

[Second Reprint]

ASSEMBLY, No. 5123

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED DECEMBER 10, 2020

Sponsored by:

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

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District 11 (Monmouth)

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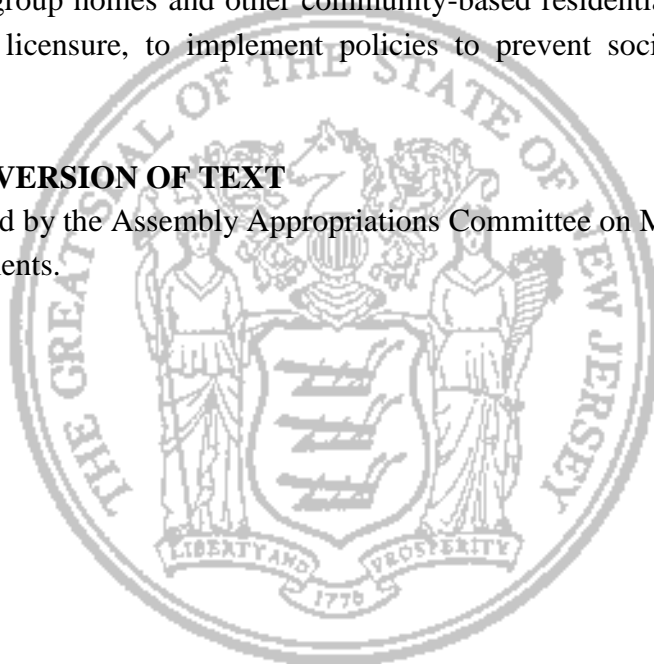
**Assemblywomen McKnight, Chaparro, Assemblyman Verrelli,
Assemblywomen Jimenez, Lopez, Jasey, Timberlake, Assemblymen
Armato, Mejia, Tully and Assemblywoman Swain**

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 Appropriations Committee on March 17, 2021, with amendments.



(Sponsorship Updated As Of: 5/20/2021)

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 of a

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.

²Assembly AAP committee amendments adopted March 17, 2021.

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

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

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

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

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

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

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

6 (5) require appropriate program staff to assess and regularly
7 reassess the individual needs and preferences of residents with respect
8 to the residents' participation in social interactions and religious and
9 recreational activities, and include specific protocols and procedures to
10 ensure that the quantity of devices and equipment maintained on-site at
11 the residence remains sufficient, at all times, to meet the assessed
12 social and activities needs and preferences of 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 if
19 deemed to be appropriate; (c) describe the location and modalities to
20 be used in visitation; and (d) describe the respective responsibilities of
21 staff, visitors, and the resident when engaging in visitation pursuant to
22 the individualized visitation plan;

23 (7) include specific policies, protocols, and procedures governing a
24 resident's requisition, use, and return of devices and equipment
25 maintained pursuant to this act, and require appropriate program staff
26 to communicate those policies, protocols, and procedures to residents;
27 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 therapists,
31 and therapy assistants, to provide direct assistance to residents, upon
32 request and on an as-needed basis, as necessary to ensure that each
33 resident is able to successfully access and use, for the purposes
34 specified in paragraphs (2) and (3) of this subsection, the technology,
35 devices, and equipment acquired pursuant to this act.

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

40 ²d. To the extent consistent with federal law, the department and
41 the Division of Developmental Disabilities therein shall authorize a
42 resident who is enrolled in the division's Supports Program or
43 Community Care Program, operated pursuant to the State's approved
44 Comprehensive Medicaid Waiver, to utilize funds from the Supports
45 Program or Community Care Program, which have been budgeted for
46 the purchase of goods and services, to finance the purchase of
47 computers, mobile phones, and other equipment and accessories that
48 may facilitate the resident's ability to engage in electronic or virtual

1 contact, communications, and religious and recreational activities with
2 other residents, and with family members, friends, and other external
3 support systems, as provided by paragraph (2) of subsection b. of this
4 section.²

5
6 3. a. Whenever the department conducts an inspection of a
7 community-based residence, the department's inspector shall
8 determine whether the community-based residence is in compliance
9 with the provisions of this act and the policies, protocols, and
10 procedures adopted pursuant thereto.

11 b. In addition to any other applicable penalties provided by law,
12 whenever a community-based residential program fails to comply with
13 the provisions of this act or to properly implement the policies,
14 protocols, and procedures adopted pursuant thereto, the licensee:

15 (1) shall be liable to pay an administrative penalty, the amount of
16 which shall be determined in accordance with a schedule established
17 by department regulation, which schedule shall provide for an
18 enhanced administrative penalty in the case of a repeat or ongoing
19 violation; and

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

22 c. Whenever a complaint received or an investigation conducted
23 by ²the Office of the Ombudsman for Individuals with Intellectual or
24 Developmental Disabilities and Their Families¹, or by² Disability
25 Rights New Jersey ²['¹]² discloses evidence indicating that a
26 community-based residential program has failed to comply with the
27 provisions of this act or ¹to¹ properly implement the policies,
28 protocols, and procedures adopted pursuant thereto, ²the ombudsman
29 ¹or² the executive director ²['¹, as the case may be.¹]² shall refer the
30 matter to the department for disciplinary action and, notwithstanding
31 such referral, may take any other appropriate investigatory or
32 enforcement action, with respect to the matter, as may be authorized
33 by law.

34
35 4. a. Within 60 days after the enactment of this act, and
36 notwithstanding the provisions of the "Administrative Procedure
37 Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the
38 Commissioner of Human Services, in consultation with the
39 Department of Health, shall adopt rules and regulations
40 immediately upon the filing of proper notice with the Office of
41 Administrative Law, as may be necessary to implement the
42 provisions of this act. The rules and regulations shall include, but
43 need not be limited to, minimum standards for the social isolation
44 prevention policies to be adopted pursuant to section 2 of this act
45 and a penalty schedule to be used pursuant to section 3 of this act.

46 b. The rules and regulations adopted pursuant to this section
47 shall remain in effect for a period of not more than one year after

1 the date of filing and, thereafter, shall be adopted, amended, or
2 readopted by the commissioner in accordance with the requirements
3 of the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-
4 1 et seq.).

5

6 ²5. The Commissioner of Human Services shall apply for such
7 State plan amendments or waivers as may be necessary to
8 implement the provisions of this act and secure federal financial
9 participation for State Medicaid expenditures under the federal
10 Medicaid program.²

11

12 ²**[5.]** 6.² This act shall take effect immediately.