following services:

10 (a) Take, keep and maintain a census of all children residing in  
11 the district pursuant to the provisions of section 18A:11-2;

12 (b) Supervise and maintain a school attendance service to carry  
13 out the provisions of article 3 of chapter 38 of this title, Compulsory  
14 Education;

15 (c) Maintain a register and classification of **mentally retarded**  
16 children with intellectual disabilities and **handicapped** children  
17 with handicaps pursuant to the provisions of chapter 46 of this title;

18 (d) Supervise the issuance of employment certificates, age  
19 certificates and special permits pursuant to the provisions of chapter  
20 153 of the Laws of 1940, the law limiting and regulating child  
21 labor;

22 (e) Establish and maintain group and individual child guidance  
23 and counseling programs;

24 (f) Establish and operate speech and remedial reading clinics and  
25 such other clinics as will promote the normal educational  
26 development of the children of the district;

27 (g) Arrange with the respective county and municipal authorities  
28 concerned with proper juvenile development and particularly with  
29 those concerned with juvenile delinquency for mutual cooperation  
30 and assistance including service of the children's bureau as a  
31 receiving center for juvenile delinquents;

32 (h) Carry out, under guidance, the recommendations of mental  
33 health and diagnostic centers and clinics and of family psychiatrists  
34 and physicians;

35 (i) Counsel with parent and child;

36 (j) Cooperate in providing long- or short-term supervision of any  
37 child in connection with any of the services authorized by this  
38 section;

39 (k) Assist in the promotion of the normal development of youth  
40 and their proper adjustment in society.

41 (cf: N.J.S.18A:43A-5)

42  
43 13. N.J.S.18A:46-1 is amended to read as follows:

44 18A:46-1. As used in this chapter a handicapped child shall  
45 mean and include any child who **is mentally retarded,** has an  
46 intellectual disability or who is visually handicapped, auditorily  
47 handicapped, communication handicapped, neurologically or  
48 perceptually impaired, orthopedically handicapped, chronically ill,

1 emotionally disturbed, socially maladjusted, multiply handicapped,  
2 autistic, or pre-school handicapped.

3 (cf: 1990, c.52, s.55)

4

5 14. N.J.S.18A:46-2 is amended to read as follows:

6 18A:46-2. The commissioner shall be responsible for the  
7 coordination of the work of the county departments of child study  
8 and the general administration of special educational services in the  
9 public schools of this State.

10 In order to carry out the provisions of this chapter, he shall  
11 appoint to his staff persons qualified to administer educational  
12 services in the general field of education for handicapped children  
13 including each of the following disability groups: (1) **mentally**  
14 **retarded** intellectually disabled, (2) orthopedically handicapped,  
15 (3) communication handicapped, (4) visually handicapped, (5)  
16 neurologically or perceptually impaired, (6) chronically ill, (7)  
17 emotionally disturbed, (8) socially maladjusted, (9) **the** auditorily  
18 handicapped, (10) autistic and (11) **the** pre-school handicapped,  
19 and a consultant experienced in child psychiatry, and specialists in  
20 school psychology, health service, school social work, learning  
21 disabilities and special education and such other qualified personnel  
22 as he shall deem necessary and he shall fix their compensation with  
23 the approval of the State board.

24 The commissioner shall appoint biannually an advisory council  
25 with the approval of the State board which will consist of not less  
26 than seven nor more than 15 members representative of public and  
27 private professional and lay interests. The advisory council shall  
28 advise in the promulgation of rules, regulations and the  
29 implementation of this chapter and the establishment of standards  
30 and qualifications for the professional personnel. The council shall  
31 serve without remuneration.

32 (cf: P.L. 1990, c.52, s.56)

33

34 15. N.J.S.18A:46-8 is amended to read as follows:

35 18A:46-8. Each board of education shall provide for the  
36 examination and classification of each child residing in the district  
37 and identified pursuant to N.J.S.18A:46-6, except that the board of  
38 education of a county vocational school district shall provide for the  
39 examination and classification of each child who is attending the  
40 county vocational school on a full-time basis and is identified  
41 pursuant to N.J.S.18A:46-6. Such examination and classification  
42 shall be accomplished according to procedures prescribed by the  
43 commissioner and approved by the State board, under one of the  
44 following categories: **mentally retarded** intellectually disabled,  
45 visually handicapped, auditorily handicapped, communication  
46 handicapped, neurologically or perceptually impaired,  
47 orthopedically handicapped, chronically ill, emotionally disturbed,

1 socially maladjusted, autistic, multiply handicapped or pre-school  
2 handicapped. The examination and classification of such nonpublic  
3 school children shall be in a location determined by the local board  
4 of education of the district in which the nonpublic school is located  
5 and approved by the commissioner pursuant to rules and regulations  
6 promulgated by the State board.

7 The classification of communication handicapped shall be made  
8 by the basic child study team and an approved speech correctionist  
9 or speech pathologist, without child study consultation. Such  
10 children shall be reported to the basic child study team.

11 The proposed classification shall be reported to the parent or  
12 guardian of the child and an opportunity provided, prior to  
13 implementation of the classification, for consultation by such parent  
14 or guardian with the appropriate special educational services  
15 personnel of the district. Pursuant to rules of the State board, the  
16 parent or guardian shall also be provided an opportunity for further  
17 review of the classification in the Department of Education.

18 (cf: P.L.1990, c.52, s.57)

19

20 16. N.J.S.18A:46-9 is amended to read as follows:

21 18A:46-9. Each child classified pursuant to **[section]** N.J.S.  
22 18A:46-8 as **[mentally retarded]** having an intellectual disability  
23 shall be similarly further identified, examined and classified into  
24 one of the following subcategories:

25 a. Educable **[mentally retarded children,]** children with  
26 intellectual disabilities who **[are those who]** may be expected to  
27 succeed with a minimum of supervision in homes and schools and  
28 community life and are characterized particularly by reasonable  
29 expectation that at maturity they will be capable of vocational and  
30 social independence in competitive environment;

31 b. Trainable **[mentally retarded children,]** children with  
32 intellectual disabilities who are so **[retarded]** intellectually disabled  
33 that they cannot be classified as educable but are, notwithstanding,  
34 potentially capable of self-help, of communicating satisfactorily, or  
35 participating in groups, of directing their behavior so as not to be  
36 dangerous to themselves or others and of achieving with training  
37 some degree of personal independence and social and economic  
38 usefulness within sheltered environments;

39 c. Children eligible for day training, who are **[those so**  
40 **severely mentally retarded as to be]** incapable of giving evidence of  
41 understanding and responding in a positive manner to simple  
42 directions expressed in the child's primary mode of communication  
43 and who cannot in some manner express basic wants and needs.

44 (cf: P.L.1975, c. 212, s. 39)

45

46 17. R.S.19:4-1 is amended to read as follows:

1 19:4-1. Except as provided in [sections] R.S. 19:4-2 and R.S.  
2 19:4-3 [of this Title], every person possessing the qualifications  
3 required by Article II, paragraph 3, of the Constitution of the State  
4 of New Jersey and having none of the disqualifications hereinafter  
5 stated and being duly registered as required by [this] Title 19, shall  
6 have the right of suffrage and shall be entitled to vote in the polling  
7 place assigned to the election district in which he actually resides,  
8 and not elsewhere.

9 No person shall have the right of suffrage--

10 (1) Who [is an idiot or is insane] has been adjudicated by a court  
11 of competent jurisdiction to lack the capacity to understand the act  
12 of voting; or

13 (2) (Deleted by amendment.)

14 (3) (Deleted by amendment.)

15 (4) (Deleted by amendment.)

16 (5) (Deleted by amendment.)

17 (6) Who has been convicted of a violation of any of the  
18 provisions of this Title, for which criminal penalties were imposed,  
19 if such person was deprived of such right as part of the punishment  
20 therefor according to law unless pardoned or restored by law to the  
21 right of suffrage; or

22 (7) Who shall be convicted of the violation of any of the  
23 provisions of this Title, for which criminal penalties are imposed, if  
24 such person shall be deprived of such right as part of the  
25 punishment therefor according to law, unless pardoned or restored  
26 by law to the right of suffrage; or

27 (8) Who is serving a sentence or is on parole or probation as the  
28 result of a conviction of any indictable offense under the laws of  
29 this or another state or of the United States.

30 A person who will have on the day of the next general election  
31 the qualifications to entitle him to vote shall have the right to be  
32 registered for and vote at such general election and register for and  
33 vote at any election, intervening between such date of registration  
34 and such general election, if he shall be a citizen of the United  
35 States and shall meet the age and residence requirements prescribed  
36 by the Constitution of this State and the laws of the United States,  
37 when such intervening election is held, as though such  
38 qualifications were met before registration.

39 (cf: P.L.1971, c. 280, s. 1)

40

41 18. Section 15 of P.L.1971, c. 136 (C.26:2H-15) is amended to  
42 read as follows:

43 15. Whenever a residential health care facility, boarding house  
44 or rooming house, not licensed hereunder, by public or private  
45 advertising or by other means holds out to the public that it is  
46 equipped to provide postoperative or convalescent care for persons  
47 [mentally ill or mentally retarded] with mental illness or

1 intellectual disabilities or who are suffering or recovering from  
2 illness or injury, or who are chronically ill, or whenever there is  
3 reason to believe that any such facility or institution, not licensed  
4 hereunder, is violating any of the provisions of this act, then, and in  
5 such case, the department shall be permitted reasonable inspection  
6 of such premises for the purpose of ascertaining whether there is  
7 any violation of the provisions hereof. If any such residential  
8 health care facility, boarding house or rooming house, shall operate  
9 as a private mental hospital, convalescent home, private nursing  
10 home or private hospital in violation of the provisions of this act,  
11 then the same shall be liable to the penalties which are prescribed  
12 and capable of being assessed against health care facilities pursuant  
13 to this act.

14 Any person, firm, association, partnership or corporation, not  
15 licensed hereunder, but who holds out to the public by advertising  
16 or other means that the medical and nursing care contemplated by  
17 this act will be furnished to persons seeking admission as patients,  
18 shall cease and desist from such practice and shall be liable to a  
19 penalty of \$100.00 for the first offense and \$500.00 for each  
20 subsequent offense, such penalty to be recovered as provided for  
21 herein.

22 (cf: P.L.1979, c.496, s.21)

23

24 19. R.S. 30:1-12 is amended to read as follows:

25 30:1-12. a. The Legislature finds that the Commissioner of  
26 Human Services is obligated by State and federal law to assure that  
27 programs that serve eligible, low-income, handicapped, elderly,  
28 abused, and disabled persons are provided in an accessible,  
29 efficient, cost-effective and high quality manner. In order to meet  
30 these ends, the commissioner must have sufficient authority to  
31 require institutions and agencies that are under his direct or indirect  
32 supervision to meet State and federal mandates. This authority is  
33 especially necessary given the manner in which certain services are  
34 provided by county or local agencies, but are funded in whole or  
35 part by the State. The Legislature finds that the commissioner must  
36 have the authority to establish rules, regulations and directives,  
37 including incentives and sanctions, to assure that these institutions  
38 and agencies are providing services in a manner consistent with  
39 these mandates.

40 b. The commissioner shall have power to determine all matters  
41 relating to the unified and continuous development of the  
42 institutions and noninstitutional agencies within his jurisdiction. He  
43 shall determine all matters of policy and shall have power to  
44 regulate the administration of the institutions or noninstitutional  
45 agencies within his jurisdiction, correct and adjust the same so that  
46 each shall function as an integral part of a general system. The  
47 rules, regulations, orders and directions issued by the commissioner  
48 pursuant thereto, for this purpose shall be accepted and enforced by

1 the executive having charge of any institution or group of  
2 institutions or noninstitutional agencies or any phase of the work  
3 within the jurisdiction of the department.

4 In order to implement the public policy of this State concerning  
5 the provision of charitable, hospital, relief and training institutions  
6 established for diagnosis, care, treatment, training, rehabilitation  
7 and welfare of persons in need thereof, for research and for training  
8 of personnel, and in order that the personnel, buildings, land, and  
9 other facilities provided be most effectively used to these ends and  
10 to advance the public interest, the commissioner is hereby  
11 empowered to classify and designate from time to time the specific  
12 functions to be performed at and by any of the aforesaid institutions  
13 under his jurisdiction and to designate, by general classification of  
14 disease or disability, age or sex, the classes of persons who may be  
15 admitted to, or served by, these institutions or agencies.

16 In addition to and in conjunction with its general facilities and  
17 services for **the mentally ill, mentally retarded and tuberculous**  
18 persons with mental illness, developmental disabilities, or  
19 tuberculosis, the department may at its discretion establish and  
20 maintain specialized facilities and services for the residential care,  
21 treatment and rehabilitation of persons who are suffering from  
22 chronic mental or neurological disorders, including, but not limited  
23 to alcoholism, drug addiction, epilepsy and cerebral palsy.

24 The commissioner shall have the power to regulate the  
25 administration of agencies under his supervision including, but not  
26 limited to, municipal and county agencies that administer public  
27 assistance. The commissioner may issue rules, regulations, orders  
28 and directions to assure that programs administered by the agencies  
29 are financially and programmatically efficient and effective, and to  
30 establish incentives and impose sanctions to assure the appropriate  
31 operation of programs and compliance with State and federal laws  
32 and regulations.

33 In addition, the commissioner shall have the authority to:

34 (1) review and approve county and municipal budgets for public  
35 assistance; and

36 (2) take appropriate interim action, including withholding State  
37 and federal administrative funds, or take over and operate county or  
38 municipal public assistance operations in situations in which the  
39 commissioner determines that the public assistance agency is failing  
40 to substantially follow federal or State law, thereby placing clients,  
41 who are dependent on public assistance benefits to survive in a  
42 humane and healthy manner, at serious risk. In this situation, the  
43 commissioner shall have the authority to bill the county for the cost  
44 of such operations and for necessary changes to assure that services  
45 are provided to accomplish federal and State mandates in an  
46 effective and efficient manner.

47 No rule, regulation, order or direction shall abridge the authority  
48 of a county or municipality to establish wages and terms and

1 conditions of employment for its employees through collective  
2 negotiation with an authorized employee organization pursuant to  
3 P.L.1984, c.14 (C.44:7-6.1 et seq.).

4 The commissioner shall have the power to promulgate  
5 regulations to assure that services in State and county psychiatric  
6 facilities are provided in an efficient and accessible manner and are  
7 of the highest quality. Regulations shall include, but shall not be  
8 limited to, the transfer of patients between facilities; the  
9 maintenance of quality in order to obtain certification by the United  
10 States Department of Health and Human Services; the review of the  
11 facility's budget; and the establishment of sanctions to assure the  
12 appropriate operation of facilities in compliance with State and  
13 federal laws and regulations.

14 The commissioner shall have the power to promulgate  
15 regulations to assure that county adjusters effectively and  
16 efficiently conduct investigations, notify legally responsible persons  
17 of amounts to be assessed against them, petition the courts,  
18 represent patients in psychiatric facilities, and as necessary reopen  
19 the question of payment for maintenance of persons residing in  
20 psychiatric facilities. Regulations may include minimum standards  
21 for determining payment of care by legally responsible persons; a  
22 uniform reporting system of findings, conclusions and  
23 recommendations; and the establishment of sanctions to assure  
24 compliance with State laws and regulations.

25 c. The commissioner shall have the power to conduct an  
26 investigation into the financial ability to pay, directly or indirectly,  
27 of any person receiving services from the department, or his  
28 chargeable relatives. This authority shall include the power to issue  
29 subpoenas to compel testimony and the production of documents.  
30 The commissioner may contract with a public or private entity to  
31 perform the functions set forth in this subsection, subject to terms  
32 and conditions required by the commissioner.

33 (cf: P.L.1997, c.37, s.11)

34

35 20. R.S.30:1-15 is amended to read as follows:

36 30:1-15. The commissioner and the State board shall have the  
37 power of visitation and inspection of all county and city jails or  
38 places of detention, county or city workhouses, county  
39 penitentiaries, county mental hospitals, poor farms, almshouses,  
40 county and municipal schools of detention, and privately  
41 maintained institutions and noninstitutional agencies for the care  
42 and treatment of **【the mentally ill, the blind, the deaf, the mentally**  
43 **retarded】** persons with mental illness or developmental disabilities  
44 and persons who are blind or deaf, or other institutions, and  
45 noninstitutional agencies conducted for the benefit of **【the**  
46 **physically and mentally defective】** persons who are physically or  
47 mentally defective, or the furnishing of board, lodging or care for  
48 children. The commissioner or his duly authorized agent, and any



1 member of the State board shall be admitted to any and all parts of  
2 any such institutions at any time, for the purpose of inspecting and  
3 observing the physical condition thereof, the methods of  
4 management and operation thereof, the physical condition of the  
5 inmates, the care, treatment and discipline thereof, and also to  
6 determine whether such persons so admitted or committed are  
7 properly and adequately boarded, lodged, treated, cared for and  
8 maintained. The commissioner and the State board may make such  
9 report with reference to the result of such observation and  
10 inspection and recommendation with reference thereto, as they may  
11 determine.

12 (cf: P.L.1977, c.63, s.11)

13

14 21. Section 3 of P.L.1965, c.59 (C.30:1-15.1) is amended to read  
15 as follows:

16 3. Inspection and approval of all residential facilities within the  
17 State providing diagnosis, care or treatment of **【the mentally ill or**  
18 **the mentally retarded】** persons with mental illness or developmental  
19 disabilities shall be a responsibility of the department. The  
20 commissioner shall have the duty and is hereby authorized to set  
21 standards, and through his agents, including professionally qualified  
22 persons, to visit and inspect as often as is necessary, but at least  
23 once a year, all residential facilities which provide diagnosis, care  
24 or treatment of **【the mentally ill or the mentally retarded】** persons  
25 with mental illness or developmental disabilities, whether State,  
26 county, municipal, public or private, in order to determine the  
27 conditions under which such persons are lodged, cared for,  
28 maintained or treated, and in order to assure that adequate standards  
29 of care and treatment are maintained, that civil liberties of  
30 individuals receiving care are preserved and that the public may be  
31 informed of the adequacy of these facilities.

32 The State board and the commissioner, or their agents, shall have  
33 the right of admission to all parts of any building or buildings in  
34 which **【mentally ill or mentally retarded】** persons with mental  
35 illness or developmental disabilities are lodged, cared for or treated,  
36 as often as may be necessary. The extent and results of such  
37 visitation and inspection shall be included in the annual or any  
38 special report of the commissioner or the State board with such  
39 recommendations as they may deem necessary. Such report shall be  
40 available to the public.

41 (cf: P.L.1971, c.384, s.22)

42

43 22. Section 4 of P.L.1965, c.59 (C.30:1-15.2) is amended to read  
44 as follows:

45 4. The premises, books, records and accounts of any facility or  
46 organization to which payments are made from the treasury of the  
47 State, directly or indirectly, for or on account of the diagnosis, care,

1 treatment, rehabilitation, or maintenance of [any mentally ill or  
2 mentally retarded] persons with mental illness or developmental  
3 disabilities shall be open to the inspection of the commissioner or  
4 his agents; such books, records and accounts shall be available for  
5 inspection and audit by the State Auditor or any of his agents  
6 insofar as they relate to the receipt and expenditure of State  
7 moneys, in order to determine whether the amount so paid by the  
8 State is a proper charge, which question the commissioner shall  
9 determine.

10 In order to encourage the continual improvement of standards of  
11 care, the commissioner shall make available, within the limits of  
12 appropriations therefor, professional consultative services to those  
13 facilities in the State which minister to [the mentally ill and the  
14 mentally retarded] persons with mental illness or developmental  
15 disabilities.

16 (cf: P.L.1971, c.384, s.23)

17

18 23. Section 1 of P.L.1987, c.5 (C.30:1AA-10) is amended to  
19 read as follows:

20 1. The Legislature finds and declares that: approximately 2%  
21 of the residents of this State [are developmentally disabled] have  
22 developmental disabilities and more than 50,000 of these persons  
23 are developmentally disabled school age children; 30,000 to 40,000  
24 residents [suffer from mental retardation] have intellectual  
25 disabilities severe enough to require lifelong supervision or care;  
26 several times more [are mildly retarded] have less severe  
27 intellectual disabilities and can live independent or semi-  
28 independent lives; pregnancy during adolescence increases the  
29 incidence of [mental retardation and] developmental disabilities  
30 because of the heightened risk of premature birth, low birthweight,  
31 birth complications and birth defects; in 1984 in New Jersey, there  
32 were 6,682 births to women ages 18 years and under; about one out  
33 of 10 women in New Jersey becomes pregnant during her teenage  
34 years; and there is a 40% chance that a child of a teenager will be  
35 permanently impaired.

36 The Legislature further finds and declares that: the causes of  
37 many cases of developmental disabilities, such as inadequate  
38 prenatal care, maternal diseases, environmental contaminants,  
39 alcohol and drug ingestion, poor nutrition, lead poisoning,  
40 childhood diseases, child abuse and neglect, and accidents, are  
41 preventable; and it is in the best interests of the citizens of the State  
42 of New Jersey to establish a permanent office in the State  
43 Department of Human Services to combat the causes of [mental  
44 retardation and] developmental disabilities.

45 (cf: P.L.1987, c.5, s.1)

1 24. Section 2 of P.L.1987, c.5 (C.30:1AA-11) is amended to  
2 read as follows:

3 2. There is established in the Department of Human Services  
4 the Office for Prevention of **【Mental Retardation and】**  
5 Developmental Disabilities, hereinafter referred to as the "office."  
6 (cf: P.L.1987, c.5, s.2)

7  
8 25. Section 3 of P.L.1987, c.5 (C.30:1AA-12) is amended to  
9 read as follows:

10 3. The administrator and chief executive officer of the office  
11 shall be the director, who shall be a person qualified by training and  
12 experience to perform the duties of the office. Subsequent to  
13 consultation with the Governor's Council on the Prevention of  
14 **【Mental Retardation and】** Developmental Disabilities, the  
15 Commissioner of Human Services shall appoint the director, who  
16 shall serve at the pleasure of the commissioner during the  
17 commissioner's term of office and until the appointment and  
18 qualification of the director's successor. The director shall devote  
19 his entire time to the duties of his position and shall receive a salary  
20 commensurate with the responsibilities of the office. The director  
21 shall serve in the State unclassified service of the Civil Service.

22 The director may appoint, retain or employ officers, experts or  
23 consultants on a contract basis or otherwise, which he deems  
24 necessary, and employ investigators or other professionally  
25 qualified personnel who shall be in the noncompetitive division of  
26 the career service of the Civil Service.  
27 (cf: P.L.2000, c.82, s.1)

28  
29 26. Section 5 of P.L.1987, c.5 (C.30:1AA-14) is amended to  
30 read as follows:

31 5. The responsibilities of the office shall include, but are not  
32 limited to:

33 a. Developing a long-range comprehensive plan for the  
34 prevention of **【mental retardation and】** developmental disabilities in  
35 accordance with the priorities established by the Governor's Council  
36 on the Prevention of **【Mental Retardation and】** Developmental  
37 Disabilities;

38 b. Encouraging cooperative programs of research among State  
39 governmental departments and agencies, universities and private  
40 agencies;

41 c. Developing public information campaigns about the causes  
42 of developmental disabilities and the means for preventing  
43 developmental disabilities;

44 d. Coordinating public education programs about the causes  
45 and prevention of developmental disabilities and determining  
46 professional in-service training needs in these areas;

47 e. Stimulating expanded and new services for the prevention of  
48 developmental disabilities; and

1 f. Making recommendations to the Commissioner of Human  
2 Services regarding any needed executive or legislative action.  
3 (cf: P.L.2000, c.82, s.2)

4  
5 27. Section 6 of P.L.1987, c.5 (C.30:1AA-15) is amended to  
6 read as follows:

7 6. a. The Governor's Council on the Prevention of **【Mental**  
8 **Retardation and】** Developmental Disabilities, originally created by  
9 Executive Order No. 72 (signed May 24, 1984), shall serve as an  
10 advisory council to the Commissioner of Human Services and to the  
11 Office for Prevention of **【Mental Retardation and】** Developmental  
12 Disabilities.

13 The State Departments of Human Services, Education, Health  
14 and Senior Services, Environmental Protection and Community  
15 Affairs are authorized and directed, to the extent consistent with the  
16 law, to cooperate with the Governor's Council on the Prevention of  
17 **【Mental Retardation and】** Developmental Disabilities and to  
18 furnish it with resources necessary to carry out its purposes under  
19 this act.

20 The Governor shall appoint 25 public members to the Governor's  
21 Council on the Prevention of **【Mental Retardation and】**  
22 Developmental Disabilities to serve three-year terms, except that, of  
23 the members first appointed, nine shall be appointed to serve for  
24 three years, eight shall be appointed to serve for two years, and  
25 eight shall be appointed to serve for one year. At least one of the  
26 public members appointed to the Governor's council shall be an  
27 advocate for **【the mentally retarded and developmentally disabled】**  
28 persons with developmental disabilities.

29 b. The Governor's Council on the Prevention of **【Mental**  
30 **Retardation and】** Developmental Disabilities shall establish from its  
31 members the Executive Committee of the Governor's Council on the  
32 Prevention of Prevention of **【Mental Retardation and】**  
33 Developmental Disabilities. This committee shall have full power to  
34 act in lieu of the full council. The executive committee shall  
35 consist of 12 members, all of whom are members of the Governor's  
36 council. The Commissioners of the Departments of Health and  
37 Senior Services, Human Services, Education, Community Affairs  
38 and Environmental Protection shall serve as ex officio members.  
39 The Secretary of State and the Chairperson of the Governor's  
40 council shall serve as nonvoting, ex officio members of the  
41 executive committee. The Governor's council shall elect from its  
42 membership the remaining five members of the executive  
43 committee. These persons, as members of the Governor's council,  
44 shall be selected for their knowledge, competence, experience or  
45 interest in connection with the prevention of **【mental retardation**  
46 **and other】** developmental disabilities. Members of the executive

1 committee may, from time to time, designate other individuals as  
2 their representatives.

3 The executive committee shall serve without compensation, but  
4 shall be reimbursed for necessary expenses incurred in the  
5 performance of their duties. The Governor's council shall elect an  
6 executive committee chairperson from among the five voting  
7 cabinet members of the executive committee. The executive  
8 committee may select from among its members a vice-chairperson  
9 and other officers or subcommittees which are deemed necessary or  
10 appropriate.

11 (cf: P.L. 2000, c.82, s.3)

12

13 28. Section 7 of P.L.1987, c.5 (C.30:1AA-16) is amended to  
14 read as follows:

15 7. The Commissioner of Human Services and the executive  
16 committee of the Governor's Council on the Prevention of **【Mental**  
17 **Retardation and】** Developmental Disabilities established pursuant  
18 to section 6 of this act shall report annually to the Governor and the  
19 Legislature concerning the status of prevention programs in the  
20 State.

21 (cf: P.L.2000, c.82, s.4)

22

23 29. R.S.30:4-6 is amended to read as follows:

24 R.S.30:4-6. The principal keeper of the State prison and the  
25 chief executive officer of each of the other correctional institutions  
26 shall receive from the hands of the sheriff or other proper officer  
27 every person sentenced to imprisonment in his institution and safely  
28 keep him therein according to law and the rules and regulations of  
29 the institution until lawfully discharged therefrom.

30 The chief executive officer of each institution for **【the mentally**  
31 **retarded or mentally ill】** persons with developmental disabilities or  
32 mental illness, and of each correctional institution shall have the  
33 custody and control of every person admitted to his institution until  
34 properly discharged.

35 (cf: P.L.1965, c.59, s.6)

36

37 30. R.S.30:4-24 is amended to read as follows:

38 30:4-24. The provisions of Title 30 of the Revised Statutes shall  
39 govern the admission and commitment of **【the mentally ill,**  
40 **tuberculous】** persons with mental illness, tuberculosis, and  
41 **【mentally retarded】** developmental disabilities to the several  
42 institutions designated therefor and govern and control all phases of  
43 the relationship between such patients and such institutions  
44 including payments, maintenance, custody, treatment, parole and  
45 discharge as though each provision of Title 30 of the Revised  
46 Statutes has been specifically enacted, unless otherwise specified in

1 law, with relation to each institution, its board of managers and  
2 officials, and to all other officials, boards and authorities.

3 Title 30 of the Revised Statutes is to be administered in  
4 accordance with the general principles laid down in this section,  
5 which are declared to be the public policy of this State that:

6 (1) adequate residential and nonresidential facilities be provided  
7 for the prompt and effective diagnosis, care, treatment, training and  
8 rehabilitation of individuals suffering from diseases and  
9 dysfunctions of the brain, mind and nervous system, including the  
10 various forms of mental illness and **[mental retardation]**  
11 developmental disability;

12 (2) such facilities be closely integrated with other community  
13 health, welfare and social resources;

14 (3) the human dignity and the moral and constitutional rights of  
15 such individuals be upheld and protected by appropriate statutes;

16 (4) family and community ties and mutual responsibilities be  
17 reinforced;

18 (5) inasmuch as such mental disorders may in some cases  
19 substantially impair the individual's ability to guide his actions in  
20 his own best interests or with due regard for the rights of others,  
21 provision be made for the due process of law by which such an  
22 individual may be placed under protection, treatment or restraint in  
23 his own or the public interest;

24 (6) the primary responsibility for the costs of services provided  
25 to an individual rests with him and his responsible relatives;

26 (7) it is in the public interest that facilities be available to all  
27 persons without limitation because of economic circumstances, and  
28 that extraordinary hardships to any individual or his relatives which  
29 may result from severe or prolonged disability be mitigated;

30 (8) means and facilities be provided by the State for scientific  
31 studies directed toward expanding knowledge of the causes,  
32 prevention, control, management and cure of diseases and  
33 dysfunctions of the brain, mind and nervous system; and

34 (9) as an intrinsic part of the program established by the State,  
35 provision be made for the instruction of professional and  
36 nonprofessional personnel in the skills required for the proper  
37 diagnosis, care, training, treatment and rehabilitation of persons  
38 suffering from disorders of the brain, mind and nervous system, and  
39 for the pursuit of relevant research.

40 (cf: P.L.1995, c.155, s.2)

41

42 31. Section 1 of P.L.1983, c.223 (C.30:4-24.4) is amended to  
43 read as follows:

44 1. The Commissioner of **[the Department of]** Human Services  
45 shall require employees in the Division of **[Mental Retardation]**  
46 Developmental Disabilities to make written reports accounting for  
47 all expenditures which they may make of moneys of **[mentally**

1   retarded] persons with developmental disabilities who receive  
2   functional services from the division pursuant to sections 16 and 18  
3   of P.L.1965, c.59 (C. 30:4-25.4 and 30:4-25.6).  
4   (cf: P.L.1983, c.223, s.1)

5  
6       32. Section 13 of P.L.1965, c.59 (C.30:4-25.1) is amended to  
7   read as follows:

8       13. a. For the purpose of Title 30 of the Revised Statutes:

9       【(1) "Eligible mentally retarded person" or "eligible  
10   developmentally disabled person"】 “Eligible person with a  
11   developmental disability” means a person who has been declared  
12   eligible for admission to functional services of the Division of  
13   Developmental Disabilities and who complies with the provisions  
14   of section 5 of P.L.1995, c.155 (C.30:4-25.9).

15       【(2) "Evaluation services" means those services and procedures  
16   in the Division of Developmental Disabilities by which eligibility  
17   for functional services for 【the mentally retarded】 persons with  
18   developmental disabilities is determined and those services  
19   provided by the Division of Developmental Disabilities for the  
20   purpose of advising the court concerning the need for guardianship  
21   of individuals over the age of 18 who appear to be mentally  
22   deficient.

23       【(3) "Functional services" means those services and programs  
24   in the Division of Developmental Disabilities available to provide  
25   【the mentally retarded】 persons with developmental disabilities  
26   with education, training, rehabilitation, adjustment, treatment, care  
27   and protection.

28       “Intellectual disability means a significant subaverage general  
29   intellectual functioning existing concurrently with deficits in  
30   adaptive behavior which are manifested during the development  
31   period. “Intellectual disability” and “intellectually disabled” shall  
32   have the same meaning as the terms “mental retardation” and  
33   “mentally retarded.” For the purposes of Title 30 of the Revised  
34   Statutes, the term "developmentally disabled" may be used  
35   interchangeably with intellectual disability to refer to persons who  
36   receive services from the Division of Developmental Disabilities.

37       【(4) "Mental deficiency" or "mentally deficient" means that  
38   state of 【mental retardation】 intellectual disability in which the  
39   reduction of social competence is so marked that persistent social  
40   dependency requiring guardianship of the person shall have been  
41   demonstrated or be anticipated.

42       【(5) "Mental retardation" or "mentally retarded" means a  
43   significant subaverage general intellectual functioning existing  
44   concurrently with deficits in adaptive behavior which are  
45   manifested during the development period. For the purposes of  
46   Title 30 of the Revised Statutes, the term "developmentally  
47   disabled" may be used interchangeably with mental retardation to

1 refer to persons who receive services from the Division of  
2 Developmental Disabilities.

3 (6) "Residential services" or "residential functional services"  
4 means observation, examination, care, training, treatment,  
5 rehabilitation and related services, including community care,  
6 provided by the Division of Developmental Disabilities to patients  
7 who have been admitted or transferred to, but not discharged from  
8 any residential functional service for **the mentally retarded**  
9 persons with developmental disabilities.

10 (7) "Income" means, but is not limited to, wages, benefits,  
11 interest earned, pensions, annuity payments and support from a  
12 third party pursuant to statute, rule or order or by contract.

13 (8) "Assets" or "resources" means, but is not limited to, cash,  
14 trusts, bank accounts, certificates of deposit, stocks, bonds and  
15 savings bonds.

16 b. Application for admission of an eligible **mentally retarded**  
17 person with a developmental disability to functional services of the  
18 Division of Developmental Disabilities may be made under any of  
19 the following classes:

20 Class F. Application to the commissioner by the parent, guardian  
21 or person or agency having care and custody of the person of a  
22 minor or by the guardian of the person of a mentally deficient adult;

23 Class G. Application to the commissioner by a **mentally**  
24 **retarded** person over 18 years of age who has a developmental  
25 disability on his own behalf;

26 Class H. Application to the commissioner by a Superior Court,  
27 Chancery Division, Family Part having jurisdiction over an eligible  
28 **mentally retarded** minor with a developmental disability;

29 Class I. Application to the commissioner with an order of  
30 commitment to the custody of the commissioner issued by a court  
31 of competent jurisdiction during or following criminal process  
32 involving the eligible mentally deficient person.

33 Application shall be made on such forms and accompanied by  
34 such relevant information as may be specified from time to time by  
35 the commissioner.

36 (cf: P.L.1995, c.155, s.4)

37

38 33. Section 14 of P.L.1965, c.59 (C.30:4-25.2) is amended to  
39 read as follows:

40 14. Application for determination of eligibility for functional  
41 services for a person under the age of 21 years who is believed to  
42 **be mentally retarded** have a developmental disability may be  
43 made to the commissioner by:

44 1. his parent or guardian;

45 2. a child-caring agency, hospital, clinic, or other appropriate  
46 agency, public or private, or by a physician having care of the  
47 minor, provided the written consent of the parent or guardian or the



1 Division of Youth and Family Services, under its care and custody  
2 program, has been obtained; or

3 3. a Superior Court, Chancery Division, Family Part having  
4 jurisdiction over the minor.

5 Application for determination of eligibility for any person over  
6 18 years of age for functional services may be made by:

7 a. **【a mentally retarded individual】** a person with a  
8 developmental disability over 18 years of age on his own behalf;

9 b. the guardian of the person of an adjudicated mentally  
10 incompetent adult; or

11 c. any court of competent jurisdiction in which the issue of  
12 mental deficiency may have arisen and which finds that it is in the  
13 interest of the alleged mentally deficient person to determine such  
14 eligibility.

15 (cf: P.L.1991, c.91, s.312)

16

17 34. Section 15 of P.L.1965, c.59 (C.30:4-25.3) is amended to  
18 read as follows:

19 15. Promptly on receipt of the application for determination of  
20 eligibility for admission to functional services of the Division of  
21 Developmental Disabilities, the commissioner shall determine the  
22 state of **【mental retardation】** developmental disability and need for  
23 functional services. Such determination shall be made under rules  
24 promulgated by the commissioner. Any **【mentally retarded】** person  
25 with a developmental disability who makes such application or on  
26 whose behalf application is made and who is found to require  
27 functional services of the Division of Developmental Disabilities  
28 shall be declared eligible subject to the person's and his legally  
29 chargeable relatives' compliance with the provisions of section 5 of  
30 P.L.1995, c.155 (C.30:4-25.9).

31 (cf: P.L.1995, c.155, s.6)

32

33 35. Section 16 of P.L.1965, c.59 (C.30:4-25.4) is amended to  
34 read as follows:

35 16. The commissioner or his designated agent shall, immediately  
36 upon determination of the **【state of mental retardation of the**  
37 **individual】** person's developmental disability, as provided herein,  
38 report his findings to the applicant, and in the event that the  
39 **【mentally retarded】** person who makes such application or on  
40 whose behalf the application has been made is found eligible, the  
41 commissioner or his designated agent shall issue to the applicant a  
42 statement of eligibility for the functional services of the Division of  
43 Developmental Disabilities. The statement of eligibility shall advise  
44 the applicant of the particular functional service deemed most  
45 appropriate for the training, habilitation, care and protection of the  
46 **【mentally retarded individual】** person as of the time of

1 determination and shall further advise the applicant concerning the  
2 immediate availability of such services, or alternate services.

3 The statement of eligibility shall also advise the applicant of the  
4 requirements of section 5 of P.L.1995, c.155 (C.30:4-25.9),  
5 R.S.30:4-66 and R.S.30:4-74.

6 (cf: P.L.1995, c.155, s.7)  
7

8 36. Section 17 of P.L.1965, c.59 (C.30:4-25.5) is amended to  
9 read as follows:

10 17. Whenever an eligible **【mentally retarded】** minor with a  
11 developmental disability is found to be neglected or delinquent  
12 under any of the statutes of this State pertaining to juvenile  
13 delinquency or to abandonment, abuse, cruelty, or neglect of  
14 children, the Superior Court, Chancery Division, Family Part  
15 having jurisdiction may accompany its application under Class H  
16 for admission of the **【mentally retarded】** minor to functional  
17 services of the department with an order placing the aforesaid minor  
18 under the care and custody of the commissioner.

19 (cf: P.L.1991, c.91, s.313)  
20

21 37. Section 18 of P.L.1965, c.59 (C.30:4-25.6) is amended to  
22 read as follows:

23 18. The commissioner shall, upon proper application for  
24 admission, forthwith admit the eligible **【mentally retarded】** person  
25 with a developmental disability, and provide him with appropriate  
26 functional service to the extent available. In the event that the  
27 functional service which has been specified as most appropriate  
28 from time to time is not immediately available, the commissioner  
29 shall provide alternate service and, at the request of the applicant,  
30 shall also place the eligible **【mentally retarded】** person on a waiting  
31 list for the preferred service pending its availability.

32 (cf: P.L.1965, c.59, s.18)  
33

34 38. Section 19 of P.L.1965, c.59 (C30:4-25.7) is amended to  
35 read as follows:

36 19. The commissioner shall make all reasonable and necessary  
37 provisions to ensure the health, safety, welfare and earliest  
38 appropriate release of persons admitted to residential services for  
39 **【the mentally retarded】** persons with developmental disabilities.  
40 He shall provide further for educational, medical, dietetic, and  
41 social needs of any such person in accordance with such person's  
42 individual requirements, as determined by competent professional  
43 personnel.

44 (cf: P.L.1965, c.59, s.19)  
45

46 39. Section 20 of P.L.1965, c.59 (C.30:4-25.8) is amended to  
47 read as follows:

1       20. The commissioner or his designated agent shall make  
2 diligent efforts to maintain contact with the parent or guardian of  
3 each **【mentally retarded individual】** person with a developmental  
4 disability who is receiving functional services and, in the case of  
5 those receiving residential services, to advise the parent or guardian  
6 promptly of any significant changes in the condition of the  
7 **【individual】** person. He shall make all reasonable efforts to consult  
8 with the parent or guardian concerning recommended changes in the  
9 program, care, training, rehabilitation or treatment being rendered  
10 to any **【mentally retarded individual】** person with a developmental  
11 disability by the department, and to secure the prior consent of the  
12 parent or guardian to such changes; provided, however, that, in the  
13 absence of an expressed prohibition of such action by the parent or  
14 guardian, the commissioner or his designated agent shall be free  
15 from liability for the consequences of any prudent action taken by  
16 them in the interest of the immediate health or safety of the  
17 **【mentally retarded individual】** person when an emergency affecting  
18 such **【individual】** person may arise.  
19 (cf: P.L.1965, c.59, s.20)

20

21       40. Section 5 of P.L.1995, c.155 (C.30:4-25.9) is amended to  
22 read as follows:

23       5. a. An applicant for functional services from the Division of  
24 Developmental Disabilities, any person acting on his behalf  
25 pursuant to section 14 of P.L.1965, c.59 (C.30:4-25.2), or the  
26 applicant's chargeable relatives, as appropriate, shall agree, if the  
27 applicant is determined eligible for functional services pursuant to  
28 section 15 of P.L.1965, c.59 (C.30:4-25.3), to comply with the  
29 following conditions of eligibility and continued functional services  
30 participation:

31       (1) The applicant for residential services or other person listed in  
32 this subsection shall assign to the Commissioner of Human Services  
33 any rights of the applicant to support or payment from a third party  
34 under any law, regulation, court order or administrative order unless  
35 specifically prohibited by federal law or regulation;

36       (2) The applicant or other person listed in this subsection shall  
37 apply for and maintain all current and future benefits for which the  
38 applicant may be eligible, including, but not limited to, Medicare,  
39 Medicaid, any other State or federal benefits and any third party  
40 support pursuant to statute, rule, court order or contract; and

41       (3) The applicant or other person listed in this subsection shall  
42 make payments as required pursuant to R.S.30:4-60.

43       b. The Division of Developmental Disabilities may terminate  
44 any services received by, or the placement of, the eligible  
45 **【developmentally disabled】** person with a developmental disability  
46 within 60 days if the conditions of eligibility set forth in this section  
47 are not complied with by the eligible **【developmentally disabled】**

1 person with a developmental disability or other person listed in  
2 subsection a. of this section. During any appeals process period,  
3 services to a **【developmentally disabled】** person with a  
4 developmental disability shall not be terminated.

5 c. Nothing in this section or Title 30 of the Revised Statutes  
6 shall be construed to deny functional services to any person who  
7 meets the eligibility conditions and criteria for functional services,  
8 but does not have the ability to pay the full per capita costs or  
9 payments required pursuant to R.S.30:4-60.  
10 (cf: P.L.1995, c.155, s.5)

11  
12 41. Section 69 of P.L.1965, c.59 (C.30:4-83.1) is amended to  
13 read as follows:

14 69. Whenever **【a mentally ill or mentally retarded individual】** a  
15 person with mental illness or a developmental disability is  
16 transferred from one residential service to another by order of the  
17 commissioner, notice shall be given by the commissioner in  
18 advance, where possible, but in any case in writing, to his spouse, if  
19 any, or to his guardian, or to his parents if he is a minor, or to his  
20 nearest known relative or friend.  
21 (cf: P.L.1965, c. 59, s.69)

22  
23 42. R.S.30:4-101 is amended to read as follows:  
24 30:4-101. In a public institution maintained in whole or in part  
25 by the **【state】** State, or a county, municipality or subdivision  
26 thereof, married couples, inmates of the same institution, shall not  
27 be separated or maintained in separate quarters. This provision shall  
28 not apply to institutions for **【the insane or feeble-minded】** persons  
29 with mental illness or developmental disabilities, or to correctional  
30 institutions or to cases where the health or mental condition of the  
31 persons concerned warrants separation.  
32 (cf: R.S.30:4-101)

33  
34 43. Section 75 of P.L.1965, c.59 (C.30:4-107.1) is amended to  
35 read as follows:

36 75. Whenever a **【mentally retarded】** minor with a  
37 developmental disability or adult who is mentally deficient **【adult】**  
38 is receiving functional services without court order, and is resident  
39 at a State school, or private residential institution, or a resource  
40 family home, or similar accommodation by arrangement of the  
41 commissioner, the commissioner shall cause such **【mentally**  
42 **retarded】** person to be released to the immediate custody of his  
43 parent or guardian of the person, as the case may be, on written  
44 application of said parent or guardian. Release shall be effected as  
45 promptly as possible, provided, however, that 48 hours' notice may  
46 be required. The department shall thereafter continue to provide

1 such functional services as may be appropriate, unless functional  
2 services are terminated as hereinafter provided in this act.  
3 (cf: P.L.2004, c.130, s.45)

4  
5 44. Section 77 of P.L.1965, c.59 (C.30:4-107.3) is amended to  
6 read as follows:

7 77. Discharge of individuals admitted to and continuing to  
8 receive functional services without an order of the court shall be  
9 effected under the following circumstances:

10 (1) upon written application by the parent or guardian of the  
11 person of a minor or by the guardian of the person of an adult;

12 (2) upon written application by the **【mentally retarded】** person  
13 with a developmental disability on his own behalf, after receiving  
14 services on his own application or request;

15 (3) upon determination by the commissioner or his designated  
16 agent that functional services of the department are no longer  
17 required;

18 (4) upon attainment of the age of 21 years in the absence of a  
19 valid request for continuation of functional services; or

20 (5) upon determination by the commissioner that no condition of  
21 **【mental retardation】** developmental disability exists.

22 Discharge of individuals under the circumstances described in  
23 class (1) and (2) of this section shall be effected as promptly as  
24 practicable, under rules promulgated by the State Board of Control.  
25 (P.L.1965, c.59, s. 77)

26  
27 45. Section 84 of P.L.1965, c.59 (C.30:4-165.1) is amended to  
28 read as follows:

29 84. The department shall provide comprehensive evaluation,  
30 functional and guardianship services, as hereafter designated, in  
31 order that eligible **【mentally retarded】** persons with developmental  
32 disabilities may be provided with adequate training, care and  
33 protection.

34 Evaluation services shall include:

35 (1) primary evaluation services consisting of inpatient and  
36 outpatient facilities for the direct evaluation of medical,  
37 psychological, social, educational and related factors affecting the  
38 functioning of the individual and pertinent to his need for  
39 specialized care, training or treatment as a **【mentally retarded】**  
40 person with a developmental disability; and

41 (2) secondary evaluation services consisting of facilities for the  
42 appraisal of such data available from other sources.

43 (cf: P.L.1965, c.59, s.84)

44  
45 46. Section 85 of P.L.1965, c.59 (C.30:4-165.2) is amended to  
46 read as follows:

1       85. Functional services for **【the mentally retarded】** persons with  
2 developmental disabilities shall include both residential and  
3 nonresidential services as follows:

4       (1) Nonresidential functional services shall include but need not  
5 be limited to: evaluation, counseling of family or guardian, of  
6 employer, or of **【retarded】** a person with a developmental  
7 disability; consultative services to social, educational, or welfare  
8 and health agencies and to the courts; day-care programs; and day  
9 training programs.

10       (2) Residential functional services shall include but need not be  
11 limited to: evaluation study, treatment, education, training,  
12 rehabilitation, care and protection provided in State schools and in  
13 other residential facilities operated by the department; family care  
14 and sheltered life programs; interim placement in approved  
15 residential facilities other than State schools. Such programs may  
16 be of short- or long-term duration as required.

17 (cf: P.L.1979, c.207, s.17)

18

19       47. Section 87 of P.L.1965, c.59 (C.30:4-165.4) is amended to  
20 read as follows:

21       87. "Guardianship services" shall mean those services and  
22 programs provided by the Division of **【Mental Retardation】**  
23 Developmental Disabilities for the purpose of implementing its  
24 responsibility toward the individuals for whom it is performing the  
25 services of guardian of the person.

26 (cf: P.L.1985, c.133, s.1)

27

28       48. Section 88 of P.L.1965, c.59 (C.30:4-165.5) is amended to  
29 read as follows:

30       88. Whenever a minor has been admitted to functional or other  
31 services provided by the Division of **【Mental Retardation】**  
32 Developmental Disabilities on application as provided herein and  
33 has not been discharged therefrom, the commissioner shall, not less  
34 than six months nor more than 18 months prior to the 18th birthday  
35 of said person, cause him to be examined to ascertain whether it  
36 appears that such person will need a guardian on attainment of his  
37 majority.

38       If the commissioner anticipates that such person will need a  
39 guardian, the commissioner or his designated agent shall apply to  
40 the Superior Court in the same manner as provided in section 1 of  
41 P.L.1970, c. 289 (C. 30:4-165.7) for appointment of a guardian  
42 unless another application is pending.

43       In the event that no guardian has been appointed for a person  
44 who commences receiving functional or other services after the  
45 effective date of this amendatory and supplementary act and who  
46 has attained age 18, and if the commissioner has ascertained that  
47 such person appears to need a guardian, then the commissioner shall  
48 apply to the Superior Court in the same manner as provided in

1 section 1 of P.L. 1970, c. 289 (C. 30:4-165.7) for appointment of a  
2 guardian unless another application is pending.

3 The commissioner shall also promptly advise in plain language  
4 any parent, spouse, relative, or other interested person of his  
5 findings and of the parent's or person's right to participate in the  
6 process of an adjudication and to be considered for appointment as  
7 a guardian. The commissioner may offer to these persons  
8 assistance to facilitate their appointments as guardians unless he has  
9 reason to question their fitness to serve.

10 (cf: P.L.1985, c.133, s.2)

11

12 49. Section 89 of P.L.1965, c.59 (C.30:4-165.6) is amended to  
13 read as follows:

14 89. Any **mentally retarded** person with a developmental  
15 disability under the age of 18 years who, on the effective date of  
16 this act, is receiving residential functional services under order of  
17 commitment of any court shall continue to receive residential care  
18 as if admitted under Class F of this act, unless within 30 days of the  
19 effective date of this act the commissioner shall apply to the  
20 Superior Court, Chancery Division, Family Part for an order of  
21 commitment to care and custody as provided herein. Persons over  
22 the age of 18 for whom a guardian of the person has been appointed  
23 and who are receiving residential functional services shall be  
24 considered to have been admitted under Class F of this act. Where  
25 no guardian has been appointed for a person who is over the age of  
26 18 who is receiving residential functional services on the effective  
27 date of this act, the last prior order issued with respect to him shall  
28 continue in force and effect for one year following the effective  
29 date of this act, unless prior to that time either (1) the **mentally**  
30 **retarded** person with a developmental disability has been  
31 discharged or (2) a guardian of his person has been appointed, or  
32 (3) application has been made by a court of competent jurisdiction  
33 for his admission to care under Class I as provided herein.

34 Any order for payment of maintenance issued under prior  
35 provisions of Title 30 in effect on the effective date of this act shall  
36 remain in force and effect.

37 (cf: P.L.1991, c.91, s.321)

38

39 50. Section 2 of P.L.1970, c.289 (C.30:4-165.8) is amended to  
40 read as follows:

41 2. The moving papers shall include a verified complaint, an  
42 affidavit from a practicing physician or a psychologist licensed  
43 pursuant to P.L.1966, c.282 (C.45:14B-1 et seq.), and an affidavit  
44 from the chief executive officer, medical director or other officer  
45 having administrative control over the program from which the  
46 individual is receiving functional or other services provided by the  
47 Division of **Mental Retardation** Developmental Disabilities. The  
48 affidavits shall set forth with particularity the facts supporting the

1 affiant's belief that the alleged incapacitated person suffers from a  
2 significant chronic functional impairment to such a degree that the  
3 person either lacks the cognitive capacity to make decisions for  
4 himself or to communicate, in any way, decisions to others. For the  
5 purposes of this section, "significant chronic functional  
6 impairment" includes, but is not limited to, a lack of comprehension  
7 of concepts related to personal care, health care or medical  
8 treatment.

9 (cf: P.L.1997, c.379, s.5)

10

11 51. R.S.30:6-16 is amended to read as follows:

12 30:6-16. An annual sum, the per capita amount of which for  
13 each pupil shall be fixed by the State House Commission, when  
14 appropriated by the Legislature, may be applied by the commission  
15 mentioned in [section] R.S. 30:6-1 [of this Title] for the  
16 instruction or placing for instruction in a suitable and convenient  
17 institution or elsewhere, [of] persons who are deaf [and dumb],  
18 partially blind or blind, [or mentally retarded or], developmentally  
19 disabled, or mentally deficient [persons or partially blind  
20 inhabitants] and who are residents of the State as the board may  
21 select.

22 Whenever deemed necessary by the commission, blind babies  
23 and young children [too frail or backward to enter] with physical or  
24 intellectual disabilities whose needs cannot be met in other  
25 institutions for the blind shall be sent to some convenient and  
26 suitable institution in the State where special hospital care,  
27 instruction and support can be provided but the rate to be paid by  
28 the State including clothing and necessary transportation shall not  
29 exceed the rate fixed by the State House Commission.

30 The rate to be paid for any blind child placed in an institution  
31 outside the State, including clothing shall not exceed the per capita  
32 rate fixed by the State House Commission.

33 (cf: P.L.1965, c.59, s.90)

34

35 52. Section 3 of P.L.1977, c.82 (C.30:6D-3) is amended to read  
36 as follows:

37 3. As used in this act, unless a different meaning clearly  
38 appears from the context:

39 a. "Developmental disability" means a

40 severe, chronic disability of a person which:

41 (1) is attributable to a mental or physical impairment or  
42 combination of mental or physical impairments;

43 (2) is manifest before age 22;

44 (3) is likely to continue indefinitely;

45 (4) results in substantial functional limitations in three or more  
46 of the following areas of major life activity, that is, self-care,  
47 receptive and expressive language, learning, mobility, self-direction



1 and capacity for independent living or economic self-sufficiency;  
2 and

3 (5) reflects the need for a combination and sequence of special  
4 inter-disciplinary or generic care, treatment or other services which  
5 are of lifelong or extended duration and are individually planned  
6 and coordinated. Developmental disability includes, but is not  
7 limited to severe disabilities attributable to **【mental retardation】**, an  
8 intellectual disability, autism, cerebral palsy, epilepsy, spina bifida  
9 and other neurological impairments where the above criteria are  
10 met;

11 b. "Services" or "services for persons with developmental  
12 disabilities" means specialized services or special adaptations of  
13 generic services provided by any public or private agency,  
14 organization or institution and directed toward the alleviation of a  
15 developmental disability or toward the social, personal, physical, or  
16 economic habilitation or rehabilitation of an individual with such a  
17 disability; and such term includes diagnosis, evaluation, treatment,  
18 personal care, day care, domiciliary care, special living  
19 arrangements, training, education, sheltered employment,  
20 recreation, counseling of the individual with such disability and of  
21 his family, protective and other social and socio-legal services,  
22 information and referral services, follow-along services, and  
23 transportation services necessary to assure delivery of services to  
24 persons with developmental disabilities; and

25 c. "Facility" or "facility for persons with developmental  
26 disabilities" means a facility operated by any public or private  
27 agency, organization or institution for the provision of services for  
28 persons with developmental disabilities.

29 (cf: P.L.1985, c.145, s.12)

30

31 53. Section 3 of P.L.1985, c.145 (C.30:6D-25) is amended to  
32 read as follows:

33 3. For the purposes of this act:

34 a. "Commissioner" means the Commissioner of **【the State**  
35 **Department of】** Human Services.

36 b. "Developmental disability" means a severe, chronic  
37 disability of a person which: (1) is attributable to a mental or  
38 physical impairment or combination of mental or physical  
39 impairments; (2) is manifest before age 22; (3) is likely to continue  
40 indefinitely; (4) results in substantial functional limitations in three  
41 or more of the following areas of major life activity, that is, self-  
42 care, receptive and expressive language, learning, mobility, self-  
43 direction and capacity for independent living or economic self-  
44 sufficiency; and (5) reflects the need for a combination and  
45 sequence of special interdisciplinary or generic care, treatment or  
46 other services which are of lifelong or extended duration and are  
47 individually planned and coordinated. Developmental disability  
48 includes, but is not limited to, severe disabilities attributable to

1 **【mental retardation】** an intellectual disability, autism, cerebral  
2 palsy, epilepsy, spina bifida and other neurological impairments  
3 where the above criteria are met.

4 c. "Director" means the Director of the Division of  
5 Developmental Disabilities.

6 d. "Division" means the Division of Developmental  
7 Disabilities.

8 e. "Eligible **【developmentally disabled】** person with a  
9 developmental disability" means a person who is developmentally  
10 disabled pursuant to subsection b. of this section and who has been  
11 declared eligible for services provided by the division.

12 f. "Services for **【developmentally disabled】** persons with  
13 developmental disabilities" means specialized services or  
14 specialized adaptations of generic services provided by a public or  
15 private agency, organization or institution and directed toward the  
16 alleviation of a developmental disability or toward the social,  
17 personal, physical or economic habilitation or rehabilitation of a  
18 person with a developmental disability and includes care  
19 management, diagnosis, evaluation, treatment, personal care, day  
20 care, domiciliary care, special living arrangements, training,  
21 education, vocational training, recreation, counseling of the person  
22 with the disability and his family, information and referral services  
23 and transportation services.

24 (cf: P.L.1985, c.145, s.3)

25

26 54. Section 5 of P.L.1985, c.145 (C.30:6D-27) is amended to  
27 read as follows:

28 5. In addition to other functions, powers and duties vested in  
29 him by this act or any other law, the director shall:

30 a. Provide services for eligible **【developmentally disabled】**  
31 persons with developmental disabilities by identifying appropriate  
32 programs to meet their needs and by facilitating the establishment  
33 of community-based services for these persons; except that if the  
34 most appropriate services are not immediately available, the  
35 director may provide an eligible **【developmentally disabled】** person  
36 with a developmental disability with alternate services;

37 b. Establish procedures for the determination of eligibility for  
38 services pursuant to this act and ensure that statements of eligibility  
39 advise the applicant about the particular functional services deemed  
40 most appropriate for the training, habilitation, care and protection of  
41 that **【developmentally disabled individual】** person with a  
42 developmental disability as of the time of the determination;

43 c. Establish liaison and cooperative agreements with other  
44 governmental departments and agencies which provide programs  
45 and services to **【the developmentally disabled】** persons with  
46 developmental disabilities to prevent duplication of services and

1 encourage a continuum of care that is required by persons with  
2 developmental disabilities;

3 d. Establish standards for services that are provided for persons  
4 with developmental disabilities, which include the scope and quality  
5 of these services and which give full recognition to the unique  
6 problems and special needs associated with developmental  
7 disabilities;

8 e. Advise, consult and provide professional assistance to  
9 organized efforts by organizations, groups, associations and  
10 committees which work toward improving services and  
11 opportunities for persons with developmental disabilities; and

12 f. Select and retain the services of consultants whose advice is  
13 considered necessary to assist the division in obtaining information  
14 or developing plans and programs required for the performance of  
15 its duties and responsibilities pursuant to this act.

16 (cf: P.L.1985, c.145, s.5)

17

18 55. Section 8 of P.L.1985, c.145 (C.30:6D-30) is amended to  
19 read as follows:

20 8. Notwithstanding any provisions of this act to the contrary,  
21 the eligibility of **【mentally retarded】** persons with intellectual  
22 disabilities for services of the division shall continue as provided in  
23 chapter 4 of Title 30 of the Revised Statutes.

24 (cf: P.L.1985, c.145, s.8)

25

26 56. Section 2 of P.L.1998, c.40 (C.30:6D-44) is amended to read  
27 as follows:

28 2. The Legislature finds and declares that:

29 a. It is in the public interest to generate revenue to be used by  
30 the Division of Developmental Disabilities in the Department of  
31 Human Services to reduce the number of disabled persons awaiting  
32 placement in a community residence or program; and

33 b. By establishing an appropriate assessment on intermediate  
34 care facilities for **【the mentally retarded】** persons with  
35 developmental disabilities, to the extent possible under federal law,  
36 additional funding will be available for more placements of disabled  
37 persons in community residences or programs.

38 (cf: P.L.1998, c.40, s.2)

39

40 57. Section 3 of P.L.1998, c.40 (C.30:6D-45) is amended to read  
41 as follows:

42 3. As used in this act:

43 "Commissioner" means the Commissioner of Human Services.

44 "Gross revenue" means all revenue received by an **【ICF-MR】**  
45 ICF-DD from patients or third parties, including, but not limited to,  
46 persons, Medicaid and other payers related to patient services.

1 "Intermediate care facility for **【the mentally retarded】** persons  
2 with developmental disabilities " or **【"ICF-MR"】** "ICF-DD" means  
3 any institution licensed by the Department of Health and Senior  
4 Services as an **【ICF-MR】** ICF-DD or operated by the Department  
5 of Human Services as a certified **【ICF-MR】** ICF-DD.

6 "Medicaid" means the Medicaid program established pursuant to  
7 P.L.1968, c.413 (C.30:4D-1 et seq.).  
8 (cf; P.L.1998, c.40, s.3)

9  
10 58. Section 6 of P.L.1956, c.161 (C.30:11-10) is amended to  
11 read as follows:

12 6. The provisions of article 3 of chapter 4 of Title 30 of the  
13 Revised Statutes, except as concerning or pertaining to the  
14 investigation and determination of legal settlement and indigence of  
15 patients, shall apply to duly licensed private mental hospitals for the  
16 care and treatment of **【the mentally ill, mentally deficient and**  
17 **mentally retarded】** persons who are mentally ill, mentally deficient,  
18 and intellectually disabled and every license issued hereunder shall  
19 be the licensee's authority to receive and hold a person duly  
20 admitted or committed pursuant to law.

21 (cf: P.L.1956, c.161, s.6)

22  
23 59. Section 10 of P.L.1953, c.212 (C.30:11A-10) is amended to  
24 read as follows:

25 10. (a) Any person, firm, corporation, partnership, society or  
26 association who shall operate or conduct a residential health care  
27 facility without first obtaining the certificate of approval required  
28 by this act, or who shall operate such establishment after revocation  
29 or suspension of a certificate of approval, shall be liable to a penalty  
30 of \$10.00 for each day of operation in violation hereof for the first  
31 offense and for any subsequent offense shall be liable to a penalty  
32 of \$20.00 for each day of operation in violation hereof.

33 The penalties authorized by this section shall be recovered in a  
34 summary proceeding, brought in the name of the State of New  
35 Jersey pursuant to the "penalty enforcement law" (N.J.S. 2A:58-1  
36 et seq.) . Money penalties, when recovered, shall be payable to the  
37 General State Fund.

38 The department may, in the manner provided by law, maintain an  
39 action in the name of the State of New Jersey for injunctive relief  
40 against any person, firm, corporation, partnership, society or  
41 association, continuing to conduct, manage or operate a residential  
42 health care facility without a certificate of approval, or after  
43 suspension or revocation of such certificate.

44 The practice and procedure in actions instituted under authority  
45 of this section shall conform to the practice and procedure in the  
46 court in which the action is instituted.

1 No officer or agent of any municipal or county agency having  
2 responsibility for making payments of any form of public assistance  
3 under the provisions of Title 44 of the Revised Statutes, shall make  
4 such payments to or on behalf of a person residing in a residential  
5 health care facility as defined in this act, unless such establishment  
6 is, at the time of such payment, approved or provisionally approved  
7 pursuant to this act.

8 (b) No residential health care facility, licensed hereunder, shall  
9 by public or private advertisement or by any other means hold out  
10 to the public that it is equipped to provide post-operative or  
11 convalescent care for persons who are mentally ill or **[mentally**  
12 **retarded]** intellectually disabled or who are suffering or recovering  
13 from illness or injury or who are critically ill. Any person, firm,  
14 association, partnership, society or corporation who violates the  
15 provisions of this subsection shall cease and desist from such  
16 practices and shall be liable to a penalty of \$100.00 for the first and  
17 \$200.00 for each subsequent offense, such penalties shall be  
18 recovered in the manner provided for in subsection (a) of this  
19 section.

20 (c) No residential health care facility licensed hereunder, shall  
21 operate as a private mental hospital, convalescent home, private  
22 nursing home, or private hospital, unless it is licensed pursuant to  
23 chapter 11 of Title 30 of the Revised Statutes. Whenever there is  
24 reason to believe that any such facility or institution is in violation  
25 of the provisions of this subsection, the department may conduct a  
26 reasonable inspection of the premises for the purpose of  
27 ascertaining whether there is any violation. Any facility or  
28 institution which violates the provisions of this subsection shall be  
29 liable to a penalty of \$25.00 for each day of operation in violation  
30 of this subsection for the first offense and to a penalty of \$50.00 for  
31 each day of operation for any subsequent offense. The Department  
32 of Health, with the approval of the Attorney General, is hereby  
33 authorized and empowered to compromise and settle claims for the  
34 monetary penalty in appropriate circumstances where it appears to  
35 the satisfaction of the department that payment of the full penalty  
36 will work severe hardship on any individual not having sufficient  
37 financial ability to pay the full penalty but in no case shall the  
38 penalty be compromised for a sum less than \$250.00 for the first  
39 offense and \$500.00 for any subsequent offense; provided,  
40 however, that any penalty of less than \$250.00 or \$500.00, as the  
41 case may be, may be compromised for a lesser sum. The penalties  
42 authorized by this subsection shall be recovered in the manner  
43 provided for in subsection (a) of this section.

44 (d) No owner, operator or employee of a residential health care  
45 facility shall serve notice upon a resident to leave the premises, or  
46 take any other action in retaliation for: (a) The efforts of the  
47 resident or a person acting on his behalf to secure or enforce any  
48 rights under a contract, the laws of this State or any of its

1 subdivisions, or the laws of the United States; or (b) The good faith  
2 complaint of a resident or a person acting on his behalf to a  
3 governmental authority concerning the owner, operator or  
4 employee's alleged violation of this act or any health or safety law,  
5 regulation, code or ordinance, or other law or regulation which has  
6 as its objective the regulation of residential health care facilities.  
7 (cf: P.L.1979, c.496, s.32)

8  
9 60. Section 2 of P.L.1977, c.448 (C.30:11B-2) is amended to  
10 read as follows:

11 2. "Community residence for the developmentally disabled"  
12 means any community residential facility housing up to 16  
13 **【developmentally disabled】** persons with developmental  
14 disabilities, which provides food, shelter and personal guidance for  
15 **【developmentally disabled】** persons with developmental disabilities  
16 who require assistance, temporarily or permanently, in order to live  
17 independently in the community. Such residences shall not be  
18 considered health care facilities within the meaning of the "Health  
19 Care Facilities Planning Act," P.L.1971, c.136 (C.26:2H-1 et seq.)  
20 and shall include, but not be limited to, group homes, halfway  
21 houses, supervised apartment living arrangements and hostels.

22 "Community residence for the mentally ill" means any  
23 community residential facility which provides food, shelter and  
24 personal guidance, under such supervision as required, to not more  
25 than 15 **【mentally ill】** persons with mental illness who require  
26 assistance temporarily or permanently, in order to live  
27 independently in the community. These residences shall be  
28 approved for a purchase of service contract or an affiliation  
29 agreement pursuant to procedures established by the Division of  
30 Mental Health Services in the Department of Human Services or the  
31 Division of Child Behavioral Health Services in the Department of  
32 Children and Families, as applicable. These residences shall not  
33 house persons who have been assigned to a State psychiatric  
34 hospital after having been found not guilty of a criminal offense by  
35 reason of insanity or unfit to be tried on a criminal charge. These  
36 residences shall not be considered health care facilities within the  
37 meaning of the "Health Care Facilities Planning Act," P.L.1971,  
38 c.136 (C.26:2H-1 et seq.) and shall include, but not be limited to,  
39 group homes, halfway houses, supervised apartment living  
40 arrangements, family care homes and hostels.

41 "Community residence for persons with head injuries" means a  
42 community residential facility providing food, shelter and personal  
43 guidance, under such supervision as required, to not more than 15  
44 persons with head injuries, who require assistance, temporarily or  
45 permanently, in order to live in the community, and shall include,  
46 but not be limited to: group homes, halfway houses, supervised  
47 apartment living arrangements, and hostels. Such a residence shall  
48 not be considered a health care facility within the meaning of the

1 "Health Care Facilities Planning Act," P.L.1971, c.136 (C.26:2H-1  
2 et seq.).

3 "Developmental disability" or "developmentally disabled" means  
4 a severe, chronic disability of a person which: a. is attributable to a  
5 mental or physical impairment or combination of mental or physical  
6 impairments; b. is manifest before age 22; c. is likely to continue  
7 indefinitely; d. results in substantial functional limitations in three  
8 or more of the following areas of major life activity, that is, self-  
9 care, receptive and expressive language, learning, mobility, self-  
10 direction and capacity for independent living or economic self-  
11 sufficiency; and e. reflects the need for a combination and sequence  
12 of special interdisciplinary or generic care, treatment or other  
13 services which are of lifelong or extended duration and are  
14 individually planned and coordinated. Developmental disability  
15 includes, but is not limited to, severe disabilities attributable to  
16 **【mental retardation】** an intellectual disability, autism, cerebral  
17 palsy, epilepsy, spina bifida and other neurological impairments  
18 where the above criteria are met.

19 "Mentally ill" or "mental illness" means any psychiatric disorder  
20 which has required an individual to receive either inpatient  
21 psychiatric care or outpatient psychiatric care on an extended basis.

22 "Person with head injury" means a person who has sustained an  
23 injury, illness or traumatic changes to the skull, the brain contents  
24 or its coverings which results in a temporary or permanent  
25 physiobiological decrease of cognitive, behavioral, social or  
26 physical functioning which causes partial or total disability.

27 (cf: P.L.2006, c.47, s.177)

28

29 61. Section 1 of P.L.1993, c.43 (C.33:1-12a) is amended to read  
30 as follows:

31 1. A person who holds a Class C license, except a plenary retail  
32 transit license, or a club license shall ensure that a warning notice  
33 prepared by the Department of Health and Senior Services is posted  
34 prominently in any service area as well as on a wall, towel  
35 dispenser or other appropriate location in any public rest room for  
36 women patrons on the licensed premises. The notice shall warn  
37 patrons that alcohol consumption during pregnancy has been  
38 determined to be harmful to the fetus and can cause birth defects,  
39 low birth weight and Fetal Alcohol Syndrome, which is one of the  
40 leading causes of **【mental retardation】** intellectual disabilities.

41 (cf: P.L.1993, c.43, s.1)

42

43 62. Section 2 of P.L.1991, c.323 (C.39:4-14.7a) is amended to  
44 read as follows:

45 2. The Director of the Division of Consumer Affairs in the  
46 Department of Law and Public Safety shall, pursuant to the  
47 provisions of the "Administrative Procedure Act," P.L.1968, c.410  
48 (C.52:14B-1 et seq.), promulgate rules and regulations to effectuate

1 the purposes of this act. In addition to such other matters as the  
2 director shall deem appropriate and necessary, those rules and  
3 regulations so promulgated shall provide that the affixing of the  
4 warning cards "This Bike Is Missing One Part," designed by the  
5 New Jersey Coalition for Prevention of Developmental Disabilities  
6 and funded by the Office for the Prevention of [Mental Retardation  
7 and] Developmental Disabilities in the Department of Human  
8 Services, to a bicycle offered for sale at retail shall fulfill the  
9 requirements of section 1 of this act and that those warning cards  
10 shall be readily available to the retail sellers of bicycles at cost.

11 (cf: P.L.1991, c.323, s.2)

12

13 63. Section 1 of P.L.1984, c.50 (C.39:4-207.2) is amended to  
14 read as follows:

15 1. For purposes of this act ["mentally retarded person"]  
16 person with an intellectual disability" means a person in a state of  
17 significant subnormal intellectual development with reduction of  
18 social competence which state shall have existed prior to  
19 adolescence and is expected to be of life duration.

20 (cf: P.L.1984, c. 50, s. 1)

21

22 64. Section 2 of P.L.1984, c.50 (C.39:4-207.3) is amended to  
23 read as follows:

24 2. a. The Director of the Division of Motor Vehicles shall  
25 issue a special insignia upon the application of a federal, State,  
26 county or municipal entity or a public or private nonprofit  
27 organization incorporated under the laws of this State for motor  
28 vehicles owned or operated by the applicant and used to transport  
29 [mentally retarded] persons with intellectual disabilities. The  
30 insignia shall be of a design and shall be posted or attached to the  
31 motor vehicle in a place and manner to be determined by the  
32 director. The fee for the issuance of an insignia shall be determined  
33 by the director and the insignia shall be renewable annually by the  
34 director at the time fixed for the annual registration of the vehicle.

35 b. The director may also issue to an applicant, at the expense of  
36 the State, special vehicle identification cards to be carried by the  
37 operators of motor vehicles used to transport [mentally retarded]  
38 persons with intellectual disabilities. The cards shall be renewable  
39 annually by the director at the time fixed for the annual registration  
40 of the vehicles.

41 c. The director may also issue to an applicant a placard to be  
42 displayed on the motor vehicle.

43 (cf: P.L.1984, c. 50, s. 2)

44

45 65. Section 3 of P.L.1984, c.50 (C.39:4-207.4) is amended to  
46 read as follows:



1       3. A motor vehicle owned or operated by a federal, State,  
2 county or municipal entity or a public or private nonprofit  
3 organization incorporated under the laws of this State and used to  
4 transport **【mentally retarded】** persons with intellectual disabilities,  
5 and which is properly identified in accordance with the provisions  
6 of section 1 of this act, is authorized to park in a space  
7 appropriately marked for vehicles for the physically handicapped  
8 pursuant to law whenever the vehicle is being used to transport  
9 **【mentally retarded】** persons with intellectual disabilities.

10 (cf: P.L.1984, c.50, s.3)

11  
12       66. Section 1 of P.L.1964, c.10 (C.40:23-8.11) is amended to  
13 read as follows:

14       1. The board of chosen freeholders of any county may  
15 appropriate annually to any approved, privately operated, nonprofit  
16 organization whose services are nonsectarian, funds for the purpose  
17 of defraying the necessary expense incident to the diagnosis,  
18 treatment and training of **【mentally retarded,】** persons with  
19 intellectual disabilities, persons who are brain injured, or **【mentally**  
20 **ill】** persons with mental illness who are residents of the county, at  
21 suitable homes, schools, hospitals, day-care centers, residential  
22 treatment centers or sheltered workshops anywhere in the State  
23 supported by public funds or private charity, including the cost of  
24 transporting such persons to and from, and their support and  
25 maintenance at, such homes, schools, hospitals, day-care centers,  
26 residential treatment centers or sheltered workshops for the purpose  
27 of, or while undergoing diagnosis, treatment and training.

28 (cf: P.L.1969, c.6, s.2)

29  
30       67. Section 1 of P.L.1975, c.141 (C.40:48-9.4a) is amended to  
31 read as follows:

32       1. The governing body of any municipality may appropriate  
33 annually to any approved, privately operated, nonprofit organization  
34 whose services are nonsectarian, funds for the purpose of defraying  
35 the necessary expense incident to the diagnosis, treatment, training  
36 and rehabilitation of **【mentally-retarded, brain-injured, mentally-ill**  
37 **or】** persons with intellectual disabilities, persons who are brain  
38 injured, persons with mental illness, or persons who are otherwise  
39 mentally or physically handicapped **【persons】** who are residents of  
40 the municipality, at suitable homes, schools, hospitals, day-care  
41 centers, residential treatment centers, rehabilitation centers or  
42 sheltered workshops anywhere in the State supported by public  
43 funds or private charity, including the cost of transporting such  
44 persons to and from, and their support and maintenance at, such  
45 homes, schools, hospitals, day-care centers, residential treatment  
46 centers, rehabilitation centers or sheltered workshops for the  
47 purpose of diagnosis or while undergoing treatment, training and

1 rehabilitation, or for the purpose of maintaining an extended  
2 employment program.

3 (cf: P.L.1975, c.141, s.1)

4

5 68. Section 15 of P.L.1971, c.199 (C.40A:12-15) is amended to  
6 read as follows:

7 15. Purposes for which leases for a public purpose may be made.

8 A leasehold for a term not in excess of 50 years may be made  
9 pursuant to this act and extended for an additional 25 years by  
10 ordinance or resolution thereafter for any county or municipal  
11 public purpose, including, but not limited to:

12 (a) The provision of fire protection, first aid, rescue and  
13 emergency services by an association duly incorporated for such  
14 purposes.

15 (b) The provision of health care or services by a nonprofit  
16 clinic, hospital, residential home, outpatient center or other similar  
17 corporation or association.

18 (c) The housing, recreation, education or health care of veterans  
19 of any war of the United States by any nonprofit corporation or  
20 association.

21 (d) Mental health or psychiatric services or education for **[the**  
22 **mentally ill]** persons with mental illness, [mentally retarded, or]  
23 persons who are mentally defective, or persons with intellectual  
24 disabilities by any nonprofit corporation or association.

25 (e) Any shelter care or services for persons aged 62 or over  
26 receiving Social Security payments, pensions, or disability benefits  
27 which constitute a substantial portion of the gross income by any  
28 nonprofit corporation or association.

29 (f) Services or care for the education or treatment of cerebral  
30 palsy patients by any nonprofit corporation or association.

31 (g) Any civic or historic programs or activities by duly  
32 incorporated historical societies.

33 (h) Services, education, training, care or treatment of poor or  
34 indigent persons or families by any nonprofit corporation or  
35 association.

36 (i) Any activity for the promotion of the health, safety, morals  
37 and general welfare of the community of any nonprofit corporation  
38 or association.

39 (j) The cultivation or use of vacant lots for gardening or  
40 recreational purposes.

41 (k) The provision of electrical transmission service across the  
42 lines of a public utility for a county or municipality pursuant to  
43 R.S.40:62-12 through R.S.40:62-25.

44 Except as otherwise provided in subsection (k) of this section, in  
45 no event shall any lease under this section be entered into for, with,  
46 or on behalf of any commercial, business, trade, manufacturing,  
47 wholesaling, retailing, or other profit-making enterprise, nor shall  
48 any lease pursuant to this section be entered into with any political,

1 partisan, sectarian, denominational or religious corporation or  
2 association, or for any political, partisan, sectarian, denominational  
3 or religious purpose, except that a county or municipality may enter  
4 into a lease for the use permitted under subsection (j) with a  
5 sectarian, denominational or religious corporation; provided the  
6 property is not used for a sectarian, denominational or religious  
7 purpose. In the case of a municipality the governing body may  
8 designate the municipal manager, business administrator or any  
9 other municipal official for the purpose of entering into a lease for  
10 the use permitted under subsection (j).

11 (cf: P.L.1991, c.143, s.6)

12

13 69. Section 3 of P.L.1941, c.220 (C.43:7-9) is amended to read  
14 as follows:

15 3. a. Upon the receipt of proper proofs of the death of a  
16 member who shall have lost his life, there shall be paid to his  
17 widow or widower a pension of 25% of the member's average final  
18 compensation, for the use of herself or himself, to continue during  
19 her or his widowhood, plus 15% of such salary payable to one  
20 surviving child or plus 25% of such salary to two or more surviving  
21 children; if there is no surviving widow or widower or in case the  
22 widow or widower dies or remarries, 20% of the member's average  
23 final compensation will be payable to one surviving child, 35% of  
24 such compensation to two surviving children in equal shares and if  
25 there be three or more children, 50% of such compensation will be  
26 payable to such children in equal shares; if there is no surviving  
27 widow, widower or child, 25% of the member's average final  
28 compensation will be payable to one surviving parent or 40% of  
29 such compensation will be payable to two surviving parents in equal  
30 shares.

31 b. Upon the receipt of proper proofs of the death after  
32 retirement of a former member of the pension fund, there shall be  
33 paid to his widow or widower a pension of 25% of the member's  
34 average final compensation for the use of herself or himself, to  
35 continue during her or his widowhood, plus 15% of such  
36 compensation payable to one surviving child or plus 25% of such  
37 compensation to two or more surviving children; if there is no  
38 surviving widow or widower or in case the widow or widower dies  
39 or remarries, 20% of the member's average final compensation will  
40 be payable to one surviving child, 35% of such compensation to two  
41 surviving children in equal shares and if there be three or more  
42 children, 50% of such compensation will be payable to such  
43 children in equal shares.

44 c. The changes in benefits provided by subsections a. and b. of  
45 this section shall apply only to pensions hereafter granted; provided,  
46 however, that pensions granted prior to the effective date of this  
47 amendatory and supplementary act shall be increased to the  
48 schedule of payments stipulated by subsection a. on the first of the

1 month following the commission's approval of those cases where  
2 proper evidence is submitted to the satisfaction of the pension  
3 commission that the death of the member in active service was the  
4 result of an accident met in the actual performance of duty at some  
5 definite time and place, that such death was not the result of the  
6 member's willful negligence, and that the death occurred within 5  
7 years of the accident; provided, further, that any pension in an  
8 amount less than \$1,600.00 per annum, presently paid or to be paid  
9 in the future to a widow or widower or a prison officer, shall be  
10 increased to \$1,600.00 per annum.

11 d. For purposes of this section:

12 (1) "Child" shall mean a deceased member's unmarried child  
13 either (a) under the age of 18 or (b) of any age who, at the time of  
14 the member's death, is disabled because of **[mental retardation]** an  
15 intellectual disability or physical incapacity, is unable to do any  
16 substantial, gainful work because of the impairment and his  
17 impairment has lasted or can be expected to last for a continuous  
18 period of not less than 12 months, as affirmed by the examining  
19 physicians of the fund.

20 (2) "Widower" shall mean the man to whom a member was  
21 married before the date of her retirement or at least 5 years before  
22 the date of her death and to whom she continued to be married until  
23 the date of her death and who was receiving at least one-half of his  
24 support from the member in the 12-month period immediately  
25 preceding the member's death or the accident which was the direct  
26 cause of the member's death. The dependency of such a widower  
27 will be considered terminated by marriage of the widower  
28 subsequent to the death of the member.

29 (3) "Widow" shall mean the woman to whom a member was  
30 married before the date of his retirement or at least 5 years before  
31 the date of his death and to whom he continued to be married until  
32 the date of his death and who has not remarried.

33 (4) "Parent" shall mean the parent of a member who was  
34 receiving at least one-half of his support from the member in the  
35 12-month period immediately preceding the member's death or the  
36 accident which was the direct cause of the member's death. The  
37 dependency of such a parent will be considered terminated by  
38 marriage of the parent subsequent to the death of the member.

39 (cf: P. L.1973, c.155, s.2)

40

41 70. Section 1 of P.L.1957, c.168 (C.43:12-28.1) is amended to  
42 read as follows:

43 1. The governing body of any municipality served by a  
44 volunteer fire company or first aid or rescue squad shall, by  
45 resolution, determine the eligibility for a survivor's pension of the  
46 widow or children or parent of any volunteer firefighter, first aid  
47 worker, rescue squad worker, or emergency medical technician who  
48 has died as the result of injuries sustained in the course of

1 performance of duty as a member of the volunteer fire company or  
2 first aid or rescue squad on or after January 1, 2000. A governing  
3 body may determine that the widow or children or parent of a  
4 volunteer is eligible for a survivor's pension whenever a volunteer  
5 dies while responding to, preparing for or returning from an  
6 emergency while under orders from a competent authority. When  
7 the municipal governing body determines that a widow or children  
8 or parent are eligible for a survivor's pension, a certified copy of  
9 the resolution shall be filed by the municipal clerk with the State  
10 Treasurer within 10 days of adoption, and the State shall provide for  
11 payment of the survivor's pension, starting in the first calendar year  
12 next following the year of death of the volunteer or the year next  
13 following the year in which P.L.2002, c.134 is enacted, whichever  
14 is later.

15 For the purposes of this section, "first aid or rescue squad" shall  
16 mean any duly incorporated first aid and emergency or volunteer  
17 ambulance or rescue squad association providing volunteer public  
18 first aid, ambulance or rescue services within the municipality;

19 "widow" shall also include "widower";

20 "child" shall mean a deceased firefighter's, emergency medical  
21 technician's, or first aid or rescue squad worker's unmarried child  
22 (a) under the age of 18, or (b) 18 years of age or older and enrolled  
23 in a secondary school, or (c) under the age of 24 and enrolled in a  
24 degree program in an institution of higher education for at least 12  
25 credit hours in each semester, or (d) of any age who, at the time of  
26 the firefighter's, technician's or worker's death, is disabled because  
27 of **[mental retardation]** an intellectual disability or physical  
28 incapacity, is unable to do any substantial, gainful work because of  
29 the impairment and the impairment has lasted or can be expected to  
30 last for a continuous period of not less than 12 months, as affirmed  
31 by the medical professional; and

32 "parent" shall mean the parent of a firefighter, emergency  
33 medical technician, or first aid or rescue squad worker who was  
34 receiving at least one-half of his or her support from the firefighter,  
35 technician or worker in the 12-month period immediately preceding  
36 the firefighter's, technician's or worker's death. The dependency of  
37 such a parent will be considered terminated by marriage of the  
38 parent subsequent to the death of the member.

39 (cf: P.L.2002, c.134, s.1)

40

41 71. Section 6 of P.L.1954, c.84 (C.43:15A-6) is amended to read  
42 as follows:

43 6. As used in this act:

44 a. "Accumulated deductions" means the sum of all the  
45 amounts, deducted from the compensation of a member or  
46 contributed by or on behalf of the member, standing to the credit of  
47 the member's individual account in the annuity savings fund.

1       b. "Annuity" means payments for life derived from the  
2 accumulated deductions of a member as provided in this act.

3       c. "Annuity reserve" means the present value of all payments  
4 to be made on account of any annuity or benefit in lieu of an  
5 annuity, granted under the provisions of this act, computed on the  
6 basis of such mortality tables recommended by the actuary as the  
7 board of trustees adopts, with regular interest.

8       d. "Beneficiary" means any person receiving a retirement  
9 allowance or other benefit as provided in this act.

10       e. "Child" means a deceased member's unmarried child either  
11 (1) under the age of 18 or (2) of any age who, at the time of the  
12 member's death, is disabled because of **【mental retardation】** an  
13 intellectual disability or physical incapacity, is unable to do any  
14 substantial, gainful work because of the impairment and the  
15 impairment has lasted or can be expected to last for a continuous  
16 period of not less than 12 months, as affirmed by the medical board.

17       f. "Parent" shall mean the parent of a member who was  
18 receiving at least 1/2 of the parent's support from the member in the  
19 12-month period immediately preceding the member's death or the  
20 accident which was the direct cause of the member's death. The  
21 dependency of such a parent will be considered terminated by  
22 marriage of the parent subsequent to the death of the member.

23       g. (1) "Widower," for employees of the State, means the man to  
24 whom a member was married, or a domestic partner as defined in  
25 section 3 of P.L.2003, c.246 (C.26:8A-3), at least five years before  
26 the date of her death and to whom she continued to be married or a  
27 domestic partner until the date of her death and who was receiving  
28 at least 1/2 of his support from the member in the 12-month period  
29 immediately preceding the member's death or the accident which  
30 was the direct cause of the member's death. The dependency of such  
31 a widower will be considered terminated by marriage of, or  
32 establishment of a domestic partnership by, the widower subsequent  
33 to the death of the member. In the event of the payment of an  
34 accidental death benefit, the five-year qualification shall be waived.

35       (2) Subject to the provisions of paragraph (3) of this subsection,  
36 "widower," for employees of public employers other than the State,  
37 means the man to whom a member was married at least five years  
38 before the date of her death and to whom she continued to be  
39 married until the date of her death and who was receiving at least  
40 1/2 of his support from the member in the 12-month period  
41 immediately preceding the member's death or the accident which  
42 was the direct cause of the member's death. The dependency of such  
43 a widower shall be considered terminated by marriage of the  
44 widower subsequent to the death of the member. In the event of the  
45 payment of an accidental death benefit, the five-year qualification  
46 shall be waived.

47       (3) A public employer other than the State may adopt a  
48 resolution providing that the term "widower" as defined in

1 paragraph (2) of this subsection shall include domestic partners as  
2 provided in paragraph (1) of this subsection.

3 h. (1) "Final compensation" means the average annual  
4 compensation for which contributions are made for the three years  
5 of creditable service in New Jersey immediately preceding the  
6 member's retirement or death, or it shall mean the average annual  
7 compensation for New Jersey service for which contributions are  
8 made during any three fiscal years of his or her membership  
9 providing the largest possible benefit to the member or the  
10 member's beneficiary.

11 (2) In the case of a person who becomes a member of the  
12 retirement system on or after the effective date of P.L.2010, c.1,  
13 "final compensation" means the average annual compensation for  
14 which contributions are made for the five years of creditable service  
15 in New Jersey immediately preceding the member's retirement or  
16 death, or it shall mean the average annual compensation for New  
17 Jersey service for which contributions are made during any five  
18 fiscal years of his or her membership providing the largest possible  
19 benefit to the member or the member's beneficiary.

20 i. "Fiscal year" means any year commencing with July 1 and  
21 ending with June 30 next following.

22 j. "Medical board" shall mean the board of physicians  
23 provided for in section 17 of P.L.1954, c.84 (C.43:15A-17).

24 k. "Pension" means payments for life derived from  
25 appropriations made by the employer as provided in this act.

26 l. "Pension reserve" means the present value of all payments to  
27 be made on account of any pension or benefit in lieu of a pension  
28 granted under the provisions of this act, computed on the basis of  
29 such mortality tables recommended by the actuary as the board of  
30 trustees adopts, with regular interest.

31 m. "Public Employees' Retirement System of New Jersey,"  
32 hereinafter referred to as the "retirement system" or "system," is the  
33 corporate name of the arrangement for the payment of retirement  
34 allowances and other benefits under the provisions of this act  
35 including the several funds placed under said system. By that name  
36 all of its business shall be transacted, its funds invested, warrants  
37 for money drawn, and payments made and all of its cash and  
38 securities and other property held.

39 n. "Regular interest" shall mean interest as determined by the  
40 State Treasurer, after consultation with the Directors of the  
41 Divisions of Investment and Pensions, the board of trustees and the  
42 actuary. It shall bear a reasonable relationship to the percentage rate  
43 of earnings on investments based on the market value of the assets  
44 but shall not exceed the assumed percentage rate of increase applied  
45 to salaries plus 3%, provided however that the board of trustees  
46 shall not set the average percentage rate of increase applied to  
47 salaries below 6%.

48 o. "Retirement allowance" means the pension plus the annuity.

1 p. "Veteran" means any honorably discharged officer, soldier,  
2 sailor, airman, marine or nurse who served in any Army, Air Force  
3 or Navy of the Allies of the United States in World War I, between  
4 July 14, 1914, and November 11, 1918, or who served in any Army,  
5 Air Force or Navy of the Allies of the United States in World War  
6 II, between September 1, 1939, and September 2, 1945, and who  
7 was inducted into such service through voluntary enlistment, and  
8 was a citizen of the United States at the time of such enlistment, and  
9 who did not, during or by reason of such service, renounce or lose  
10 United States citizenship, and any officer, soldier, sailor, marine,  
11 airman, nurse or army field clerk, who has served in the active  
12 military or naval service of the United States and has or shall be  
13 discharged or released therefrom under conditions other than  
14 dishonorable, in any of the following wars, uprisings, insurrections,  
15 expeditions, or emergencies, and who has presented to the  
16 retirement system evidence of such record of service in form and  
17 content satisfactory to said retirement system:

18 (1) The Indian wars and uprisings during any of the periods  
19 recognized by the War Department of the United States as periods  
20 of active hostility;

21 (2) The Spanish-American War between April 20, 1898, and  
22 April 11, 1899;

23 (3) The Philippine insurrections and expeditions during the  
24 periods recognized by the War Department of the United States as  
25 of active hostility from February 4, 1899, to the end of 1913;

26 (4) The Peking relief expedition between June 20, 1900, and  
27 May 27, 1902;

28 (5) The army of Cuban occupation between July 18, 1898, and  
29 May 20, 1902;

30 (6) The army of Cuban pacification between October 6, 1906,  
31 and April 1, 1909;

32 (7) The Mexican punitive expedition between March 14, 1916,  
33 and February 7, 1917;

34 (8) The Mexican border patrol, having actually participated in  
35 engagements against Mexicans between April 12, 1911, and June  
36 16, 1919;

37 (9) World War I, between April 6, 1917, and November 11,  
38 1918;

39 (10) World War II, between September 16, 1940, and December  
40 31, 1946, who shall have served at least 90 days in such active  
41 service, exclusive of any period of assignment (1) for a course of  
42 education or training under the Army Specialized Training Program  
43 or the Navy College Training Program which course was a  
44 continuation of a civilian course and was pursued to completion, or  
45 (2) as a cadet or midshipman at one of the service academies any  
46 part of which 90 days was served between said dates; provided, that  
47 any person receiving an actual service-incurred injury or disability



1 shall be classed as a veteran whether or not that person has  
2 completed the 90-day service as herein provided;

3 (11) Korean conflict on or after June 23, 1950, and on or prior to  
4 January 31, 1955, who shall have served at least 90 days in such  
5 active service, exclusive of any period of assignment (1) for a  
6 course of education or training under the Army Specialized  
7 Training Program or the Navy College Training Program which  
8 course was a continuation of a civilian course and was pursued to  
9 completion, or (2) as a cadet or midshipman at one of the service  
10 academies, any part of which 90 days was served between said  
11 dates; provided, that any person receiving an actual service-incurred  
12 injury or disability shall be classed as a veteran whether or not that  
13 person has completed the 90-day service as herein provided; and  
14 provided further, that any member classed as a veteran pursuant to  
15 this paragraph prior to August 1, 1966, shall continue to be classed  
16 as a veteran whether or not that person completed the 90-day  
17 service between said dates as herein provided;

18 (12) Lebanon crisis, on or after July 1, 1958, who has served in  
19 Lebanon or on board any ship actively engaged in patrolling the  
20 territorial waters of that nation for a period, continuous or in the  
21 aggregate, of at least 14 days commencing on or before November  
22 1, 1958 or the date of termination of that conflict, as proclaimed by  
23 the President of the United States or Congress, whichever date of  
24 termination is the latest, in such active service; provided, that any  
25 person receiving an actual service-incurred injury or disability shall  
26 be classed as a veteran whether or not that person has completed the  
27 14 days' service as herein provided;

28 (13) Vietnam conflict on or after December 31, 1960, and on or  
29 prior to May 7, 1975, who shall have served at least 90 days in such  
30 active service, exclusive of any period of assignment (1) for a  
31 course of education or training under the Army Specialized  
32 Training Program or the Navy College Training Program which  
33 course was a continuation of a civilian course and was pursued to  
34 completion, or (2) as a cadet or midshipman at one of the service  
35 academies, any part of which 90 days was served between said  
36 dates; and exclusive of any service performed pursuant to the  
37 provisions of section 511(d) of Title 10, United States Code,  
38 pursuant to an enlistment in the Army National Guard or as a  
39 reserve for service in the Army Reserve, Naval Reserve, Air Force  
40 Reserve, Marine Corps Reserve, or Coast Guard Reserve; provided,  
41 that any person receiving an actual service-incurred injury or  
42 disability shall be classed as a veteran whether or not that person  
43 has completed the 90 days' service as herein provided;

44 (14) Lebanon peacekeeping mission, on or after September 26,  
45 1982, who has served in Lebanon or on board any ship actively  
46 engaged in patrolling the territorial waters of that nation for a  
47 period, continuous or in the aggregate, of at least 14 days  
48 commencing on or before December 1, 1987 or the date of

1 termination of that mission, as proclaimed by the President of the  
2 United States or Congress, whichever date of termination is the  
3 latest, in such active service; provided, that any person receiving an  
4 actual service-incurred injury or disability shall be classed as a  
5 veteran whether or not that person has completed the 14 days'  
6 service as herein provided;

7 (15) Grenada peacekeeping mission, on or after October 23,  
8 1983, who has served in Grenada or on board any ship actively  
9 engaged in patrolling the territorial waters of that nation for a  
10 period, continuous or in the aggregate, of at least 14 days  
11 commencing on or before November 21, 1983 or the date of  
12 termination of that mission, as proclaimed by the President of the  
13 United States or Congress, whichever date of termination is the  
14 latest, in such active service; provided, that any person receiving an  
15 actual service-incurred injury or disability shall be classed as a  
16 veteran whether or not that person has completed the 14 days'  
17 service as herein provided;

18 (16) Panama peacekeeping mission, on or after December 20,  
19 1989 or the date of inception of that mission, as proclaimed by the  
20 President of the United States or Congress, whichever date of  
21 inception is earliest, who has served in Panama or on board any ship  
22 actively engaged in patrolling the territorial waters of that nation for  
23 a period, continuous or in the aggregate, of at least 14 days  
24 commencing on or before January 31, 1990 or the date of  
25 termination of that mission, as proclaimed by the President of the  
26 United States or Congress, whichever date of termination is the  
27 latest, in such active service; provided, that any person receiving an  
28 actual service-incurred injury or disability shall be classed as a  
29 veteran whether or not that person has completed the 14 days'  
30 service as herein provided;

31 (17) Operation "Desert Shield/Desert Storm" mission in the  
32 Arabian peninsula and the Persian Gulf, on or after August 2, 1990  
33 or the date of inception of that operation, as proclaimed by the  
34 President of the United States or Congress, whichever date of  
35 inception is earliest, who has served in the Arabian peninsula or on  
36 board any ship actively engaged in patrolling the Persian Gulf for a  
37 period, continuous or in the aggregate, of at least 14 days  
38 commencing on or before the date of termination of that mission, as  
39 proclaimed by the President of the United States or Congress,  
40 whichever date of termination is the latest, in such active service;  
41 provided, that any person receiving an actual service-incurred injury  
42 or disability shall be classed as a veteran whether or not that person  
43 has completed the 14 days' service as herein provided;

44 (18) Operation Northern Watch and Operation Southern Watch,  
45 on or after August 27, 1992, or the date of inception of that  
46 operation, as proclaimed by the President of the United States,  
47 Congress or United States Secretary of Defense, whichever date of  
48 inception is earliest, who served in the theater of operation,

1 including in the Arabian peninsula and the Persian Gulf, and in  
2 direct support of that operation for a period, continuously or in the  
3 aggregate, of at least 14 days in such active service, commencing on  
4 or before the date of termination of that operation, as proclaimed by  
5 the President of the United States, Congress or United States  
6 Secretary of Defense, whichever date of termination is the latest;  
7 provided, that any person receiving an actual service-incurred injury  
8 or disability while engaged in such service shall be classed as a  
9 veteran whether or not that person has completed the 14 days'  
10 service as herein provided;

11 (19) Operation "Restore Hope" in Somalia, on or after December  
12 5, 1992, or the date of inception of that operation as proclaimed by  
13 the President of the United States or Congress, whichever date is  
14 earliest, who has served in Somalia or on board any ship actively  
15 engaged in patrolling the territorial waters of that nation for a  
16 period, continuously or in the aggregate, of at least 14 days in such  
17 active service commencing on or before March 31, 1994; provided  
18 that any person receiving an actual service-incurred injury or  
19 disability shall be classed as a veteran whether or not that person  
20 has completed the 14-day service as herein provided;

21 (20) Operations "Joint Endeavor" and "Joint Guard" in the  
22 Republic of Bosnia and Herzegovina, on or after November 20,  
23 1995, who served in such active service in direct support of one or  
24 both of the operations for at least 14 days, continuously or in the  
25 aggregate, commencing on or before June 20, 1998 and (1) was  
26 deployed in that nation or in another area in the region, or (2) was  
27 on board a United States naval vessel operating in the Adriatic Sea,  
28 or (3) operated in airspace above the Republic of Bosnia and  
29 Herzegovina; provided that any person receiving an actual service-  
30 incurred injury or disability shall be classed as a veteran whether or  
31 not that person completed the 14-day service requirement;

32 (21) Operation "Enduring Freedom", on or after September 11,  
33 2001, who served in a theater of operation and in direct support of  
34 that operation for a period, continuously or in the aggregate, of at  
35 least 14 days in such active service commencing on or before the  
36 date the President of the United States or the United States  
37 Secretary of Defense designates as the termination date of that  
38 operation; provided, that any person receiving an actual service-  
39 incurred injury or disability while engaged in such service shall be  
40 classed as a veteran whether or not that person has completed the 14  
41 days' service as herein provided; and

42 (22) Operation "Iraqi Freedom", on or after the date the President  
43 of the United States or the United States Secretary of Defense  
44 designates as the inception date of that operation, who served in  
45 Iraq or in another area in the region in direct support of that  
46 operation for a period, continuously or in the aggregate, of at least  
47 14 days in such active service commencing on or before the date the  
48 President of the United States or the United States Secretary of

1 Defense designates as the termination date of that operation;  
2 provided, that any person receiving an actual service-incurred injury  
3 or disability while engaged in such service shall be classed as a  
4 veteran whether or not that person has completed the 14 days'  
5 service as herein provided.

6 "Veteran" also means any honorably discharged member of the  
7 American Merchant Marine who served during World War II and is  
8 declared by the United States Department of Defense to be eligible  
9 for federal veterans' benefits.

10 q. (1) "Widow," for employees of the State, means the woman  
11 to whom a member was married, or a domestic partner as defined in  
12 section 3 of P.L.2003, c.246 (C.26:8A-3), at least five years before  
13 the date of his death and to whom he continued to be married or a  
14 domestic partner until the date of his death and who was receiving  
15 at least 1/2 of her support from the member in the 12-month period  
16 immediately preceding the member's death or the accident which  
17 was the direct cause of the member's death. The dependency of such  
18 a widow will be considered terminated by the marriage of, or  
19 establishment of a domestic partnership by, the widow subsequent  
20 to the member's death. In the event of the payment of an accidental  
21 death benefit, the five-year qualification shall be waived.

22 (2) Subject to the provisions of paragraph (3) of this subsection,  
23 "widow," for employees of public employers other than the State,  
24 means the woman to whom a member was married at least five  
25 years before the date of his death and to whom he continued to be  
26 married until the date of his death and who was receiving at least  
27 1/2 of her support from the member in the 12-month period  
28 immediately preceding the member's death or the accident which  
29 was the direct cause of the member's death. The dependency of such  
30 a widow shall be considered terminated by the marriage of the  
31 widow subsequent to the member's death. In the event of the  
32 payment of an accidental death benefit, the five-year qualification  
33 shall be waived.

34 (3) A public employer other than the State may adopt a  
35 resolution providing that the term "widow" as defined in paragraph  
36 (2) of this subsection shall include domestic partners as provided in  
37 paragraph (1) of this subsection.

38 r. (1) "Compensation" means the base or contractual salary, for  
39 services as an employee, which is in accordance with established  
40 salary policies of the member's employer for all employees in the  
41 same position but shall not include individual salary adjustments  
42 which are granted primarily in anticipation of the member's  
43 retirement or additional remuneration for performing temporary or  
44 extracurricular duties beyond the regular workday or the regular  
45 work year.

46 (2) In the case of a person who becomes a member of the  
47 retirement system on or after July 1, 2007, "compensation" means  
48 the amount of base or contractual salary equivalent to the annual

1 maximum wage contribution base for Social Security, pursuant to  
2 the Federal Insurance Contributions Act, for services as an  
3 employee, which is in accordance with established salary policies of  
4 the member's employer for all employees in the same position but  
5 shall not include individual salary adjustments which are granted  
6 primarily in anticipation of the member's retirement or additional  
7 remuneration for performing temporary or extracurricular duties  
8 beyond the regular workday or the regular work year. This  
9 paragraph shall not apply to a person who at the time of enrollment  
10 in the retirement system on or after July 1, 2007 transfers service  
11 credit from another State-administered retirement system pursuant  
12 to section 14 of P.L.1954, c.84 (C.43:15A-14), but shall apply to a  
13 former member of the retirement system who has been granted a  
14 retirement allowance and is reenrolled in the retirement system on  
15 or after July 1, 2007 pursuant to section 27 of P.L.1966, c.217  
16 (C.43:15A-57.2) after becoming employed again in a position that  
17 makes the person eligible to be a member of the retirement system.

18 In cases where salary includes maintenance, the retirement  
19 system shall fix the value of that part of the salary not paid in  
20 money which shall be considered under this act.

21 For the period of July 1, 2009 through June 30, 2011,  
22 "contractual salary" for State employees shall include across the  
23 board negotiated wage increases under a collective negotiations  
24 agreement that were payable to all State employees covered by that  
25 agreement notwithstanding that, by amendment to that collective  
26 negotiations agreement, the effective date of the contractual  
27 increase has been deferred. For the purpose of this paragraph,  
28 "State employee" means an employee in the Executive Branch or  
29 the Judicial Branch of State government of New Jersey or an  
30 employee of the State University authorized to participate in the  
31 system under subsection b. of section 73 of P.L.1954, c.84  
32 (C.43:15A-73), but shall not include employees of agencies  
33 authorized to participate in the system under subsections a., c., d.,  
34 e., f., and g. of section 73 of P.L.1954, c.84 (C.43:15A-73) or under  
35 P.L.1990, c.25 (C.43:15A-73.2 et al.).

36 For the period of July 1, 2009 through June 30, 2011,  
37 "contractual salary" for county and municipal employees shall  
38 include across the board negotiated wage increases under a  
39 collective negotiations agreement that were payable to all county or  
40 all municipal employees covered by that agreement notwithstanding  
41 that, by amendment to that collective negotiations agreement which  
42 has been filed with the Division of Pensions and Benefits, the  
43 effective date of the contractual increase has been deferred. For the  
44 purpose of this paragraph, "county and municipal employees"  
45 means all persons employed by a county or municipality in this  
46 State.

47 (cf: P.L.2010, c.1, s.21)

1       72. Section 1 of P.L.2001, c.259 (C.43:15A-142) is amended to  
2 read as follows:

3       1. As used in this act, P.L.2001, c.259 (C.43:15A-142 et seq.):

4       “Aggregate public service” includes service as a workers  
5 compensation judge and in an office, position, or employment of  
6 this State or of a county, municipality, board of education, or public  
7 agency of this State.

8       “Beneficiary” means any person entitled to receive any benefit  
9 pursuant to the provisions of this act by reason of the death of a  
10 member or retirant.

11       “Child” means a deceased member’s or retirant’s unmarried  
12 child who is (a) under the age of 18; (b) of any age who, at the time  
13 of the member's or retirant’s death, is disabled because of [mental  
14 retardation] an intellectual disability or physical incapacity, is  
15 unable to do any substantial, gainful work because of the  
16 impairment, and the impairment has lasted or can be expected to  
17 last for a continuous period of not less than 12 months, as affirmed  
18 by the medical board; or (c) under the age of 21 and is attending  
19 school full time.

20       “Final salary” means the annual salary received by the member  
21 at the time of retirement or death.

22       “Retirant” means any former member receiving a pension or  
23 retirement allowance as provided by this act.

24       “Widow” means the woman to whom a member was married at  
25 least four years before the date of his death and to whom he  
26 continued to be married until the date of his death. The eligibility  
27 of a widow to receive a survivor's benefit shall be considered  
28 terminated by the marriage of the widow subsequent to the  
29 member's or the retirant’s death. In the event of accidental death,  
30 the four-year qualification shall be waived. When used in this act,  
31 the term “widow” shall mean and include “widower” as may be  
32 necessary and appropriate to the particular situation.

33       “Widower” means the man to whom a member was married at  
34 least four years before the date of her death and to whom she  
35 continued to be married until the date of her death. The eligibility  
36 of a widower to receive a survivor’s benefit shall be considered  
37 terminated by the marriage of the widower subsequent to the  
38 member's or the retirant’s death. In the event of accidental death,  
39 the four-year qualification shall be waived.

40       “Workers compensation judges” means the Chief Judges,  
41 administrative supervisory judges, supervisory judges and judges of  
42 compensation of the Division of Workers’ Compensation of the  
43 Department of Labor.

44 (cf: P.L.2001, c.259, s.1)

45

46       73. Section 12 of P.L.1944, c.253 (C.43:16-17) is amended to  
47 read as follows:

1       12. The following words and phrases as used in this act, unless a  
2 different meaning is plainly required by the context, shall have the  
3 following meanings:

4       (1) "Member" shall mean a person who on July 1, 1944, was a  
5 member of a municipal police department or paid or part-paid fire  
6 department or county police department or a paid or part-paid fire  
7 department of a fire district located in a township and who has  
8 contributed to the pension fund established under chapter 16 of  
9 Title 43 of the Revised Statutes and shall hereafter contribute to  
10 said fund.

11       (2) "Active member" shall mean any "member" who is a police  
12 officer, firefighter, detective, line person, driver of police van, fire  
13 alarm operator or inspector of combustibles and who is subject to  
14 call for active service or duty as such.

15       (3) "Employee member" shall mean any "member" who is not  
16 subject to call for active service or duty as a police officer,  
17 firefighter, detective, line person, driver of police van, fire alarm  
18 operator or inspector of combustibles.

19       (4) "Commission" shall mean the board having the general  
20 responsibility for the proper operation of the pension fund created  
21 by this act, subject to the provisions of chapter 70 of the laws of  
22 1955.

23       (5) "Physician or surgeon" shall mean the medical board  
24 composed of physicians who shall be called upon to determine the  
25 disability of members as provided by this act.

26       (6) "Employer" shall mean the county, municipality or agency  
27 thereof by which a member is employed.

28       (7) "Service" shall mean service rendered while a member is  
29 employed by a municipal police department, paid or part-paid fire  
30 department, county police department or paid or part-paid fire  
31 department of a fire district located in a township prior to the  
32 effective date of this act for such service to such departments  
33 thereafter.

34       (8) "Pension" shall mean the amount payable to a member or the  
35 member's beneficiary under the provisions of this act.

36       (9) "Average salary" shall mean the average salary paid during  
37 the last three years of a member's service.

38       (10) "Beneficiary" shall mean any person or persons, other than  
39 a member, receiving or entitled to receive a pension or benefits, as  
40 provided by this act.

41       (11) "Parent" shall mean the parent of a member who was  
42 receiving at least one-half of that parent's support from the member  
43 in the 12-month period immediately preceding the member's death  
44 or the accident which was the direct cause of the member's death.  
45 The dependency of such a parent will be considered terminated by  
46 marriage of the parent subsequent to the death of the member.

47       (12) "County police" shall mean all police officers having  
48 supervision of regulation of traffic upon county roads.

1 (13) (Deleted by amendment, P.L.1989, c.78.)

2 (14) "Surviving spouse" shall mean the person to whom a  
3 member was married before the date of retirement or at least two  
4 years before the date of the member's death and whose marriage to  
5 the member continued until the member's death.

6 (15) "Child" shall mean a deceased member's unmarried child  
7 either (a) under the age of 18 or (b) of any age who, at the time of  
8 the member's death, is disabled because of **mental retardation** an  
9 intellectual disability or physical incapacity, is unable to do any  
10 substantial, gainful work because of the impairment and whose  
11 impairment has lasted or can be expected to last for a continuous  
12 period of not less than 12 months, as affirmed by the examining  
13 physicians of the fund.

14 (16) "Regular interest" shall mean interest as determined by the  
15 State Treasurer, after consultation with the Directors of the  
16 Divisions of Investment and Pensions, the commission and the  
17 actuary. It shall bear a reasonable relationship to the percentage  
18 rate of earnings on investments based on the market value of the  
19 assets but shall not exceed the assumed percentage rate of increase  
20 applied to salaries plus 3%, provided however that the commission  
21 shall not set the average percentage rate of increase applied to  
22 salaries below 6%.

23 (17) "Final compensation" shall mean the compensation received  
24 by the member in the last 12 months of service preceding  
25 retirement.

26 (18) "Compensation" shall mean the base salary, for services as a  
27 member as defined in this act, which is in accordance with  
28 established salary policies of the member's employer for all  
29 employees in the same position but shall not include individual  
30 salary adjustments which are granted primarily in anticipation of  
31 the member's retirement or additional remuneration for performing  
32 temporary duties beyond the regular workday.

33 (cf: P.L.1992, c.125, s.12)

34

35 74. Section 1 of P.L.1944, c.255 (C.43:16A-1) is amended to  
36 read as follows:

37 1. As used in this act:

38 (1) "Retirement system" or "system" shall mean the Police and  
39 Firemen's Retirement System of New Jersey as defined in section 2  
40 of this act.

41 (2) (a) "Policeman" shall mean a permanent, full-time employee  
42 of a law enforcement unit as defined in section 2 of P.L.1961, c.56  
43 (C.52:17B-67) or the State, other than an officer or trooper of the  
44 Division of State Police whose position is covered by the State  
45 Police Retirement System, whose primary duties include the  
46 investigation, apprehension or detention of persons suspected or  
47 convicted of violating the criminal laws of the State and who:



1 (i) is authorized to carry a firearm while engaged in the actual  
2 performance of his official duties;

3 (ii) has police powers;

4 (iii) is required to complete successfully the training  
5 requirements prescribed by P.L.1961, c.56 (C.52:17B-66 et seq.) or  
6 comparable training requirements as determined by the board of  
7 trustees; and

8 (iv) is subject to the physical and mental fitness requirements  
9 applicable to the position of municipal police officer established by  
10 an agency authorized to establish these requirements on a Statewide  
11 basis, or comparable physical and mental fitness requirements as  
12 determined by the board of trustees.

13 The term shall also include an administrative or supervisory  
14 employee of a law enforcement unit or the State whose duties  
15 include general or direct supervision of employees engaged in  
16 investigation, apprehension or detention activities or training  
17 responsibility for these employees and a requirement for  
18 engagement in investigation, apprehension or detention activities if  
19 necessary, and who is authorized to carry a firearm while in the  
20 actual performance of his official duties and has police powers.

21 (b) "Fireman" shall mean a permanent, full-time employee of a  
22 firefighting unit whose primary duties include the control and  
23 extinguishment of fires and who is subject to the training and  
24 physical and mental fitness requirements applicable to the position  
25 of municipal firefighter established by an agency authorized to  
26 establish these requirements on a Statewide basis, or comparable  
27 training and physical and mental fitness requirements as determined  
28 by the board of trustees. The term shall also include an  
29 administrative or supervisory employee of a firefighting unit whose  
30 duties include general or direct supervision of employees engaged  
31 in fire control and extinguishment activities or training  
32 responsibility for these employees and a requirement for  
33 engagement in fire control and extinguishment activities if  
34 necessary. As used in this paragraph, "firefighting unit" shall mean  
35 a municipal fire department, a fire district, or an agency of a county  
36 or the State which is responsible for control and extinguishment of  
37 fires.

38 (3) "Member" shall mean any policeman or fireman included in  
39 the membership of the retirement system pursuant to this  
40 amendatory and supplementary act, P.L.1989, c.204 (C.43:16A-15.6  
41 et al.).

42 (4) "Board of trustees" or "board" shall mean the board provided  
43 for in section 13 of this act.

44 (5) "Medical board" shall mean the board of physicians  
45 provided for in section 13 of this act.

46 (6) "Employer" shall mean the State of New Jersey, the county,  
47 municipality or political subdivision thereof which pays the  
48 particular policeman or fireman.

- 1 (7) "Service" shall mean service as a policeman or fireman paid  
2 for by an employer.
- 3 (8) "Creditable service" shall mean service rendered for which  
4 credit is allowed as provided under section 4 of this act.
- 5 (9) "Regular interest" shall mean interest as determined by the  
6 State Treasurer, after consultation with the Directors of the  
7 Divisions of Investment and Pensions, the board of trustees and the  
8 actuary. It shall bear a reasonable relationship to the percentage  
9 rate of earnings on investments based on the market value of assets  
10 but shall not exceed the assumed percentage rate of increase applied  
11 to salaries plus 3%, provided however that the board of trustees  
12 shall not set the average percentage rate of increase applied to  
13 salaries below 6%.
- 14 (10) "Aggregate contributions" shall mean the sum of all the  
15 amounts, deducted from the compensation of a member or  
16 contributed by him or on his behalf, standing to the credit of his  
17 individual account in the annuity savings fund.
- 18 (11) "Annuity" shall mean payments for life derived from the  
19 aggregate contributions of a member.
- 20 (12) "Pension" shall mean payments for life derived from  
21 contributions by the employer.
- 22 (13) "Retirement allowance" shall mean the pension plus the  
23 annuity.
- 24 (14) "Earnable compensation" shall mean the full rate of the  
25 salary that would be payable to an employee if he worked the full  
26 normal working time for his position. In cases where salary  
27 includes maintenance, the retirement system shall fix the value of  
28 that part of the salary not paid in money which shall be considered  
29 under this act.
- 30 (15) "Average final compensation" shall mean final  
31 compensation.
- 32 (16) "Retirement" shall mean the termination of the member's  
33 active service with a retirement allowance granted and paid under  
34 the provisions of this act.
- 35 (17) "Annuity reserve" shall mean the present value of all  
36 payments to be made on account of any annuity or benefit in lieu of  
37 any annuity computed upon the basis of such mortality tables  
38 recommended by the actuary as shall be adopted by the board of  
39 trustees, and regular interest.
- 40 (18) "Pension reserve" shall mean the present value of all  
41 payments to be made on account of any pension or benefit in lieu of  
42 any pension computed upon the basis of such mortality tables  
43 recommended by the actuary as shall be adopted by the board of  
44 trustees, and regular interest.
- 45 (19) "Actuarial equivalent" shall mean a benefit of equal value  
46 when computed upon the basis of such mortality tables  
47 recommended by the actuary as shall be adopted by the board of  
48 trustees, and regular interest.

1 (20) "Beneficiary" shall mean any person receiving a retirement  
2 allowance or other benefit as provided by this act.

3 (21) "Child" shall mean a deceased member's or retirant's  
4 unmarried child (a) under the age of 18, or (b) 18 years of age or  
5 older and enrolled in a secondary school, or (c) under the age of 24  
6 and enrolled in a degree program in an institution of higher  
7 education for at least 12 credit hours in each semester, provided that  
8 the member died in active service as a result of an accident met in  
9 the actual performance of duty at some definite time and place, and  
10 the death was not the result of the member's willful misconduct, or  
11 (d) of any age who, at the time of the member's or retirant's death, is  
12 disabled because of **[mental retardation]** an intellectual disability or  
13 physical incapacity, is unable to do any substantial, gainful work  
14 because of the impairment and his impairment has lasted or can be  
15 expected to last for a continuous period of not less than 12 months,  
16 as affirmed by the medical board.

17 (22) "Parent" shall mean the parent of a member who was  
18 receiving at least one-half of his support from the member in the  
19 12-month period immediately preceding the member's death or the  
20 accident which was the direct cause of the member's death. The  
21 dependency of such a parent will be considered terminated by  
22 marriage of the parent subsequent to the death of the member.

23 (23) (a) "Widower," for employees of the State, means the man  
24 to whom a member or retirant was married, or a domestic partner as  
25 defined in section 3 of P.L.2003, c.246 (C.26:8A-3), on the date of  
26 her death and who has not since remarried or established a domestic  
27 partnership. In the event of the payment of accidental death  
28 benefits, pursuant to section 10 of P.L.1944, c.255 (C.43:16A-10),  
29 the restriction concerning remarriage or establishment of a domestic  
30 partnership shall be waived.

31 (b) Subject to the provisions of paragraph (c) of this subsection,  
32 "widower," for employees of public employers other than the State,  
33 means the man to whom a member or retirant was married on the  
34 date of her death and who has not remarried.

35 (c) A public employer other than the State may adopt a  
36 resolution providing that the term "widower" as defined in  
37 paragraph (b) of this subsection shall include domestic partners as  
38 provided in paragraph (a) of this subsection.

39 (24) (a) "Widow," for employees of the State, means the woman  
40 to whom a member or retirant was married, or a domestic partner as  
41 defined in section 3 of P.L.2003, c.246 (C.26:8A-3), on the date of  
42 his death and who has not since remarried or established a domestic  
43 partnership. In the event of the payment of accidental death  
44 benefits, pursuant to section 10 of P.L.1944, c.255 (C.43:16A-10),  
45 the restriction concerning remarriage or establishment of a domestic  
46 partnership shall be waived.

47 (b) Subject to the provisions of paragraph (c) of this subsection,  
48 "widow," for employees of public employers other than the State,

1 means the woman to whom a member or retirant was married on the  
2 date of his death and who has not remarried.

3 (c) A public employer other than the State may adopt a  
4 resolution providing that the term "widow" as defined in paragraph  
5 (b) of this subsection shall include domestic partners as provided in  
6 paragraph (a) of this subsection.

7 (25) "Fiscal year" shall mean any year commencing with July 1,  
8 and ending with June 30, next following.

9 (26) (a) "Compensation" shall mean the base salary, for services  
10 as a member as defined in this act, which is in accordance with  
11 established salary policies of the member's employer for all  
12 employees in the same position but shall not include individual  
13 salary adjustments which are granted primarily in anticipation of  
14 the member's retirement or additional remuneration for performing  
15 temporary duties beyond the regular workday.

16 (b) In the case of a person who becomes a member of the  
17 retirement system on or after the effective date of P.L.2010, c.1,  
18 "compensation" means the amount of base salary equivalent to the  
19 annual maximum wage contribution base for Social Security,  
20 pursuant to the Federal Insurance Contributions Act, for services as  
21 a member as defined in this act, which is in accordance with  
22 established salary policies of the member's employer for all  
23 employees in the same position but shall not include individual  
24 salary adjustments which are granted primarily in anticipation of  
25 the member's retirement or additional remuneration for performing  
26 temporary duties beyond the regular workday.

27 (27) "Department" shall mean any police or fire department of a  
28 municipality or a fire department of a fire district located in a  
29 township or a county police or park police department or the  
30 appropriate department of the State or instrumentality thereof.

31 (28) (a) "Final compensation" means the compensation received  
32 by the member in the last 12 months of creditable service preceding  
33 his retirement or death.

34 (b) In the case of a person who becomes a member of the  
35 retirement system on or after the effective date of P.L.2010, c.1,  
36 "final compensation" means the average annual compensation for  
37 service for which contributions are made during any three fiscal  
38 years of membership providing the largest possible benefit to the  
39 member or the member's beneficiary.

40 (29) (Deleted by amendment, P.L.1992, c.78).

41 (30) (Deleted by amendment, P.L.1992, c.78).

42 (31) (a) "Spouse," for employees of the State, means the husband  
43 or wife, or domestic partner as defined in section 3 of P.L.2003,  
44 c.246 (C.26:8A-3), of a member.

45 (b) Subject to the provisions of paragraph (c) of this subsection,  
46 "spouse," for employees of public employers other than the State,  
47 means the husband or wife of a member.

1 (c) A public employer other than the State may adopt a  
2 resolution providing that the term "spouse" as defined in paragraph  
3 (b) of this subsection shall include domestic partners as provided in  
4 paragraph (a) of this subsection.

5 (cf: P.L.2010, c.1, s.22)

6  
7 75. Section 35 of P.L.1979, c.496 (C.44:7-93) is amended to  
8 read as follows:

9 35. a. As used in this section, "eligible resident" means a  
10 resident of a residential health care facility, rooming house or  
11 boarding house who is: eligible to receive services under the latest  
12 New Jersey Comprehensive Annual Services Program Plan for the  
13 use of funds appropriated under Title XX of the Federal Social  
14 Security Act; an "eligible person" under the act to which this act is  
15 a supplement; an otherwise aged, blind or disabled person; or a  
16 resident designated to be eligible by the Commissioner of [the  
17 Department of] Human Services.

18 b. County welfare boards shall provide services to eligible  
19 residents of residential health care facilities, rooming houses and  
20 boarding houses which shall include, but not be limited to, the  
21 following:

22 (1) Investigation and evaluation of reports of abuse or  
23 exploitation, as defined in section 36 hereunder, or of threats of  
24 such abuse or exploitation of eligible residents, at the direction of  
25 the Commissioner of Human Services;

26 (2) Visits to all such facilities having eligible residents, at  
27 regularly scheduled intervals to assess the needs of such residents,  
28 determine whether they are receiving needed services and  
29 appropriate levels of care, and to provide such services where  
30 appropriate;

31 (3) Provision of information to eligible residents concerning  
32 social service, welfare, mental health, home health and medical  
33 assistance programs available to them; referral of eligible residents  
34 to State, county and local agencies and organizations for any such  
35 services which county welfare boards cannot provide; and follow  
36 up to such referrals to determine whether such services are being  
37 provided;

38 (4) Reporting of any suspected violations of the provisions of  
39 this act and of any complaints received concerning services and  
40 conditions in such facilities to the commissioner and to appropriate  
41 State and local agencies for remedial action; and

42 (5) Provision of information to eligible residents whose  
43 continued residence in such facilities may be injurious or dangerous  
44 to their health concerning alternative housing and living  
45 arrangements available to them.

46 County welfare boards shall coordinate all services provided  
47 under this subsection with services provided to eligible residents by  
48 the State Divisions of Mental Health [and Hospitals,] Services and

1 **【Mental Retardation】** Developmental Disabilities in the Department  
2 of Human Services and Division of Youth and Family Services in  
3 the Department of Children and Families, charitable institutions and  
4 other State and local agencies and service providers.

5 c. In order to fulfill their responsibilities under subsection b.  
6 above, county welfare boards shall be entitled to receive full and  
7 free access to residential health care facilities, rooming houses and  
8 boarding houses by the owners and operators of such facilities, and  
9 to receive cooperation and assistance from State and local law  
10 enforcement officials as needed.

11 d. The Commissioner of **【the Department of】** Human Services  
12 shall:

13 (1) Promulgate all necessary regulations to implement the  
14 provisions of this section;

15 (2) Maintain a central file of all complaints received concerning  
16 suspected violations of the provisions of this act and concerning  
17 services and conditions at residential health care facilities, rooming  
18 houses and boarding houses and shall maintain a record of the State  
19 and local agencies to which complaints have been referred by  
20 county welfare boards; refer any such complaints received by the  
21 commissioner to State and local agencies for remedial action as  
22 necessary; and follow up all complaints to determine whether such  
23 action has been taken;

24 (3) Provide such training and educational programs to the  
25 operators of such facilities as will enable them to appropriately  
26 respond to the needs of their residents;

27 (4) Designate agencies to:

28 (a) Identify those residential health care facilities, rooming  
29 houses and boarding houses in which substantial numbers of  
30 persons reside who are in need of mental health or **【mental**  
31 **retardation】** developmental disabilities services;

32 (b) Receive referrals and be responsible for the provision of  
33 mental health or **【mental retardation】** developmental disability  
34 services, or both;

35 (c) Report any apparent violation of this act to the appropriate  
36 State and local officials and authorities;

37 (d) Coordinate their efforts with county welfare boards,  
38 charitable institutions, the State Divisions of Mental Health **【and**  
39 **Hospitals,】** Services and 【Mental Retardation】 Developmental  
40 Disabilities in the Department of Human Services and Division of  
41 Youth and Family Services in the Department of Children and  
42 Families, and other State and local entities and service providers.

43 (5) Periodically monitor and evaluate services provided to  
44 eligible residents by county welfare boards and community agencies  
45 serving **【the mentally ill and the mentally retarded】** persons with  
46 mental illness or developmental disabilities.

1 (6) Issue a report to the Legislature's Standing Reference  
2 Committees on Institutions, Health and Welfare concerning the  
3 implementation of this section, 1 year following the effective date  
4 of this act.

5 e. Any person who submits or reports a complaint concerning a  
6 suspected violation of the provisions of this act or concerning  
7 services and conditions in residential health care facilities, rooming  
8 houses and boarding houses, or who testifies in any administrative  
9 or judicial proceeding arising from such a complaint, shall have  
10 immunity from any civil or criminal liability on account of such  
11 complaint, unless such person has acted in bad faith or with  
12 malicious purpose.

13 (cf: P.L.1979, c.496, s.35)

14  
15 76. Section 2 of P.L.2009, c.41 (C.45:9-37.112) is amended to  
16 read as follows:

17 2. The Legislature finds that: the profession of genetic  
18 counseling has existed for more than 30 years. Genetic counseling  
19 is a communication process which deals with the human problems  
20 associated with the occurrence, or the risk of occurrence, of a  
21 genetic disorder, birth defect, or **【mental retardation】** intellectual  
22 disability in a family. This process involves an attempt by one or  
23 more appropriately trained individuals to help an individual or  
24 family: comprehend the medical facts, including the diagnostic,  
25 probable course and available management of a disorder, as well as  
26 the risk of occurrence in specified relatives; understand the options  
27 for dealing with the risk of recurrence; choose the course of action  
28 that seems appropriate to that individual or family in view of the  
29 risk and the family goals and to act in accordance with that  
30 decision; and make the best possible adjustment to the disorder in  
31 affected family members and to the risk of occurrence or recurrence  
32 of the disorder.

33 The Legislature further finds that: the profession of genetic  
34 counseling profoundly affects the lives of the people of New Jersey;  
35 and informed individual decisions to undergo a genetic test and  
36 intellectually sound and emotionally healthy responses to the  
37 discovery of a genetic anomaly can be facilitated by professional  
38 genetic counseling; however, misuse of those same genetic tests or  
39 information used for individual decisions may result in  
40 inappropriate decision making, loss of privacy, discrimination,  
41 inappropriate medical referrals, and unnecessary emotional distress.

42 The Legislature declares, therefore, that this act is intended to  
43 protect the people of New Jersey by setting standards of  
44 qualification, education, training and experience for those persons  
45 seeking to practice and be licensed as genetic counselors and by  
46 promoting high standards of professional performance for those  
47 presently practicing as genetic counselors and for those who will be

1 licensed to practice genetic counseling in the State.

2 (cf: P.L.2009, c.41, s.2)

3

4 77. Section 3 of P.L.1977, c.379 (C.52:27D-172) is amended to  
5 read as follows:

6 3. For the purposes of this act:

7 a. "Commissioner" means the Commissioner of [the  
8 Department of] Community Affairs.

9 b. "Handicapped persons" means persons who [are mentally  
10 retarded,] have intellectual disabilities or who are visually  
11 handicapped, auditorily handicapped, communication handicapped,  
12 neurologically or perceptually impaired, orthopedically  
13 handicapped, chronically ill, emotionally disturbed, socially  
14 maladjusted, multiply handicapped, or [developmentally disabled]  
15 have a developmental disability.

16 (cf: P.L.1977, c.379, s.3)

17

18 78. Section 12 of P.L.2005, c.155 (C.52:27EE-12) is amended to  
19 read as follows:

20 12. Definitions.

21 As used in this act:

22 "administrative action" means and includes any action, omission,  
23 decision, recommendation, practice or procedure of an agency, but  
24 does not include the preparation, presentation or introduction of  
25 legislation;

26 "agency" means and includes the State of New Jersey and its  
27 principal departments, and any division, bureau, board, commission,  
28 agency, office, authority, or institution of the Executive Branch of  
29 the State government, or any other agency, including bi-state  
30 agencies, or any instrumentality created by the State, including  
31 counties, municipalities, or political subdivisions thereof, or any  
32 officer, employee, or member thereof acting or purporting to act in  
33 the exercise of his or her official duties, except the Governor and  
34 the Governor's personal staff and any portion of the Legislative  
35 Branch or Judicial Branch of State government;

36 "compensatory damages" means damages intended to make good  
37 the loss of an injured party, and no more. The term includes  
38 general and special damages, and does not include nominal,  
39 exemplary, or punitive damages;

40 "consumer insurance rate increases" means prior approval rate  
41 increases for: personal lines property casualty coverages; Medicare  
42 supplemental coverages; or a rating system change pursuant to  
43 section 14 of P.L.1997, c.151 (C.17:29A-46.1 et seq.);

44 "correctional facility" means a jail, prison, lockup, penitentiary,  
45 reformatory, training school, or other similar facility within the  
46 State of New Jersey;



1 "department" means the Department of the Public Advocate  
2 established herein, unless the context clearly indicates otherwise;  
3 "elderly" means a person age 60 years or older;  
4 "facility" whenever referred to in sections 61 through 65 of this  
5 act, means any facility or institution, whether public or private,  
6 offering health or health related services for the institutionalized  
7 elderly, and which is subject to regulation, visitation, inspection, or  
8 supervision by any government agency. Facilities include, but are  
9 not limited to, nursing homes, skilled nursing homes, intermediate  
10 care facilities, extended care facilities, convalescent homes,  
11 rehabilitation centers, residential health care facilities, special  
12 hospitals, veterans' hospitals, chronic disease hospitals, psychiatric  
13 hospitals, mental hospitals, **[mental retardation]** developmental  
14 centers or facilities, day care facilities for the elderly, and medical  
15 day care centers;  
16 "funded entity" means any party to and beneficiary of contracts  
17 with the State or its political subdivisions, including any business,  
18 corporation, association, partnership, sole proprietorship, firm,  
19 trust, organization, unincorporated organization, individual,  
20 enterprise, or other legal entity receiving public funds;  
21 "indigent mental hospital admittee" means a person who has  
22 been admitted to and is a patient in a mental hospital, an institution  
23 for the care and treatment of **[the mentally ill]** persons with mental  
24 illness, or a similar facility, whether public or private, State, county  
25 or local, or who is the subject of an action for admission as  
26 provided by P.L.1987, c.116 (C.30:4-27.1 et seq.) and who does not  
27 have the financial ability to secure competent representation and to  
28 provide all other necessary expenses of representation;  
29 "institutionalized elderly" means any person 60 years of age or  
30 older, who is a patient, resident or client of any facility, as  
31 described herein;  
32 "nominal damages" means damages that are designed to  
33 compensate a plaintiff and are less than \$500;  
34 "public employee" means an employee of a public entity, and  
35 includes a person participating, under the supervision of the  
36 Palisades Interstate Park Commission, in a volunteer program in  
37 that part of the Palisades Interstate Park located in New Jersey;  
38 "public entity" means and includes the State, and any county,  
39 municipality, district, public authority, public agency, and any other  
40 political subdivision or public body in the State;  
41 "public interest" means an interest or right arising from the  
42 Constitution, decisions of court, common law or other laws of the  
43 United States or of this State inhering in the citizens of this State or  
44 in a broad class of such citizens;  
45 "punitive damages" means and includes exemplary damages and  
46 means damages awarded against a party in a civil action because of  
47 aggravating circumstances in order to penalize and to provide  
48 additional deterrence against a defendant to discourage similar

1 conduct in the future. Punitive damages do not include  
2 compensatory damages or nominal damages.

3 (cf: P.L.2005, c.155, s.12)

4

5 79. Section 2 of P.L.1977, c.239 (C.52:27G-2) is amended to  
6 read as follows:

7 2. As used in this act, unless the context clearly indicates  
8 otherwise:

9 a. "Abuse" means the willful infliction of physical pain, injury  
10 or mental anguish; unreasonable confinement; or the willful  
11 deprivation of services which are necessary to maintain a person's  
12 physical and mental health. However, no person shall be deemed to  
13 be abused for the sole reason he is being furnished nonmedical  
14 remedial treatment by spiritual means through prayer alone, in  
15 accordance with a recognized religious method of healing, in lieu of  
16 medical treatment;

17 b. An "act" of any facility or government agency shall be  
18 deemed to include any failure or refusal to act by such facility or  
19 government agency;

20 c. "Administrator" means any person who is charged with the  
21 general administration or supervision of a facility, whether or not  
22 such person has an ownership interest in such facility, and whether  
23 or not such person's functions and duties are shared with one or  
24 more other persons;

25 d. "Caretaker" means a person employed by a facility to  
26 provide care or services to an elderly person, and includes, but is  
27 not limited to, the administrator of a facility;

28 e. "Exploitation" means the act or process of using a person or  
29 his resources for another person's profit or advantage without legal  
30 entitlement to do so;

31 f. "Facility" means any facility or institution, whether public or  
32 private, offering health or health related services for the  
33 institutionalized elderly, and which is subject to regulation,  
34 visitation, inspection, or supervision by any government agency.  
35 Facilities include, but are not limited to, nursing homes, skilled  
36 nursing homes, intermediate care facilities, extended care facilities,  
37 convalescent homes, rehabilitation centers, residential health care  
38 facilities, special hospitals, veterans' hospitals, chronic disease  
39 hospitals, psychiatric hospitals, mental hospitals, [mental  
40 retardation] developmental centers or facilities, day care facilities  
41 for the elderly and medical day care centers;

42 g. "Government agency" means any department, division,  
43 office, bureau, board, commission, authority, or any other agency or  
44 instrumentality created by the State or to which the State is a party,  
45 or by any county or municipality, which is responsible for the  
46 regulation, visitation, inspection or supervision of facilities, or  
47 which provides services to patients, residents or clients of facilities;

1 h. "Guardian" means any person with the legal right to manage  
2 the financial affairs and protect the rights of any patient, resident or  
3 client of a facility, who has been declared an incapacitated person  
4 by a court of competent jurisdiction;

5 i. "Institutionalized elderly," "elderly" or "elderly person"  
6 means any person 60 years of age or older, who is a patient,  
7 resident or client of any facility;

8 j. "Office" means the Office of the Ombudsman for the  
9 Institutionalized Elderly established herein;

10 k. "Ombudsman" means the administrator and chief executive  
11 officer of the Office of the Ombudsman for the Institutionalized  
12 Elderly;

13 l. "Patient, resident or client" means any elderly person who is  
14 receiving treatment or care in any facility in all its aspects,  
15 including, but not limited to, admission, retention, confinement,  
16 commitment, period of residence, transfer, discharge and any  
17 instances directly related to such status.

18 (cf: P.L.1997, c.379, s.9)

19

20 80. Section 3 of P.L.1965, c.89 (C.53:5A-3) is amended to read  
21 as follows:

22 3. As used in this act:

23 a. "Aggregate contributions" means the sum of all the amounts,  
24 deducted from the salary of a member or contributed by him or on  
25 his behalf, standing to the credit of his individual account in the  
26 Annuity Savings Fund. Interest credited on contributions to the  
27 former "State Police Retirement and Benevolent Fund" shall be  
28 included in a member's aggregate contributions.

29 b. "Annuity" means payments for life derived from the  
30 aggregate contributions of a member.

31 c. "Annuity reserve" means the present value of all payments  
32 to be made on account of any annuity or benefit in lieu of an  
33 annuity, computed upon the basis of such mortality tables  
34 recommended by the actuary as the board of trustees adopts and  
35 regular interest.

36 d. "Beneficiary" means any person entitled to receive any  
37 benefit pursuant to the provisions of this act by reason of the death  
38 of a member or retirant.

39 e. "Board of trustees" or "board" means the board provided for  
40 in section 30 of this act.

41 f. "Child" means a deceased member's or retirant's unmarried  
42 child either (a) under the age of 18 or (b) of any age who, at the  
43 time of the member's or retirant's death, is disabled because of  
44 **[mental retardation]** an intellectual disability or physical  
45 incapacity, is unable to do any substantial, gainful work because of  
46 the impairment and his impairment has lasted or can be expected to  
47 last for a continuous period of not less than 12 months, as affirmed  
48 by the medical board.

- 1 g. "Creditable service" means service rendered for which credit  
2 is allowed on the basis of contributions made by the member or the  
3 State.
- 4 h. "Parent" means the parent of a member who was receiving at  
5 least one-half of his support from the member in the 12-month  
6 period immediately preceding the member's death or the accident  
7 which was the direct cause of the member's death. The dependency  
8 of such a parent will be considered terminated by marriage of the  
9 parent subsequent to the death of the member.
- 10 i. (1) "Final compensation" means the average compensation  
11 received by the member in the last 12 months of creditable service  
12 preceding his retirement or death. Such term includes the value of  
13 the member's maintenance allowance for this same period.
- 14 (2) In the case of a person who becomes a member of the  
15 retirement system on or after the effective date of P.L.2010, c.1,  
16 "final compensation" means the average annual compensation for  
17 service for which contributions are made during any three fiscal  
18 years of membership providing the largest possible benefit to the  
19 member or the member's beneficiary. Such term includes the value  
20 of the member's maintenance allowance for this same period.
- 21 j. (1) "Final salary" means the average salary received by the  
22 member in the last 12 months of creditable service preceding his  
23 retirement or death. Such term shall not include the value of the  
24 member's maintenance allowance.
- 25 (2) In the case of a person who becomes a member of the  
26 retirement system on or after the effective date of P.L.2010, c.1,  
27 "final salary" means the average annual salary for service for which  
28 contributions are made during any three fiscal years of membership  
29 providing the largest possible benefit to the member or the  
30 member's beneficiary. Such term shall not include the value of the  
31 member's maintenance allowance.
- 32 k. "Fiscal year" means any year commencing with July 1 and  
33 ending with June 30 next following.
- 34 l. "Medical board" means the board of physicians provided for  
35 in section 30 of this act.
- 36 m. "Member" means any full-time, commissioned officer, non-  
37 commissioned officer or trooper of the Division of State Police of  
38 the Department of Law and Public Safety of the State of New Jersey  
39 enrolled in the retirement system established by this act.
- 40 n. "Pension" means payment for life derived from contributions  
41 by the State.
- 42 o. "Pension reserve" means the present value of all payments to  
43 be made on account of any pension or benefit in lieu of any pension  
44 computed on the basis of such mortality tables recommended by the  
45 actuary as shall be adopted by the board of trustees and regular  
46 interest.
- 47 p. "Regular interest" means interest as determined by the State  
48 Treasurer, after consultation with the Directors of the Divisions of

1 Investment and Pensions, the board of trustees and the actuary. It  
2 shall bear a reasonable relationship to the percentage rate of  
3 earnings on investments based on the market value of the assets but  
4 shall not exceed the assumed percentage rate of increase applied to  
5 salaries plus 3%, provided however that the board of trustees shall  
6 not set the average percentage rate of increase applied to salaries  
7 below 6%.

8 q. "Retirant" means any former member receiving a retirement  
9 allowance as provided by this act.

10 r. "Retirement allowance" means the pension plus the annuity.

11 s. "State Police Retirement System of New Jersey," herein also  
12 referred to as the "retirement system" or "system," is the corporate  
13 name of the arrangement for the payment of retirement allowances  
14 and of the benefits under the provisions of this act including the  
15 several funds placed under said system. By that name, all of its  
16 business shall be transacted, its funds invested, warrants for moneys  
17 drawn, and payments made and all of its cash and securities and  
18 other property held. All assets held in the name of the former  
19 "State Police Retirement and Benevolent Fund" shall be transferred  
20 to the retirement system established by this act.

21 t. "Surviving spouse" means the person to whom a member or  
22 a retirant was married, or a domestic partner as defined in section 3  
23 of P.L.2003, c.246 (C.26:8A-3), on the date of the death of the  
24 member or retirant. The dependency of such a surviving spouse will  
25 be considered terminated by the marriage of, or establishment of a  
26 domestic partnership by, the surviving spouse subsequent to the  
27 member's or the retirant's death, except that in the event of the  
28 payment of accidental death benefits, pursuant to section 14 of  
29 P.L.1965, c.89 (C.53:5A-14), the dependency of such a surviving  
30 spouse or domestic partner will not be considered terminated by the  
31 marriage of, or establishment of a domestic partnership by, the  
32 surviving spouse subsequent to the member's death.

33 u. (1) "Compensation" for purposes of computing pension  
34 contributions means the base salary, for services as a member as  
35 defined in this act, which is in accordance with established salary  
36 policies of the State for all employees in the same position but shall  
37 not include individual salary adjustments which are granted  
38 primarily in anticipation of the member's retirement or additional  
39 remuneration for performing temporary duties beyond the regular  
40 workday or shift.

41 (2) In the case of a person who becomes a member of the  
42 retirement system on or after the effective date of P.L.2010, c.1,  
43 "compensation" means the amount of base salary equivalent to the  
44 annual maximum wage contribution base for Social Security,  
45 pursuant to the Federal Insurance Contributions Act, for services as  
46 a member as defined in this act, which is in accordance with  
47 established salary policies of the State for all employees in the same  
48 position but shall not include individual salary adjustments which

1 are granted primarily in anticipation of the member's retirement or  
2 additional remuneration for performing temporary duties beyond  
3 the regular workday or shift.  
4 (cf: P.L. 2010, c.1, s.23)

5  
6 81. R.S.54:4-3.6 is amended to read as follows:

7 54:4-3.6. The following property shall be exempt from taxation  
8 under this chapter: all buildings actually used for colleges, schools,  
9 academies or seminaries, provided that if any portion of such  
10 buildings are leased to profit-making organizations or otherwise  
11 used for purposes which are not themselves exempt from taxation,  
12 said portion shall be subject to taxation and the remaining portion  
13 only shall be exempt; all buildings actually used for historical  
14 societies, associations or exhibitions, when owned by the State,  
15 county or any political subdivision thereof or when located on land  
16 owned by an educational institution which derives its primary  
17 support from State revenue; all buildings actually and exclusively  
18 used for public libraries, asylum or schools for ~~【feebleminded or~~  
19 ~~idiotic persons】~~ adults and children with intellectual disabilities; all  
20 buildings used exclusively by any association or corporation formed  
21 for the purpose and actually engaged in the work of preventing  
22 cruelty to animals; all buildings actually and exclusively used and  
23 owned by volunteer first-aid squads, which squads are or shall be  
24 incorporated as associations not for pecuniary profit; all buildings  
25 actually used in the work of associations and corporations organized  
26 exclusively for the moral and mental improvement of men, women  
27 and children, provided that if any portion of a building used for that  
28 purpose is leased to profit-making organizations or is otherwise  
29 used for purposes which are not themselves exempt from taxation,  
30 that portion shall be subject to taxation and the remaining portion  
31 only shall be exempt; all buildings actually used in the work of  
32 associations and corporations organized exclusively for religious  
33 purposes, including religious worship, or charitable purposes,  
34 provided that if any portion of a building used for that purpose is  
35 leased to a profit-making organization or is otherwise used for  
36 purposes which are not themselves exempt from taxation, that  
37 portion shall be subject to taxation and the remaining portion shall  
38 be exempt from taxation, and provided further that if any portion of  
39 a building is used for a different exempt use by an exempt entity,  
40 that portion shall also be exempt from taxation; all buildings  
41 actually used in the work of associations and corporations organized  
42 exclusively for hospital purposes, provided that if any portion of a  
43 building used for hospital purposes is leased to profit-making  
44 organizations or otherwise used for purposes which are not  
45 themselves exempt from taxation, that portion shall be subject to  
46 taxation and the remaining portion only shall be exempt; all  
47 buildings owned or held by an association or corporation created for  
48 the purpose of holding the title to such buildings as are actually and

1 exclusively used in the work of two or more associations or  
2 corporations organized exclusively for the moral and mental  
3 improvement of men, women and children; all buildings owned by a  
4 corporation created under or otherwise subject to the provisions of  
5 Title 15 of the Revised Statutes or Title 15A of the New Jersey  
6 Statutes and actually and exclusively used in the work of one or  
7 more associations or corporations organized exclusively for  
8 charitable or religious purposes, which associations or corporations  
9 may or may not pay rent for the use of the premises or the portions  
10 of the premises used by them; the buildings, not exceeding two,  
11 actually occupied as a parsonage by the officiating clergymen of  
12 any religious corporation of this State, together with the accessory  
13 buildings located on the same premises; the land whereon any of the  
14 buildings hereinbefore mentioned are erected, and which may be  
15 necessary for the fair enjoyment thereof, and which is devoted to  
16 the purposes above mentioned and to no other purpose and does not  
17 exceed five acres in extent; the furniture and personal property in  
18 said buildings if used in and devoted to the purposes above  
19 mentioned; all property owned and used by any nonprofit  
20 corporation in connection with its curriculum, work, care, treatment  
21 and study of **【feeble-minded, mentally retarded, or idiotic】** men,  
22 women, or children with intellectual disabilities shall also be  
23 exempt from taxation, provided that such corporation conducts and  
24 maintains research or professional training facilities for the care and  
25 training of **【feeble-minded, mentally retarded, or idiotic】** men,  
26 women, or children with intellectual disabilities; provided, in case  
27 of all the foregoing, the buildings, or the lands on which they stand,  
28 or the associations, corporations or institutions using and occupying  
29 them as aforesaid, are not conducted for profit, except that the  
30 exemption of the buildings and lands used for charitable,  
31 benevolent or religious purposes shall extend to cases where the  
32 charitable, benevolent or religious work therein carried on is  
33 supported partly by fees and charges received from or on behalf of  
34 beneficiaries using or occupying the buildings; provided the  
35 building is wholly controlled by and the entire income therefrom is  
36 used for said charitable, benevolent or religious purposes. The  
37 foregoing exemption shall apply only where the association,  
38 corporation or institution claiming the exemption owns the property  
39 in question and is incorporated or organized under the laws of this  
40 State and authorized to carry out the purposes on account of which  
41 the exemption is claimed or where an educational institution, as  
42 provided herein, has leased said property to a historical society or  
43 association or to a corporation organized for such purposes and  
44 created under or otherwise subject to the provisions of Title 15 of  
45 the Revised Statutes or Title 15A of the New Jersey Statutes.

46 As used in this section "hospital purposes" includes health care  
47 facilities for the elderly, such as nursing homes; residential health  
48 care facilities; assisted living residences; facilities with a Class C

1 license pursuant to P.L.1979, c.496 (C.55:13B-1 et al.), the  
2 "Rooming and Boarding House Act of 1979"; similar facilities that  
3 provide medical, nursing or personal care services to their residents;  
4 and that portion of the central administrative or service facility of a  
5 continuing care retirement community that is reasonably allocable  
6 as a health care facility for the elderly.  
7 (cf: P.L.2001, c.18, s.1)

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9 82. R.S.54:5-84 is amended to read as follows:

10 54:5-84. If a delinquent owner or lienor shall be, at the time of  
11 the expiration of the time limited for the redemption of the real  
12 estate in which he is interested, an infant under the age of twenty-  
13 one years, or ~~an idiot~~ a person with an intellectual disability, or  
14 ~~then shall have~~ who has been judicially adjudged a person ~~of~~  
15 ~~unsound mind~~ in need of a guardian, the right to redeem shall not  
16 be barred by service of notice as provided in this article so long as  
17 such impediment shall continue, but shall be barred only by an  
18 action to foreclose brought in the Superior Court.  
19 (cf: P.L.1953, c.51, s.33)

20

21 83. (New section) a. Nothing in this act shall be construed as  
22 intended to result in a reduction of federal funds that may be  
23 available to the State.

24 b. Nothing in this act shall be construed to alter or otherwise  
25 affect the current or future protections, funding, eligibility, services,  
26 rights, or responsibilities of any person under any provision or  
27 program, benefit, or service whose terminology is revised pursuant  
28 to this act. No change in terminology made pursuant to this act  
29 shall be construed as causing or intending any change in any  
30 definitions or meanings of any provision so changed.

31 c. Whenever the terms "mentally retarded," "mental  
32 retardation," "idiot," and "feeble-minded" occur or any reference is  
33 made thereto in any law, regulation, contract, or document, the  
34 same shall be deemed to mean or refer to "person who is  
35 intellectually disabled" or "person with an intellectual disability."  
36

36

37 84. The following are repealed:

38 N.J.S.2A:41-1;

39 P.L.1955, c.201 (C.30:4-177.20 et seq.);

40 R.S.30:11-1 through 30:11-4;

41 P.L.1947, c.340 (C.30:11-6 through 30:11-9); and

42 P.L.1964, c.148 (C.30:11-1.1 et seq).

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44 85. This act shall take effect on the 90<sup>th</sup> day following  
45 enactment.



STATEMENT

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Language used in reference to individuals with intellectual and other disabilities shapes and reflects the attitudes of society toward persons with disabilities. Certain terms are demeaning and disrespectful, and create a barrier to the inclusion of people with intellectual and other disabilities as valued members of our community.

It is, therefore, in the public interest to ensure that the statutes and regulations of the State do not contain language that is outdated and disrespectful to persons with disabilities. In this regard, this bill deletes all references in the statutes to the terms “mental retardation,” “mentally retarded,” “idiot,” and “feeble-minded” and replaces them with the term “intellectual disability,” using “person-first” language. “Person-first” language is language that refers to an individual as a “person with a disability,” rather than as a “disabled person.”

The bill also updates and replaces references in Title 30 of the Revised Statutes to “mentally retarded” and “mental retardation” with the broader terms “developmentally disabled” and “developmental disability,” to reflect the fact that the Division of Developmental Disabilities in the Department of Human Services serves persons with developmental disabilities, not just persons with intellectual disabilities.

It is the intent of the sponsor that upon enactment of this bill, all future legislation reflect this more respectful terminology. Further, it is the intent of the sponsor that all affected State agencies continue to use documents already in print although they may contain terminology in use prior to the enactment of this bill, and that all State regulations and documents, when they are readopted or revised, similarly incorporate the more respectful terminology used in this bill.

The bill also repeals the following statutes, which are no longer operative:

N.J.S.2A:41-1, which concerned detaining certain persons in civil actions;

P.L.1955, c.201 (C.30:4-177.20 et seq.), which established the E.R. Johnstone Training and Research Center, which was closed in 1992; and

R.S.30:11-1 through 30:11-4, P.L.1947, c.340 (C.30:11-6 through 30:11-9) and P.L.1964, c.148 (C.30:11-1.1 et seq), which authorized the Commissioner of Institutions and Agencies to regulate hospitals and other health care facilities. This authority was transferred to the Department of Health and Senior Services in 1971.