

SENATE, No. 963

STATE OF NEW JERSEY

INTRODUCED MARCH 18, 1996

By Senator CIESLA

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
36 of whether the problems originate on the job, including, but not
37 limited to, marital and family problems, emotional problems, alcohol

1 abuse, drug abuse, compulsive gambling, financial problems, and
2 medical problems.

3 "Dependent" means an employee's spouse, an employee's unmarried
4 child who is less than 23 years of age and lives with the employee in
5 a regular parent-child relationship, or an employee's unmarried child
6 of not less than 23 years of age who is not capable of self support.
7 "Employee's child" includes any child, stepchild, legally adopted child,
8 or foster child of the employee who is reported for coverage and
9 dependent upon the employee for support and maintenance.

10 "Employee" means a public employee.

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

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

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

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

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

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42 7. a. Except as provided in subsection b. of this section, each
43 request by an employee or dependent for assistance from, referral to,
44 or participation in an employee assistance program shall be
45 confidential, and no employer, service provider or other person shall
46 divulge to any person that an employee or dependent has requested

1 assistance from, been referred to, or participated in an employee
2 assistance program. The requirement of confidentiality shall apply to
3 all information related to an employee assistance program, including
4 but not limited to any statements, materials, documents, evaluations,
5 impressions, conclusions, findings, or acts taken in the course of, or
6 in connection with, the program. If, however, an employer documents
7 to the employee assistance program that the employee has accepted a
8 referral by an employer for assistance during normal working hours
9 with sick leave or other paid leave, the employer shall be entitled to
10 know whether the employee has kept his appointment and the amount
11 of time of the appointment.

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

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

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

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

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23 8. This act shall take effect immediately.

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STATEMENT

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

40 The bill requires that information regarding services provided to an
41 employee through an employee assistance program be confidential,
42 unless an employee provides a written waiver. The confidentiality
43 requirement applies to all information related to the services provided
44 to the employee by the program, except that if the employee accepts
45 a referral by the employer for assistance during normal working hours
46 with pay, the employer is entitled to know whether the employee has

1 kept the appointment and the amount of time of the appointment.

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

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11 Permits establishment of employee assistance programs for public
employees.