

ASSEMBLY, No. 5123

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED DECEMBER 10, 2020

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SYNOPSIS

Requires group homes and other community-based residential programs, as condition of licensure, to implement policies to prevent social isolation of residents.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/14/2020)

1 AN ACT concerning the implementation, by group homes and other
2 community-based residential programs, of policies, protocols,
3 and procedures to prevent the social isolation of residents and
4 supplementing Title 30 of the Revised Statutes.

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

8
9 1. As used in this act:

10 “Community-based residential program” or “community-based
11 residence” means a developmental center, group home, supervised
12 apartment, community care residence, nursing home, or other
13 residential setting for individuals with developmental disabilities,
14 which is licensed and regulated by the Department of Human
15 Services.

16 “Department” means the Department of Human Services.

17 “Developmental disability” means the same as that term is
18 defined by section 3 of P.L.1977, c.82 (C.30:6D-3).

19 “Group home” means a living arrangement that is operated in a
20 residence or residences leased or owned by an individual who is
21 licensed by the Department of Human Services; which provides the
22 opportunity for multiple individuals with developmental disabilities
23 to live together in a home, sharing in chores and the overall
24 management of the residence; and in which on-site staff provides
25 supervision, training, or assistance, in a variety of forms and
26 intensity, as required to assist the individuals as they move toward
27 independence.

28 “Licensee” means an individual, partnership, or corporation that
29 is licensed by the Division of Developmental Disabilities in the
30 Department of Human Services and is responsible for providing
31 services associated with the operation of a group home or other
32 community-based residential program.

33 “Religious and recreational activities” includes any religious,
34 social, or recreational activity that is consistent with the resident’s
35 preferences and choosing, regardless of whether the activity is
36 coordinated, offered, provided, or sponsored by program staff or by
37 an outside activities provider.

38 “Resident” means a child or adult with developmental disabilities
39 who resides in a group home or other community-based residence.

40 “Social isolation” means a state of isolation wherein a resident in
41 a community-based residential program is unable to engage in
42 social interactions and religious and recreational activities with
43 other program residents or with family members, friends, and
44 external support systems.

45
46 2. a. The Division of Developmental Disabilities in the
47 Department of Human Services shall require the licensed operator
48 of a group home or other community-based residential program in

1 the State, as a condition of licensure, to adopt and implement
2 written policies, provide for the practical availability of technology
3 to residents, and ensure that appropriate staff and other capabilities
4 are in place, to prevent the social isolation of residents.

5 b. The social isolation prevention policies adopted by a
6 licensee shall:

7 (1) authorize, and include specific protocols and procedures to
8 encourage and enable, residents in the community-based residential
9 program to engage in in-person contact, communications, and
10 religious and recreational activities with other residents of the
11 community-based residence and with family members, friends, and
12 other external support systems, except when such in-person contact,
13 communication, or activities are prohibited, restricted, or limited, as
14 permitted by federal and State statute, rule, or regulation;

15 (2) authorize, and include specific protocols and procedures to
16 encourage and enable, residents to engage in face-to-face or
17 verbal/auditory-based contact, communication, and religious and
18 recreational activities with other residents of the community-based
19 residence and with family members, friends, and other external
20 support systems, through the use of electronic or virtual means and
21 methods, including, but not limited to, computer technology, the
22 Internet, social media, videoconferencing, and other innovative
23 technological means or methods, whenever such residents are
24 subject to restrictions that limit their ability to engage in in-person
25 contact, communications, or religious and recreational activities as
26 authorized by paragraph (1) of this subsection;

27 (3) provide for residents to be given access to assistive and
28 supportive technology as may be necessary to facilitate the
29 residents' engagement in face-to-face or verbal/auditory-based
30 contact, communications, and religious and recreational activities
31 with other residents, family members, friends, and other external
32 support systems, through electronic means, as provided by
33 paragraph (2) of this subsection;

34 (4) include specific administrative policies, procedures, and
35 protocols governing: (a) the acquisition, maintenance, and
36 replacement of computers, videoconferencing equipment, distance-
37 based communications technology, assistive and supportive
38 technology and devices, and other technological equipment,
39 accessories, and electronic licenses, as may be necessary to ensure
40 that residents are able to engage in face-to-face or verbal/auditory-
41 based contact, communications, and religious and recreational
42 activities with other program residents and with family members,
43 friends, and external support systems, through electronic means, in
44 accordance with the provisions of paragraphs (2) and (3) of this
45 subsection; (b) the use of environmental barriers and other controls
46 when the equipment and devices acquired pursuant to this act are in
47 use, especially in cases where the equipment or devices are likely to
48 become contaminated with bodily substances, are touched

1 frequently with gloved or ungloved hands, or are difficult to clean;
2 and (c) the regular cleaning of the equipment and devices acquired
3 pursuant to this act and of any environmental barriers or other
4 physical controls used in association therewith;

5 (5) require appropriate program staff to assess and regularly
6 reassess the individual needs and preferences of residents with
7 respect to the residents' participation in social interactions and
8 religious and recreational activities, and include specific protocols
9 and procedures to ensure that the quantity of devices and equipment
10 maintained on-site at the residence remains sufficient, at all times,
11 to meet the assessed social and activities needs and preferences of
12 each individual resident;

13 (6) require appropriate program staff, upon the request of a
14 resident or the resident's family members or guardian, to develop an
15 individualized visitation plan for the resident, which plan shall: (a)
16 identify the assessed needs and preferences of the resident and any
17 preferences specified by the resident's family members; (b) address
18 the need for a visitation schedule, and establish a visitation schedule
19 if deemed to be appropriate; (c) describe the location and modalities
20 to be used in visitation; and (d) describe the respective
21 responsibilities of staff, visitors, and the resident when engaging in
22 visitation pursuant to the individualized visitation plan;

23 (7) include specific policies, protocols, and procedures
24 governing a resident's requisition, use, and return of devices and
25 equipment maintained pursuant to this act, and require appropriate
26 program staff to communicate those policies, protocols, and
27 procedures to residents; and

28 (8) designate at least one program staff member to train other
29 appropriate on-site staff, including, but not limited to, activities
30 professionals and volunteers, social workers, occupational
31 therapists, and therapy assistants, to provide direct assistance to
32 residents, upon request and on an as-needed basis, as necessary to
33 ensure that each resident is able to successfully access and use, for
34 the purposes specified in paragraphs (2) and (3) of this subsection,
35 the technology, devices, and equipment acquired pursuant to this
36 act.

37 c. The department shall distribute available federal and State
38 funds, upon request, to assist community-based residential
39 programs in acquiring the communicative technologies and
40 accessories needed for the purposes of this act.

41

42 3. a. Whenever the department conducts an inspection of a
43 community-based residence, the department's inspector shall
44 determine whether the community-based residence is in compliance
45 with the provisions of this act and the policies, protocols, and
46 procedures adopted pursuant thereto.

47 b. In addition to any other applicable penalties provided by
48 law, whenever a community-based residential program fails to

1 comply with the provisions of this act or to properly implement the
2 policies, protocols, and procedures adopted pursuant thereto, the
3 licensee:

4 (1) shall be liable to pay an administrative penalty, the amount
5 of which shall be determined in accordance with a schedule
6 established by department regulation, which schedule shall provide
7 for an enhanced administrative penalty in the case of a repeat or
8 ongoing violation; and

9 (2) may be subject to adverse licensure action, as deemed by the
10 department to be appropriate.

11 c. Whenever a complaint received or an investigation
12 conducted by the Office of the Ombudsman for Individuals with
13 Intellectual or Developmental Disabilities and Their Families
14 discloses evidence indicating that a community-based residential
15 program has failed to comply with the provisions of this act or
16 properly implement the policies, protocols, and procedures adopted
17 pursuant thereto, the ombudsman shall refer the matter to the
18 department for disciplinary action and, notwithstanding such
19 referral, may take any other appropriate investigatory or
20 enforcement action, with respect to the matter, as may be authorized
21 by law.

22
23 4. a. Within 60 days after the enactment of this act, and
24 notwithstanding the provisions of the “Administrative Procedure
25 Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the
26 Commissioner of Human Services, in consultation with the
27 Department of Health, shall adopt rules and regulations
28 immediately upon the filing of proper notice with the Office of
29 Administrative Law, as may be necessary to implement the
30 provisions of this act. The rules and regulations shall include, but
31 need not be limited to, minimum standards for the social isolation
32 prevention policies to be adopted pursuant to section 2 of this act
33 and a penalty schedule to be used pursuant to section 3 of this act.

34 b. The rules and regulations adopted pursuant to this section
35 shall remain in effect for a period of not more than one year after
36 the date of filing and, thereafter, shall be adopted, amended, or
37 readopted by the commissioner in accordance with the requirements
38 of the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-
39 1 et seq.).

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41 5. This act shall take effect immediately.

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44 STATEMENT

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46 This bill would require the operator of each community-based
47 residential program in the State, as a condition of licensure, to adopt
48 and implement written policies and have appropriate technology,

1 staff, and other capabilities in place, to prevent the social isolation
2 of residents at all times during operation. “Community-based
3 residential program” is defined to include a developmental center,
4 group home, supervised apartment, community care residence,
5 nursing home, or any other residential setting for individuals with
6 developmental disabilities, which is licensed and regulated by the
7 Department of Human Services (DHS).

8 The bill would require the social isolation prevention policies
9 adopted by each community-based residential program to authorize,
10 and include specific protocols and procedures to encourage and
11 enable, residents to engage in in-person contact, communications,
12 and religious and recreational activities with other program
13 residents and with family members, friends, and other external
14 support systems, except when such in-person contact,
15 communication, or activities are prohibited, restricted, or limited, as
16 permitted by federal and State statute, rule, or regulation. The
17 social isolation prevention policies would additionally be required
18 to:

19 1) authorize, and include specific protocols and procedures to
20 encourage and enable, residents to engage in face-to-face or
21 verbal/auditory-based contact, communication, and religious and
22 recreational activities with other program residents and with family
23 members, friends, and other external support systems, through the
24 use of electronic or virtual means and methods, including, but not
25 limited to, computer technology, the Internet, social media,
26 videoconferencing, and other innovative technological means or
27 methods, whenever such residents are subject to restrictions that
28 limit their ability to engage in in-person contact, communications,
29 or religious and recreational activities;

30 2) provide for residents to be given access to assistive and
31 supportive technology as may be necessary to facilitate the
32 residents’ engagement in social interactions and religious and
33 recreational activities with other program residents, and with family
34 members, friends, and other external support systems, through
35 electronic means;

36 3) include specific administrative policies, procedures, and
37 protocols governing: a) the acquisition, maintenance, and
38 replacement of computers, videoconferencing equipment, distance-
39 based communications technology, assistive and supportive
40 technology and devices, and other technological equipment,
41 accessories, and electronic licenses, as may be necessary to enable
42 residents to engage in electronic communications and activities, as
43 specified in the bill; b) the use of environmental barriers and other
44 controls when the equipment and devices acquired pursuant to the
45 bill are in use, especially in cases where the equipment or devices
46 are likely to become contaminated with bodily substances, are
47 touched frequently with gloved or ungloved hands, or are difficult
48 to clean; and c) the regular cleaning of the equipment and devices

1 acquired pursuant to the bill and any environmental barriers or other
2 physical controls used in association therewith;

3 4) require appropriate staff to assess and regularly reassess the
4 individual needs and preferences of residents with respect to their
5 participation in social interactions and religious and recreational
6 activities, and include specific protocols and procedures to ensure
7 that the quantity of devices and equipment maintained on-site at the
8 residence remains sufficient, at all times, to meet the assessed social
9 and activities needs and preferences of each program resident;

10 5) require appropriate staff, upon the request of a resident or
11 the resident's family members or guardian, to develop an
12 individualized visitation plan for the resident, which plan is to: a)
13 identify the assessed needs and preferences of the resident and any
14 preferences specified by the resident's family members; b) address
15 the need for a visitation schedule, and establish a visitation schedule
16 if deemed to be appropriate; c) describe the location and modalities
17 to be used in visitation; and d) describe the respective
18 responsibilities of staff, visitors, and the resident when engaging in
19 visitation pursuant to the individualized visitation plan;

20 6) include specific policies, protocols, and procedures
21 governing a resident's requisition, use, and return of devices and
22 equipment maintained pursuant to the bill, and require appropriate
23 staff to communicate those policies, protocols, and procedures to
24 residents; and

25 7) designate at least one program staff member to train other
26 appropriate on-site staff, including, but not limited to, activities
27 professionals and volunteers, social workers, occupational
28 therapists, and therapy assistants, to provide direct assistance to
29 residents, upon request and on an as-needed basis, as necessary to
30 ensure that each resident is able to successfully access and use the
31 technology, devices, and equipment acquired pursuant to the bill.

32 The bill would require the DHS to distribute available federal
33 and State funds, upon request, to assist community-based residential
34 programs in acquiring the communicative technologies and
35 accessories needed for the bill's purposes.

36 The bill would require the DHS, when conducting an inspection
37 of a community-based residence, to determine whether the
38 residence is in compliance with the bill's provisions and the
39 policies, protocols, and procedures adopted pursuant thereto. In
40 addition to any other applicable penalties provided by law, the
41 licensed operator of a community-based residence that fails to
42 comply with the bill's provisions or to properly implement the
43 policies, protocols, and procedures adopted pursuant thereto will be
44 liable to pay an administrative penalty and may be subject to
45 adverse licensure action, as deemed by the DHS to be appropriate.
46 The amount of the administrative penalty imposed is to be
47 determined in accordance with a schedule established by DHS

1 regulation, which schedule is to provide for an enhanced
2 administrative penalty in the case of a repeat or ongoing violation.

3 The bill would further specify that, whenever a complaint
4 received or an investigation conducted by the Office of the
5 Ombudsman for Individuals with Intellectual or Developmental
6 Disabilities and Their Families discloses evidence indicating that a
7 community-based residence has failed to comply with the bill's
8 provisions or has failed to properly implement the policies,
9 protocols, and procedures adopted pursuant thereto, the ombudsman
10 will be required to refer the matter to the DHS for disciplinary
11 action and, notwithstanding such referral, may take any other
12 appropriate investigatory or enforcement action, with respect to the
13 matter, as may be authorized by law.

14 The bill would require the DHS to adopt rules and regulations to
15 implement the bill, on an emergency basis and in consultation with
16 the DOH, within 60 days after the bill's effective date. The rules
17 and regulations are to include, but need not be limited to, minimum
18 standards for social isolation prevention policies adopted under the
19 bill and a penalty schedule to be used when penalizing violations of
20 the bill. The emergency rules and regulations are to remain in
21 effect for a period of not more than one year before being subject to
22 readoption or amendment.