

ASSEMBLY, No. 1045

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblymen DORIA and ROMANO

1 AN ACT concerning the prevention and control of tuberculosis,  
2 supplementing Title 26 of the Revised Statutes, repealing  
3 R.S.30:9-57, and making an appropriation.  
4

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

7  
8 1. This act shall be known and may be cited as the "Comprehensive  
9 Tuberculosis Prevention and Control Act."  
10

11 2. The Legislature finds and declares that:

12 a. Tuberculosis (TB) is an airborne, infectious disease which  
13 presents a serious public health threat to the citizens of our State  
14 where active TB has increased by 26% since 1986.

15 b. Although TB was considered 100% preventable and curable,  
16 resurgence of the disease began in 1985 with increased incidence  
17 among vulnerable persons, those with acquired immunodeficiency  
18 syndrome, drug users and the homeless. Active TB is also increasing  
19 among non-risk groups.

20 c. The resurgence of TB in the State has been particularly evident  
21 in Newark, Paterson, Jersey City and Elizabeth which have some of  
22 the highest rates of active TB in the nation.

23 d. TB is generally treatable and curable with a treatment regimen  
24 which must be strictly adhered to for a period of six to 12 months. If  
25 the full course of treatment is not completed, the disease is likely to  
26 become infectious again with an increased probability of being  
27 resistant to standard TB medications. This strain of TB, multi-drug  
28 resistant TB (MDR-TB), is as infectious as active TB; one  
29 non-compliant patient can infect dozens of people.

30 e. MDR-TB is more difficult to prevent, treat or cure and, because  
31 it is increasing at an alarming rate in this State, may endanger the  
32 State's ability to control TB altogether.  
33

34 3. As used in this act:

35 "Active tuberculosis" or "active TB" means the diagnosis of a

1 person who has had a sputum smear or culture taken from a pulmonary  
2 or laryngeal source which has tested positive for tuberculosis and the  
3 person has not completed an appropriate prescribed course of  
4 medication for tuberculosis. The diagnosis also applies to a person  
5 who has had a smear or culture taken from an extra pulmonary source  
6 which has tested positive for tuberculosis, and there is clinical  
7 evidence or clinical suspicion of pulmonary tuberculosis disease and  
8 the person has not completed an appropriate prescribed course of  
9 medication for tuberculosis. A person also has active tuberculosis  
10 when, in those cases where sputum smears or cultures are  
11 unobtainable, the radiographic evidence, in addition to current clinical  
12 evidence and laboratory tests is sufficient to establish a medical  
13 diagnosis of pulmonary tuberculosis for which treatment is indicated.  
14 A person who has active tuberculosis shall be considered infectious  
15 until three consecutive sputum smears from a pulmonary or laryngeal  
16 source collected on separate days at medically appropriate intervals  
17 have tested negative for tuberculosis and the clinical symptoms of  
18 tuberculosis have resolved or significantly improved.

19 "Commissioner" means the Commissioner of Health.

20 "Department" means the Department of Health.

21 "Health care provider" means a person who is directly involved in  
22 making a clinical diagnosis and the prescribing of medication for which  
23 the person is professionally qualified and is licensed or certified as  
24 required by State law.

25 "Specialized TB treatment and detention facility" means a building,  
26 section of a building or a unit specifically designed to treat a person  
27 with TB who requires a specialized level of care, otherwise unavailable  
28 in an acute care hospital, long-term care facility or outpatient clinic,  
29 by means of medical specialty training, environmental controls to  
30 prevent TB transmission, infection controls or security enforcement.

31 "TB prevention and control center" means an outpatient ambulatory  
32 care facility specifically designated to provide TB or chest clinic  
33 services, including, but not limited to, clinical diagnosis, treatment,  
34 case management, outreach prevention, contact tracing and follow-up  
35 services.

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37 4. The Department of Health shall provide support, to the extent  
38 that resources permit, to TB prevention and control centers which  
39 operate in accordance with policies established by the department. At  
40 a minimum, these facilities shall be eligible to receive  
41 department-purchased medications for the treatment of individuals  
42 who have no source of payment therefor and are diagnosed as, or are  
43 suspected of, having TB.

44 The centers shall:

45 a. provide testing for tuberculosis for persons who are  
46 symptomatic, have suspected TB, or are contacts to persons with

- 1 diagnosed or suspected active TB;
- 2 b. provide preventive therapy to prevent the progression to clinical
- 3 disease;
- 4 c. identify active cases of tuberculosis and provide treatment for
- 5 the clinical disease, including directly observed therapy;
- 6 d. provide community outreach services to patients to assure
- 7 compliance with treatment regimens;
- 8 e. provide case management for all cases of tuberculosis, including
- 9 testing, medications and tracking;
- 10 f. identify patients not in compliance with treatment regimens and
- 11 ensure their treatment until cure; and
- 12 g. obtain reimbursement from eligible health care payers, including
- 13 State and federal sources.

14

15 5. An employee of a State facility operated by the Department of  
16 Corrections and an employee of a State facility operated by the  
17 Department of Human Services shall be tested initially upon  
18 employment and periodically thereafter for the presence of  
19 tuberculosis, in accordance with the rules of their respective  
20 departments, and in consultation with the Department of Health. An  
21 employee who tests positive for tuberculosis or is determined to have  
22 active TB, shall be referred to a private physician or a TB prevention  
23 and control center for a chest x-ray or further diagnostic examination  
24 and, if necessary, establishment of an appropriate treatment regimen.

25

26 6. A health care worker, including, but not limited to a physician  
27 or a nurse, who is employed in a hospital, nursing home or residential  
28 health care facility shall be tested initially upon employment and  
29 periodically thereafter for the presence of tuberculosis, in accordance  
30 with the standards of the department. A health care worker who tests  
31 positive for tuberculosis or is determined to have active TB, shall be  
32 referred to a private physician or a TB prevention and control center  
33 for a chest x-ray or further diagnostic examination and, if necessary,  
34 establishment of an appropriate treatment regimen.

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36 7. A patient in a health care facility who is in a high-risk group for  
37 tuberculosis, as defined by the federal Centers for Disease Control and  
38 Prevention and as determined by the patient's history, shall, upon  
39 admittance to that facility, be tested for the presence of tuberculosis.  
40 No other tests used to establish the existence of high-risk category  
41 status shall be conducted without the patient's consent. A patient who  
42 tests positive for tuberculosis or is determined to have active TB shall  
43 be evaluated and treated for tuberculosis in the appropriate health care  
44 setting and, upon discharge from the health care facility, if necessary,  
45 referred to a private physician or a TB prevention and control center  
46 for a chest x-ray or further diagnostic examination and, if necessary,

1 appropriate treatment follow-up.

2

3 8. a. The mantoux tuberculin skin test shall be the sole test used  
4 for the testing required pursuant to sections 5 through 7 of this act.

5 b. The results of all tests conducted pursuant to this act shall be  
6 reported to the department at least semi-annually on forms provided  
7 by the department.

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9 9. A person with active TB who is infectious shall be excluded  
10 from attendance at the workplace or school until three consecutive  
11 sputum smears from a pulmonary or laryngeal source collected on  
12 separate days at medically appropriate intervals have tested negative  
13 for tuberculosis and the clinical symptoms of TB have resolved or  
14 significantly improved.

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16 10. a. All active or suspected cases of tuberculosis shall be  
17 reported to the department in accordance with regulations adopted by  
18 the commissioner.

19 b. All actions taken to investigate reported cases of active TB,  
20 isolate or restrict individuals to control or prevent the spread of TB,  
21 and to perform medical examinations and submit test specimens for  
22 evaluation, shall be done in accordance with regulations adopted by  
23 the commissioner.

24

25 11. When the commissioner determines that the public health or the  
26 health of any person is endangered by a case of tuberculosis, or a  
27 suspected case of tuberculosis, he may issue an order necessary to  
28 protect the public health and may make application to the court for  
29 enforcement of such an order. In a court proceeding for enforcement,  
30 the commissioner shall demonstrate the particular circumstances  
31 constituting the necessity for the order. An order may include, but not  
32 be limited to:

33 a. An order authorizing the commitment to a hospital or other  
34 treatment facility for appropriate examination for tuberculosis of a  
35 person who has active TB or who is suspected of having active TB and  
36 who is unable or unwilling voluntarily to submit to an examination by  
37 a physician or the department;

38 b. An order requiring a person who has active TB to complete an  
39 appropriate prescribed course of medication for tuberculosis and, if  
40 necessary, to follow required contagion precautions for tuberculosis;

41 c. An order requiring a person who has active TB and who is  
42 unable or unwilling otherwise to complete an appropriate prescribed  
43 course of medication for tuberculosis to follow a course of directly  
44 observed therapy. For the purposes of this subsection, "directly  
45 observed therapy" means a course of treatment for tuberculosis in  
46 which the prescribed anti-tuberculosis medication is administered to

1 the person or taken by the person under direct observation of a health  
2 care provider or his designee;

3 d. An order authorizing the transfer to a hospital or other treatment  
4 facility of a person (1) who has active TB that is infectious or who  
5 presents a substantial likelihood of having active TB that is infectious,  
6 based upon epidemiologic evidence, clinical evidence, X-ray readings  
7 or laboratory test results; and (2) when the department finds, based  
8 on recognized infection control principles, that there is a substantial  
9 likelihood the person may transmit tuberculosis to others because of  
10 his inadequate separation from others; and

11 e. An order authorizing the transfer to a hospital or other treatment  
12 facility of a person who (1) has active TB, or who has been reported  
13 to the department as having active TB with no subsequent report to  
14 the department of the completion of an appropriate prescribed course  
15 of medication for tuberculosis; and (2) when there is a substantial  
16 likelihood, based on the person's past or present behavior, that he  
17 cannot be relied upon to participate in or to complete an appropriate  
18 prescribed course of medication for tuberculosis and, if necessary, to  
19 follow required contagion precautions for tuberculosis. Such behavior  
20 may include, but is not limited to, refusal or failure to take medication  
21 for tuberculosis, or refusal or failure to keep appointments for  
22 treatment of tuberculosis, or refusal or failure to complete treatment  
23 for tuberculosis or disregard for contagion precautions for  
24 tuberculosis.

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26 12. The commissioner may temporarily commit a person to a  
27 hospital or other place for examination or treatment if the person is the  
28 subject of an order pursuant to section 11 of this act, without prior  
29 court order. The commissioner shall thereafter make an application  
30 for a court order continuing the commitment within five days after the  
31 commitment, or, if the five-day period ends on a Saturday, Sunday or  
32 legal holiday, by the end of the first business day following the  
33 Saturday, Sunday or legal holiday, which application shall include a  
34 request for an expedited hearing. In no event shall a person be held  
35 for more than 10 days without a court order authorizing the  
36 commitment. The commissioner shall seek further court review of the  
37 commitment within 90 days following the initial court order  
38 authorizing transfer and thereafter within 90 days of each subsequent  
39 court review. In any court proceeding to enforce an order of the  
40 commissioner for the commitment of a person issued pursuant to this  
41 section or for review of the status of the person committed, the  
42 commissioner shall prove the particular circumstances constituting the  
43 necessity for the order by clear and convincing evidence. A person  
44 who is subject to a commitment order shall have the right to be  
45 represented by counsel and upon this request, counsel shall be  
46 provided.

1       13. a. An order of the commissioner pursuant to section 11 of this  
2 act shall set forth:

3       (1) the legal authority under which the order is issued;

4       (2) an individualized assessment of the person's circumstances or  
5 behavior constituting the basis for the issuance of the order; and

6       (3) the less restrictive treatment alternatives that were attempted  
7 and were unsuccessful or the less restrictive treatment alternatives that  
8 were considered and rejected, and the reasons for their rejection.

9       b. In addition to the requirements set forth in subsection a. of this  
10 section, an order for the commitment of a person for examination or  
11 treatment shall:

12       (1) include the purpose of the transfer;

13       (2) advise the person being committed that, whether or not he  
14 requests release, the commissioner must obtain a court order  
15 authorizing the transfer for examination or treatment within 10 days  
16 following the initial commitment order, and that in no event shall the  
17 person be held for more than 10 days without a court order, and that  
18 the commissioner must thereafter seek court review of the  
19 commitment within 90 days of that court order and within 90 days of  
20 each subsequent court review; and

21       (3) advise the person being committed that he has the right to  
22 arrange to be advised and represented by counsel or to have counsel  
23 provided to him.

24

25       14. a. A person who is committed solely pursuant to subsection a.  
26 of section 11 of this act shall not continue to be held beyond the  
27 minimum period of time required, with the exercise of all due  
28 diligence, to make a medical determination of whether a person who  
29 is suspected of having tuberculosis has active TB or whether a person  
30 who has active TB is infectious. Further detention of the person shall  
31 be authorized only upon the issuance of the commissioner's order  
32 pursuant to subsections d. or e. of section 11 of this act.

33       b. A person who is committed solely pursuant to subsection d. of  
34 section 11 of this act shall not continue to be held after he ceases to be  
35 infectious or after the department ascertains that changed  
36 circumstances exist that permit him to be adequately separated from  
37 others so as to prevent transmission of tuberculosis after his release.

38       c. A person who is committed solely pursuant to subsection e. of  
39 section 11 of this act shall not continue to be held after he has  
40 completed an appropriate prescribed course of medication.

41

42       15. The commissioner shall designate inpatient facilities which shall  
43 be used for persons transferred for examination or treatment pursuant  
44 to section 11 of this act. In making this determination, the  
45 commissioner shall consider petitioning the federal government for use  
46 of vacant federal property in the State which would be suitable as an

1 inpatient facility for tuberculosis patients.

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3 16. The commissioner, with the assistance or cooperation of any  
4 federal government agency, hospital, long-term care facility, or other  
5 entity, as necessary, may seek to develop one or more specialized TB  
6 treatment and detention facilities to which patients who require  
7 longer-term and more specialized care, including security enforcement,  
8 than is available in an acute-care hospital may be referred. The  
9 facilities shall be authorized to obtain reimbursement from eligible  
10 health care payers, including State and federal sources. The  
11 establishment of this facility shall not relieve any acute-care hospital  
12 of its responsibility to accept infectious TB patients, evaluate their  
13 needs and begin treatment.

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15 17. The commissioner shall submit an annual report to the  
16 Governor and the Legislature regarding the progress of the TB  
17 prevention and control centers and their effectiveness in preventing  
18 and controlling the incidence of tuberculosis in this State.

19

20 18. The commissioner, pursuant to the "Administrative Procedure  
21 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and  
22 regulations to effectuate the purposes of this act, including, but not  
23 limited to, those governing actions taken to ensure that: a person with  
24 active TB completes his medication as prescribed, infection control  
25 procedures are followed, and appropriate action is taken under legal  
26 authority to implement the provisions of this act.

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28 19. There is appropriated \$8,000,000 from the General Fund to the  
29 Department of Health to implement the provisions of this act.

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31 20. R.S.30:9-57 is repealed.

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33 21. This act shall take effect on the 60th day after the date of  
34 enactment.

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#### STATEMENT

37

38 The bill which is designated the "Comprehensive Tuberculosis  
39 Prevention and Control Act," does the following:

40 Provides funding from the Department of Health (DOH) to TB  
41 prevention and control centers which provide clinical diagnosis,  
42 treatment, case management, outreach, prevention, contact tracing and  
43 follow-up services;

44 Requires mandatory TB testing of (1) employees of State facilities  
45 operated by the Departments of Corrections and Human Services; (2)  
46 health care workers employed in hospitals, nursing homes and

1 residential health care facilities; and (3) patients in health care facilities  
2 who are in a high-risk group for TB as defined by the federal Centers  
3 for Disease Control and Prevention and as determined by the patient's  
4 history;

5 Stipulates that the mantoux tuberculin skin test shall be the sole test  
6 used for the testing required under the substitute;

7 Requires that the results of all tests conducted pursuant to the  
8 substitute, and all active or suspected cases of TB, be reported to  
9 DOH;

10 Prohibits persons with active TB from attending the workplace or  
11 school until three consecutive sputum smears from a pulmonary or  
12 laryngeal source collected on separate days at medically appropriate  
13 intervals have tested negative for tuberculosis and the clinical  
14 symptoms of TB have resolved or significantly improved;

15 Grants the commissioner the authority to issue an order protecting  
16 the public health if the public health or the health of any person is  
17 endangered by a case of TB or a suspected case of TB, and to make  
18 application to the court for enforcement of that order;

19 Grants the commissioner the authority to temporarily commit a  
20 person to a hospital or other place for examination or treatment if the  
21 person is the subject of an order issued by the commissioner, without  
22 prior court order; however, the commissioner is required to make an  
23 application for a court order continuing the commitment within five  
24 days after the commitment, or, if the five-day period ends on a  
25 Saturday, Sunday or legal holiday, by the end of the first business day  
26 following the Saturday, Sunday or legal holiday, which application  
27 shall include a request for an expedited hearing;

28 Provides that a person shall not be held for more than 10 days  
29 without a court order authorizing the commitment, and that the  
30 commissioner shall seek further court review of the commitment  
31 within 90 days following the initial court order authorizing transfer  
32 and thereafter within 90 days of each subsequent court review;

33 Grants the commissioner the authority to develop one or more  
34 specialized TB treatment and detention facilities to which patients who  
35 require longer-term and more specialized care, including security  
36 enforcement, than is available in an acute-care hospital may be  
37 referred;

38 Requires the commissioner to report annually to the Governor and  
39 Legislature on the effectiveness of the TB prevention and control  
40 centers in preventing and controlling the spread of TB in the State;

41 Repeals R.S.30:9-57 (which provides for the commitment of  
42 persons with communicable TB to a hospital or other institution  
43 designated by the Commissioner of Health), the provisions of which  
44 are obviated by this substitute; and

45 Appropriates \$8 million to DOH to implement the provisions of the  
46 bill.

1       The bill would take effect on the 60th day after the date of  
2 enactment.

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7 Designated the "Comprehensive Tuberculosis Prevention and Control

8 Act;" appropriates \$8 million.