

[First Reprint]

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 reported by the Assembly Human Services Committee on January 25, 2021, with amendments.



(Sponsorship Updated As Of: 2/22/2021)

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, ¹**[nursing home,]**¹ or other
13 residential setting for individuals with developmental disabilities,
14 which is licensed and regulated by the Department of Human Services.

15 “Department” means the Department of Human Services.

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

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

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

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

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

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

43
44 2. a. The Division of Developmental Disabilities in the
45 Department of Human Services shall require the licensed operator
46 of a group home or other community-based residential program 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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AHU committee amendments adopted January 25, 2021.

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 law,
48 whenever a community-based residential program fails to comply with

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

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

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

10 c. Whenever a complaint received or an investigation conducted
11 by the Office of the Ombudsman for Individuals with Intellectual or
12 Developmental Disabilities and Their Families¹, or by Disability
13 Rights New Jersey,¹ discloses evidence indicating that a community-
14 based residential program has failed to comply with the provisions of
15 this act or ¹to¹ properly implement the policies, protocols, and
16 procedures adopted pursuant thereto, the ombudsman ¹or the executive
17 director, as the case may be,¹ shall refer the matter to the department
18 for disciplinary action and, notwithstanding such referral, may take
19 any other appropriate investigatory or enforcement action, with respect
20 to the matter, as may be authorized by law.

21

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

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

39

40 5. This act shall take effect immediately.