

30:6D-13 to 30:6D-22

LEGISLATIVE HISTORY CHECKLIST

NJSA: 30:6D-13 to 30:6D-22

(Developmentally disabled persons in community residential facilities-protection for certain transferees)

LAWS OF: 1983

CHAPTER: 524

Bill No: A3176

Sponsor(s): Bennett and others

Date Introduced: February 28, 1983

Committee: Assembly: Corrections, Health and Human Services

Senate: Institutions, Health and Welfare

Amended during passage: No

Date of Passage: Assembly: July 7, 1983

Senate: January 9, 1984

Date of Approval: January 17, 1984

Following statements are attached if available:

Sponsor statement: Yes

Committee statement: Assembly Yes

Senate Yes

Fiscal Note: No

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CHAPTER 524 LAWS OF N. J. 1983

APPROVED 1-17-84

ASSEMBLY, No. 3176

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 28, 1983

By Assemblymen BENNETT, LESNIAK, Assemblywoman WRIGHT,
Assemblymen PALAIA and ZIMMER

AN ACT concerning the deinstitutionalization of the developmen-
tally disabled and supplementing P. L. 1977, c. 82 (C. 30:6D-1
et seq.).

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. The Legislature finds that in keeping with current State and
2 national goals, increasing numbers of developmentally disabled
3 persons are being placed into community residences as an alterna-
4 tive to institutional confinement. Such deinstitutionalization is
5 highly desirable since it can lead to a fuller, richer, and more in-
6 dependent life for developmentally disabled persons. However,
7 because of their disabilities, they may be vulnerable to abuse, ne-
8 glect, and exploitation in the community unless appropriate safe-
9 guards are established and necessary services are delivered to
10 them in a wholesome environment. Therefore, the well-being of
11 developmentally disabled persons living under State sponsorship
12 in the community requires clarification of their rights and the rights
13 of family members and other persons interested in their welfare,
14 and a delineation of the responsibilities of the Department of
15 Human Services.

1 2. As used in this act:

2 a. "Department" means the Department of Human Services.

3 b. "Community residential facility" means any residential ar-
4 rangement, public or private, other than an institution, in which
5 one or more developmentally disabled persons reside under the

6 sponsorship of the department. A family home in which all of the
7 developmentally disabled persons residing within are related to
8 the head of the household by blood, marriage or adoption is not
9 a community residential facility.

10 c. "Transfer" means moving a developmentally disabled person
11 from an institution to a community residential facility, from one
12 community residential facility to another, or from a community
13 residential facility to an institution. The placement of a person
14 who has never before received services from the department di-
15 rectly into a community residential facility is a transfer.

1 3. This act shall apply to every developmentally disabled person
2 who is receiving services from the department, is not related by
3 reason of blood, marriage or adoption to the operator of the com-
4 munity residential facility, and who has been placed into a com-
5 munity residential facility since October 1, 1976 or who will be
6 placed in a community residential facility after the effective date
7 of this act.

1 4. a. Except in emergency situations, the department shall en-
2 sure that an individual habilitation plan is prepared for each de-
3 velopmentally disabled person subject to transfer at least 30 days
4 prior to the time the actual transfer takes place. In addition to
5 conforming to the requirements of sections 11 and 12 of P. L. 1977,
6 c. 82 (C. 30:6D-11, 12), the plan shall state with particularity
7 what habilitation goals shall be achieved for a transfer to be suc-
8 cessful and what services, supervision, and living arrangements
9 are needed to secure compliance with this act once the transfer is
10 made. No transfer shall occur until all enumerated elements of
11 the plan can be made available. A copy of the prepared plan shall
12 be immediately given to every person participating in its develop-
13 ment and review.

14 b. Before a transfer occurs, persons participating in the develop-
15 ment and review of the plan shall be given the opportunity to
16 inspect the site of the proposed transfer and the site where the
17 proposed services will be rendered. The appointment of a State
18 employee as guardian of the developmentally disabled person shall
19 not relieve the department of its responsibility to give parents
20 and other interested persons an opportunity to participate in the
21 development and review of the plan and to inspect proposed sites.
22 A representative of the operator of the community residential fa-
23 cility shall also be given an opportunity to participate in the de-
24 velopment and review of the plan.

25 c. The department shall ensure that the individual habilitation

26 plan is reviewed not earlier than four weeks and not later than
27 six weeks after the transfer occurs.

1 5. The department shall ensure that every developmentally dis-
2 abled person in a community residential facility receives adequate
3 medical and dental care, a nutritionally adequate diet, a full daily
4 program of structured activities, and those other services which are
5 necessary to maximize the developmental potential of the develop-
6 mentally disabled person in a manner least restrictive of personal
7 liberty. Every developmentally disabled person shall have adequate
8 protection from abuse and a wholesome environment in which to
9 to live.

10 All rights and procedures for the enforcement of rights recog-
11 nized in sections 4, 5 and 7 of the "Developmentally Disabled Rights
12 Act," P. L. 1977, c. 82 (C. 30:6D-4, 5, 7), shall apply to persons
13 covered by this act.

1 6. To the maximum extent possible, the department shall not
2 transfer any developmentally disabled person to a geographic
3 location that cannot be readily visited by those persons interested
4 in the well-being of the developmentally disabled person or to a
5 location that does not afford reasonable employment opportuni-
6 ties in the case of a developmentally disabled person with employ-
7 ment potential.

1 7. The department shall not allow a developmentally disabled
2 person to be transferred or to reside in a community residential
3 facility unless the staff of the facility is adequately trained to
4 meet the needs of the developmentally disabled, to use and operate
5 fire and life-safety equipment, and trained in other areas as the
6 department determines necessary.

1 8. The department shall ensure that every developmentally dis-
2 abled person covered by this act is visited at least monthly by a
3 case manager employed by the department or by an agency under
4 contract to the department.

1 9. A transfer shall be made only when consistent with the best
2 interests of the developmentally disabled person. The department
3 shall ensure that a developmentally disabled person who fails to
4 adjust to life in a community residential facility may return to
5 the institution or other facility from which he was transferred or
6 to a more suitable community residential facility.

1 10. The Commissioner of the Department of Human Services
2 shall promulgate those rules and regulations as are necessary to
3 effectuate this act.

1 11. This act shall take effect immediately.

A3176 (1983)

STATEMENT

Increasing numbers of developmentally disabled persons are being placed into community based residential programs. Such deinstitutionalization is highly desirable since it can lead to a fuller, richer, and more independent life for developmentally disabled persons. However, because of their disabilities, developmentally disabled persons may be vulnerable to abuse, neglect, and exploitation in the community unless appropriate safeguards are established and necessary services are available to them. Therefore, the well-being of developmentally disabled persons who have been or will be deinstitutionalized requires clarification of their rights and the rights of family members and other persons interested in their welfare, and a delineation of the responsibilities of the Department of Human Services. This bill extends such protection to a developmentally disabled person transferred to a community residential facility after October 1, 1976. This date was chosen because prior to this time it was not the policy of the Department of Human Services to maintain persons who were discharged from State operated institutions as clients.

ASSEMBLY CORRECTIONS, HEALTH AND
HUMAN SERVICES COMMITTEE

STATEMENT TO
ASSEMBLY, No. 3176

STATE OF NEW JERSEY

DATED: JUNE 20, 1983

This bill is intended to clarify the rights of developmentally disabled persons living under State sponsorship in a community residential facility, as well as the rights of family members and others interested in their welfare, and the responsibilities of the Department of Human Services.

The provisions of this bill apply to a developmentally disabled person transferred to a community residential facility after October 1, 1976. Prior to that time, the Department of Human Services did not have a policy of maintaining persons who were discharged from State-operated institutions as clients.

Under this bill, the Department of Human Services shall assure to each eligible person the following:

1. The preparation of an individual habilitation plan prior to the person's transfer, to be reviewed within 4 to 6 weeks after the transfer occurs; and the opportunity for persons participating in the plan's development and review, including parents and other interested persons, to inspect the site of the the proposed transfer before it occurs;
2. The provision of adequate medical and dental care, a nutritionally adequate diet, protection against abuse, and a full daily program of structured activities and services;
3. Transfer to a geographic location, to the maximum extent possible, that can be readily visited by individuals interested in the well-being of the person;
4. Adequate training of community residential facility staff to meet the needs of the developmentally disabled, and to use and operate fire and life-safety equipment;
5. Monthly visits with the person by a case manager; and,
6. An opportunity for the person who fails to adjust to life in the facility to return to the institution or other facility from which he was transferred or to be transferred to a more suitable community residential facility.

SENATE INSTITUTIONS, HEALTH AND WELFARE
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3176

STATE OF NEW JERSEY

DATED: DECEMBER 8, 1983

This bill clarifies the rights of developmentally disabled persons living under State sponsorship in community residential facilities, the rights of their family members and the responsibilities of the Department of Human Services with respect to these persons.

The bill is supported by the Departments of Human Services and the Public Advocate and the Developmental Disabilities Council as well as several community organizations representing developmentally disabled persons.

S-1791 SIGNED, ET AL.

PAGE TWO

JANUARY 17, 1984

S-3787, sponsored by State Senator Walter E. Foran, R-Hunterdon, which appropriates \$6,050,000 in State funds to various departments for office automation and data processing equipment.

A-3176, sponsored by Assemblyman John O. Bennett, R-Monmouth, which sets forth the rights of a developmentally disabled person living under State sponsorship in a community residential facility.

The bill requires that the individual receives a rehabilitation plan, provisions for an adequate diet and medical and dental care, transfer to a location which, as much as possible, is close by to individuals interested in the well-being of the client, adequately trained staff to supervise the client, monthly visits by a case manager and an opportunity to return to institutional care if the individual fails to adjust to his community facility.

S-3794, sponsored by State Senator Wayne Dumont, Jr., R-Warren, which appropriates \$2,620,745 in Federal funds to the Department of Human Services for the construction and development of a vocational rehabilitation facility for the blind and visually impaired.

S-3795, sponsored by State Senator Walter Rand, D-Camden, which appropriates \$116,007,000 in Federal funds to the Department of Transportation for State and local highway facilities and for public transportation.