

ASSEMBLY, No. 442

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen ROMA and WOLFE

1 AN ACT authorizing public employers to provide employee assistance  
2 programs and supplementing P.L.1941, c.100 (C.34:13A-1 et seq.).  
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4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*  
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7 1. The Legislature finds and declares that establishment and  
8 support of assistance programs for public employees and their families  
9 is in the best interest of the employees, their families and employers,  
10 and the citizens of the State of New Jersey, and that it is a valid public  
11 purpose to encourage the establishment and support of those  
12 programs, because research and experience has demonstrated that:

13 a. Employee assistance programs improve employee attendance  
14 and efficiency;

15 b. Employee assistance programs make it possible to avoid  
16 expensive and time consuming disciplinary proceedings by facilitating  
17 the resolution of employee problems;

18 c. Employee assistance programs reduce the cost of health  
19 insurance premiums and health services, through early intervention and  
20 resolution of problems which would otherwise require such services;

21 d. Employee assistance programs provide otherwise unavailable  
22 opportunities for employees to cope with personal problems which  
23 may cause job difficulties and inefficiencies;

24 e. Employee assistance programs improve employee morale,  
25 through enhancement of work performance, resolution of disciplinary  
26 difficulties, and avoiding and resolving conflict between employers and  
27 employees; and

28 f. Employee assistance programs provide a mechanism to prevent  
29 and eradicate alcohol and drug related problems.  
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31 2. For the purposes of this act:

32 "Employee assistance program" means a program in which a public  
33 employer contracts with a service provider to provide confidential  
34 assistance to the employer's employees and their dependents to resolve  
35 problems which may affect employee work performance, irrespective

1 of whether the problems originate on the job, including, but not be  
2 limited to, marital and family problems, emotional problems, alcohol  
3 abuse, drug abuse, compulsive gambling, financial problems, and  
4 medical problems.

5 "Dependent" means an employee's spouse, an employee's unmarried  
6 child who is less than 23 years of age and lives with the employee in  
7 a regular parent-child relationship, or an employee's unmarried child  
8 of not less than 23 years of age who is not capable of self support.

9 "Employee's child" includes any child, stepchild, legally adopted child,  
10 or foster child of the employee who is reported for coverage and  
11 dependent upon the employee for support and maintenance.

12 "Employee" means a public employee.

13 "Public employer" means the State of New Jersey, or the several  
14 counties and municipalities thereof, or any other political subdivision  
15 of the State, or a school district, or any special district, or any  
16 authority, including a bistrate authority, or any commission, or board,  
17 or any branch or agency of the public service.

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19 3. Any employee assistance program shall constitute a form of  
20 compensation which may be established through a negotiated  
21 agreement between the majority representative of the employees in an  
22 appropriate bargaining unit and a public employer, or established by  
23 a public employer through the adoption of a policy which conforms to  
24 the requirements of this act.

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26 4. No employee or dependent of an employee shall be charged to  
27 participate in an employee assistance program.

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29 5. No employee or dependent of an employee shall be required to  
30 participate in the employee assistance program. No refusal by an  
31 employee or dependent to participate in an employee assistance  
32 program shall be grounds for dismissal, transfer, reduction in salary,  
33 discipline, negative evaluation, reprimand, refusal to promote or any  
34 other adverse action against the employee.

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36 6. The services provided by employee assistance programs shall be  
37 available to both employees and their dependents. Employee  
38 assistance programs may provide advice, counselling, treatment, and  
39 other assistance, except that nothing in this act shall be construed to  
40 authorize a person to provide any service in connection with an  
41 employee assistance program without holding the license required by  
42 law to provide the service.

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44 7. a. Except as provided in subsection b. of this section, each  
45 request by an employee or dependent for assistance from, referral to,  
46 or participation in an employee assistance program shall be

1 confidential, and no employer, service provider or other person shall  
2 divulge to any person that an employee or dependent has requested  
3 assistance from, been referred to, or participated in an employee  
4 assistance program. The requirement of confidentiality shall apply to  
5 all information related to an employee assistance program, including  
6 but not limited to any statements, materials, documents, evaluations,  
7 impressions, conclusions, findings, or acts taken in the course of, or  
8 in connection with, the program. If, however, an employer documents  
9 to the employee assistance program that the employee has accepted a  
10 referral by an employer for assistance during normal working hours  
11 with sick leave or other paid leave, the employer shall be entitled to  
12 know whether the employee has kept his appointment and the amount  
13 of time of the appointment.

14 b. The requirements for confidentiality provided for in subsection  
15 a. of this section may be waived only if:

16 (1) The employee or dependent to whom the information applies  
17 has requested and authorized the waiver;

18 (2) The waiver is in writing and specifies the information to be  
19 released and the persons to whom the information may be provided;  
20 and

21 (3) The information released is the information authorized for  
22 release by the employee or dependent and released only to the persons  
23 designated by the employee or dependent.

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25 8. This act shall take effect immediately.

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#### STATEMENT

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30 This bill provides guidelines for the establishment and support of  
31 employee assistance programs designed to help resolve employee  
32 problems which may affect work performance, including marital and  
33 family problems, emotional problems, alcohol abuse, drug abuse,  
34 compulsive gambling, financial problems, and medical problems.  
35 Research and experience have shown that such programs provide  
36 substantial benefits to employers, employees, their families and the  
37 public. This bill permits any public employer to contract with a service  
38 provider to establish an employee assistance program through a  
39 negotiated agreement with the majority representative of the  
40 employees or through the adoption of a policy which conforms to the  
41 requirements of this act.

42 The bill requires that information regarding services provided to an  
43 employee through an employee assistance program be confidential,  
44 unless an employee provides a written waiver. The confidentiality  
45 requirement applies to all information related to the services provided  
46 to the employee by the program, except that if the employee accepts

1 a referral by the employer for assistance during normal working hours  
2 with pay, the employer is entitled to know whether the employee has  
3 kept the appointment and the amount of time of the appointment.

4 This bill requires that services provided under each program be  
5 available to employees and their dependents, that the imposition of  
6 charges on employees or dependents to participate be prohibited, that  
7 participation be voluntary and that employer actions may not be taken  
8 against employees just for choosing not to participate.

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14 Permits establishment of employee assistance programs for public  
employees.