

# 9:3A-7.3

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2007                    **CHAPTER:** 286  
**NJSA:** 9:3A-7.3                ("Billy's Law"; requires DCF and DHS to establish regulations for out-of-State placements in residential schools and programs)  
**BILL NO:** S2490                (Substituted for A3570)

**SPONSOR(S):** Weinberg and others

**DATE INTRODUCED:** January 25, 2007

**COMMITTEE:**                    **ASSEMBLY:**  
**SENATE:** Health and Human Services and Senior Citizens  
Budget and Appropriations

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:**            **ASSEMBLY:** January 7, 2008  
**SENATE:** January 7, 2008

**DATE OF APPROVAL:** January 13, 2008

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

[FINAL TEXT OF BILL](#) (Senate Committee Substitute enacted)

**S2490**

**[SPONSOR'S STATEMENT:](#)** (Begins on page 5 of original bill) [Yes](#)

**COMMITTEE STATEMENT:**                    **ASSEMBLY:** No

**SENATE:** Yes [6-7-07 \(H. HS & SC\)](#)  
[12-3-07 \(B & A\)](#)

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:** No

**[LEGISLATIVE FISCAL ESTIMATE:](#)** [Yes](#)

**A3570**

**[SPONSOR'S STATEMENT:](#)** (Begins on page 5 of original bill) [Yes](#)

**COMMITTEE STATEMENT:**                    **ASSEMBLY:** [Yes](#)

**SENATE:** No

**[FLOOR AMENDMENT STATEMENT:](#)** [Yes](#)

**[LEGISLATIVE FISCAL ESTIMATE:](#)** [Yes](#)

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:**

No

**FOLLOWING WERE PRINTED:**

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**REPORTS:**

No

**HEARINGS:**

No

**NEWSPAPER ARTICLES:**

No

LAW/RWH 6/20/08

P.L. 2007, CHAPTER 286, *approved January 13, 2008*  
Senate Committee Substitute for  
Senate, No. 2490

1 **AN ACT** concerning child placements in out-of-State residential  
2 schools and programs and supplementing Titles 9 and 30 of the  
3 Revised Statutes.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. This act shall be known and may be cited as “Billy’s Law.”  
9

10 2. a. The Commissioner of Children and Families, pursuant to  
11 the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1  
12 et seq.) and within 180 days after the effective date of this act, shall  
13 adopt rules and regulations that prescribe standards for the  
14 placement of children from this State in out-of-State residential  
15 schools and programs, and shall include the following:

16 (1) Except as provided in paragraph (2) of this subsection, prior  
17 to entering into a contract with or licensing an out-of-State  
18 residential school or program, the Department of Children and  
19 Families shall conduct an evaluation and inspection of the school or  
20 program, which shall include a site visit and such other means, as  
21 established by the rules and regulations, to evaluate the school or  
22 program. The department may conduct its own inspection or  
23 contract with another entity to perform the inspection;

24 (2) In the case of the need for an emergency placement in an  
25 out-of-State residential school or program, the department shall  
26 ensure that the school or program meets the applicable rules and  
27 regulations within 30 days after the placement. If the school or  
28 program does not meet the rules and regulations within the 30-day  
29 period, the department shall find an alternate school or program that  
30 does meet them;

31 (3) The department shall include in its contract with an out-of-  
32 State residential school or program the authority to conduct  
33 unannounced inspections of the school or program;

34 (4) The department shall include on its official website a list of  
35 out-of-State residential schools and programs that the department  
36 licenses or contracts with; and

37 (5) The department shall share with the Department of Human  
38 Services reports it receives concerning any accidents, unusual  
39 incidents as defined by applicable rules and regulations, or incidents  
40 involving suspected abuse or neglect at an out-of-State residential  
41 school or program.

1       b. The department, within 18 months after the of adoption of  
2 rules and regulations pursuant to subsection a. of this section, shall  
3 report to the Governor, and to the Legislature pursuant to section 2  
4 of P.L.1991, c.164 (C.52:14-19.1), on the implementation of the  
5 provisions of this section and the department's efforts to expand the  
6 State's capacity to provide in-State residential schools and  
7 programs and reduce out-of-State placements.  
8

9       3. a. The Commissioner of Human Services, pursuant to the  
10 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
11 seq.) and within 180 days after the effective date of this act, shall  
12 adopt rules and regulations that prescribe standards for the  
13 placement of children from this State in out-of-State residential  
14 schools and programs, and shall include the following:

15       (1) Except as provided in paragraph (2) of this subsection, prior  
16 to entering into a contract with or licensing an out-of-State  
17 residential school or program, the Department of Human Services  
18 shall conduct an evaluation and inspection of the school or program,  
19 which shall include a site visit and such other means, as established  
20 by the rules and regulations, to evaluate the school or program. The  
21 department may conduct its own inspection or contract with another  
22 entity to perform the inspection;

23       (2) In the case of the need for an emergency placement in an  
24 out-of-State residential school or program, the department shall  
25 ensure that the school or program meets the applicable rules and  
26 regulations within 30 days after the placement. If the school or  
27 program does not meet the rules and regulations within the 30-day  
28 period, the department shall find an alternate school or program that  
29 does meet them;

30       (3) The department shall include in its contract with an out-of-  
31 State residential school or program the authority to conduct  
32 unannounced inspections of the school or program;

33       (4) The department shall include on its official website a list of  
34 out-of-State residential schools and programs that the department  
35 licenses or contracts with; and

36       (5) The department shall share with the Department of Children  
37 and Families reports it receives concerning any accidents, unusual  
38 incidents as defined by applicable rules and regulations, or incidents  
39 involving suspected abuse or neglect at an out-of-State residential  
40 school or program.

41       b. The department, within 18 months after the adoption of rules  
42 and regulations pursuant to subsection a. of this section, shall report  
43 to the Governor, and to the Legislature pursuant to section 2 of  
44 P.L.1991, c.164 (C.52:14-19.1), on the implementation of the  
45 provisions of this section and the department's efforts to expand the  
46 State's capacity to provide in-State residential schools and  
47 programs and reduce out-of-State placements.

1       4. This act shall take effect immediately.

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6       “Billy’s Law”; requires DCF and DHS to establish regulations  
7 for out-of-State placements in residential schools and programs.

# SENATE, No. 2490

## STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED JANUARY 25, 2007

**Sponsored by:**

**Senator LORETTA WEINBERG**

**District 37 (Bergen)**

**Senator THOMAS H. KEAN, JR.**

**District 21 (Essex, Morris, Somerset and Union)**

**Co-Sponsored by:**

**Senators Singer, Karcher and Bucco**

**SYNOPSIS**

“Billy’s Law”; establishes Council on Out-of-State Placement of Children and registry of qualified out-of-State residential schools and programs in DHS.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 3/16/2007)**

1 AN ACT concerning child placements in out-of-State residential  
2 schools and programs and supplementing Title 30 of the Revised  
3 Statutes.

4

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

7

8 1. This act shall be known and may be cited as “Billy’s Law.”

9

10 2. As used in this act:

11 “Council” means the Council on Out-of-State Placement of  
12 Children established pursuant to this act.

13 “Registry” means the registry of qualified out-of-State  
14 residential schools and programs established pursuant to this act.

15

16 3. a. (1) There is established in, but not of, the Department of  
17 Human Services, the Council on Out-of-State Placement of  
18 Children, which shall consist of the Commissioners of Human  
19 Services, Children and Families, and Health and Senior Services, or  
20 their designees, who shall serve ex officio.

21 (2) The purpose of the council shall be to coordinate the efforts  
22 of the Departments of Human Services, Children and Families, and  
23 Health and Senior Services to provide services to children in the  
24 most appropriate and least restrictive environment, and to ensure  
25 that out-of-State residential schools and programs have met the  
26 requirements of this act prior to the placement of a child by one of  
27 these departments in an out-of-State residential school or program.

28 b. The Commissioner of Human Services, or his designee, shall  
29 serve as the chair of the council.

30 c. The council shall meet at such times as may be necessary to  
31 effectuate the provisions of this act. A majority of the members  
32 shall constitute a quorum.

33 d. The council shall be entitled to call to its assistance and avail  
34 itself of the services of the employees of any State, county or  
35 municipal department, board, bureau, commission or agency as it  
36 may require and as may be available to it for its purposes.

37 e. The Department of Human Services shall provide staffing  
38 services to the council.

39

40 4. a. The council shall establish and maintain a registry of  
41 qualified out-of-State residential schools and programs that meet  
42 the requirements of this act. The registry shall be publicly  
43 accessible on the website of the Department of Human Services.

44 b. The council shall develop core requirements for inclusion of  
45 an out-of-State residential school or program in the registry. Prior  
46 to inclusion in the registry, the appropriate department headed by a  
47 member of the council shall:

- 1 (1) conduct an evaluation and inspection of the school or  
2 program, including a site visit in the case of a facility located in a  
3 state that borders this State; or, in the case of a facility located in  
4 any other state, the Department of Human Services shall contract  
5 with an entity to perform the evaluation. The entity shall have  
6 recognized expertise in conducting inspections and site visits;
- 7 (2) determine that the school or program holds a current license  
8 or charter from the appropriate state agency of the state in which the  
9 school or program is located;
- 10 (3) determine that the state in which the school or program is  
11 located has appropriate laws and regulations for the investigation  
12 and resolution of allegations of abuse and neglect; and
- 13 (4) determine that the types of care being provided by the school  
14 or program are consistent with the applicable laws and regulations  
15 of this State.
- 16 c. If the Commissioner of Human Services determines it is  
17 feasible to charge a fee to a residential school or program to be  
18 listed in the registry, the commissioner shall, pursuant to section 8  
19 of this act, set the fee by regulation.  
20
- 21 5. Prior to contracting with an out-of-State residential school or  
22 program for placement of a child in the school or program, a  
23 member of the council shall require the school or program to enter  
24 into a contract that requires the school or program to:
  - 25 a. hold and maintain a current license, certificate or charter  
26 from the appropriate state agency of the state in which the school or  
27 program is located;
  - 28 b. promptly notify the appropriate member of the council of  
29 negative action taken with respect to the license, certificate or  
30 charter of the school or program, as applicable, and of corrective  
31 action that the school or program is taking with respect to that  
32 license, certificate or charter;
  - 33 c. take necessary action to be listed and remain listed in the  
34 registry, including providing, consistent with state and federal laws,  
35 requested information to the appropriate member of the council;
  - 36 d. authorize the appropriate department headed by a member of  
37 the council or the private entity conducting inspections and  
38 evaluations pursuant to section 4 of this act, as applicable, to  
39 conduct announced and unannounced site visits to the school or  
40 program;
  - 41 e. promptly notify the appropriate member of the council of  
42 abuse or neglect occurring to a child placed by this State in the out-  
43 of-State school or program;
  - 44 f. promptly notify the appropriate member of the council of an  
45 investigation of a report of abuse or neglect found to result from a  
46 systemic problem with the school or program, and of the corrective  
47 action that the school or program is taking; and



1 g. establish appropriate services and goals for each child  
2 placed, consistent with state and federal law, and collaborate with  
3 the appropriate department headed by a member of the council in  
4 the establishment of the services and goals.

5  
6 6. a. The council shall:

7 (1) establish a standardized procedure which the departments  
8 headed by the members of the council shall use to identify whether  
9 in-State service options are available and can be provided in the  
10 most appropriate and least restrictive environment, prior to seeking  
11 an out-of-State placement for a child;

12 (2) develop and update resources that include, but are not  
13 limited to, service directories, assessment tools, inventories of  
14 availability and capacity of in-State services, referral guides,  
15 funding opportunities, and information concerning research and  
16 evidence-based practices. To the extent feasible, these resources  
17 shall be publicly accessible on the website of the applicable  
18 department headed by a member of the council;

19 (3) establish public awareness, training and technical assistance  
20 initiatives to: strengthen community-based service coordination and  
21 streamline placement procedures; and improve access to  
22 community-based services by engaging community-based service  
23 providers, educators, policy makers, family members and advocates  
24 in developing these initiatives; and

25 (4) collect and analyze data on children who are placed in out-  
26 of-State residential schools and programs in order to make  
27 recommendations concerning the development of integrated funding  
28 that would, at a minimum:

29 (a) reduce or eliminate identified barriers to providing  
30 flexibility in the funding of in-State programs and services for a  
31 child at risk of placement in an out-of-State residential school or  
32 program; and

33 (b) increase alternatives to placing a child in an out-of-State  
34 residential school or program, by allowing funds to be allocated so  
35 that the child is placed in the most appropriate and least restrictive  
36 environment, including, but not limited to, applying funds to the  
37 purchase of appropriate services within the child's community, such  
38 as modification of the child's residence.

39 b. The council may develop recommendations to:

40 (1) avert, insofar as practicable, future out-of-State placements  
41 in residential schools and programs;

42 (2) return children from out-of-State placements in residential  
43 schools and programs to in-State schools and programs;

44 (3) build and support in-State schools and programs; and

45 (4) make the necessary changes to eliminate barriers and  
46 institute flexibility in funding, so that services to children may be  
47 provided in the most appropriate and least restrictive environment,  
48 including, but not limited to:

- 1 (a) receiving services in the child's home;
- 2 (b) enabling public funding to be allocated for the purchase of  
3 appropriate services for the child; and
- 4 (c) providing for appropriate levels of accountability, at all  
5 levels of public decision making, for the placement of children.
- 6 c. The council shall report to the Governor and, pursuant to  
7 section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature on  
8 the implementation of this act and any recommendations to improve  
9 the registry, reduce out-of-State placements, and provide services to  
10 children in the most appropriate and least restrictive environment.  
11 The report shall be submitted within one year of the effective date  
12 of this act and annually thereafter.

13

14 7. A person or institution that reasonably and in good faith  
15 complies with the requirements of this act, including, but not  
16 limited to, establishing or implementing the registry, contract  
17 provisions, and standardized procedures to identify in-State service  
18 options, shall be immune from civil and criminal liability.

19

20 8. Pursuant to the "Administrative Procedure Act," P.L.1968,  
21 c.410 (C.52:14B-1 et seq.), the Commissioner of Human Services,  
22 in consultation with the Commissioners of Children and Families  
23 and Health and Senior Services, shall adopt rules and regulations  
24 necessary to effectuate the purposes of this act.

25

26 9. This act shall take effect on the 180th day after the date of  
27 enactment, but the Commissioner of Human Services, in  
28 consultation with the Commissioners of Children and Families and  
29 Health and Senior Services, may take such anticipatory  
30 administrative action in advance thereof as shall be necessary for  
31 the implementation of this act.

32

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34

#### STATEMENT

35

36 This bill, which is designated "Billy's Law," establishes the  
37 Council on Out-of-State Placement of Children in, but not of, the  
38 Department of Human Services. The council would consist of the  
39 Commissioners of Human Services, Children and Families, and  
40 Health and Senior Services, or their designees, who would serve ex  
41 officio.

42 The purpose of the council is to coordinate the efforts of the  
43 Departments of Human Services, Children and Families, and Health  
44 and Senior Services to provide services to children in the most  
45 appropriate and least restrictive environment, and to ensure that out-  
46 of-State residential schools and programs have met the requirements  
47 of this bill prior to the placement of a child by one of these  
48 departments in an out-of-State residential school or program.

1 The bill requires the council to establish and maintain a registry  
2 of qualified out-of-State residential schools and programs that  
3 would be publicly accessible on the website of the Department of  
4 Human Services. In addition, the Commissioner of Human Services  
5 may charge a fee to be listed in the registry.

6 The council is also required to develop core requirements for  
7 inclusion of an out-of-State residential school or program in the  
8 registry. Specifically, prior to inclusion in the registry, the  
9 appropriate department headed by a member of the council must:

- 10 • conduct an evaluation and inspection of the school or program,  
11 including a site visit in the case of a facility located in a state  
12 that borders this State; or, in the case of a facility located in  
13 any other state, the Department of Human Services would  
14 contract with an entity (which must have recognized expertise  
15 in conducting inspections and visits) to perform the evaluation;
- 16 • determine that the school or program holds a current license or  
17 charter from the state in which the school or program is  
18 located;
- 19 • determine that the state in which the school or program is  
20 located has appropriate laws and regulations for the  
21 investigation and resolution of allegations of abuse and  
22 neglect; and
- 23 • determine that the types of care being provided by the school  
24 or program are consistent with the applicable laws and  
25 regulations of this State.

26 The bill further provides that prior to contracting with an out-of-  
27 State residential school or program for placement of a child in the  
28 school or program, a member of the council must require the school  
29 or program to enter into a contract that requires the school or  
30 program to:

- 31 - hold and maintain a current license, certificate or charter;
- 32 - promptly notify the appropriate member of the council of  
33 negative action taken with respect to the license, certificate or  
34 charter of the school or program, as applicable, and of corrective  
35 action that the school or program is taking;
- 36 - take necessary action to be listed and remain listed in the  
37 registry, including providing, consistent with state and federal laws,  
38 requested information to the appropriate member of the council;
- 39 - authorize announced and unannounced site visits to the school  
40 or program;
- 41 - promptly notify the appropriate member of the council of abuse  
42 or neglect occurring to a child placed by this State in the out-of-  
43 State school or program;
- 44 - promptly notify the appropriate member of the council of an  
45 investigation of a report of abuse or neglect found to result from a  
46 systemic problem with the school or program, and the corrective  
47 action that the school or program is taking; and
- 48 - establish appropriate services and goals for each child placed.

1 In addition, the bill requires the council to:

- 2 • establish a standardized procedure which the departments must  
3 use to identify whether in-State service options are available and  
4 can be provided in the most appropriate and least restrictive  
5 environment, prior to seeking an out-of-State placement for a  
6 child;
- 7 • develop and update appropriate informational resources which, to  
8 the extent feasible, would be accessible on the applicable  
9 department's website;
- 10 • establish public awareness, training and technical assistance  
11 initiatives with regard to community-based services;
- 12 • collect and analyze data on children who are placed in out-of-  
13 State residential schools and programs in order to make  
14 recommendations concerning the development of integrated  
15 funding to meet the purposes of the bill; and
- 16 • report to the Governor and the Legislature, within one year of the  
17 enactment of the bill and annually thereafter, on the  
18 implementation of the bill and any recommendations to improve  
19 the registry, reduce out-of-State placements, and provide services  
20 to children in the most appropriate and least restrictive  
21 environment.

22 In addition, the bill would allow the council to develop  
23 recommendations to: avert future out-of-State placements; return  
24 children to in-State schools and programs; build and support in-  
25 State schools and programs; make changes to eliminate barriers and  
26 institute flexibility in funding; and provide for appropriate levels of  
27 accountability, at all levels of public decision making, for the  
28 placement of children.

29 The bill provides immunity from civil and criminal liability for a  
30 person or institution that reasonably and in good faith complies with  
31 the requirements of the bill.

32 Finally, the bill takes effect on the 180th day after the date of  
33 enactment in order to permit time for rule making.

SENATE HEALTH, HUMAN SERVICES AND SENIOR  
CITIZENS COMMITTEE

STATEMENT TO

**SENATE, No. 2490**

with committee amendments

**STATE OF NEW JERSEY**

DATED: JUNE 7, 2007

The Senate Health, Human Services and Senior Citizens Committee reports favorably and with committee amendments Senate Bill No. 2490.

As amended by committee, this bill, which is designated "Billy's Law," establishes the Council on Out-of-State Placement of Children in, but not of, the Department of Children and Families. The council would consist of: the Commissioners of Children and Families, Human Services and Education, and the Child Advocate, or their designees, who would serve ex officio; and two public members appointed by the Governor, one of whom would be a representative of an in-State residential school or program and one of whom would be a representative of an out-of-State residential school or program. The public members would serve for a term of two years and be eligible for reappointment and reimbursement for necessary expenses.

The purpose of the council is to coordinate the efforts of the three departments to provide services to children in the most appropriate and least restrictive environment, and to ensure that out-of-State residential schools and programs have met the requirements of this bill prior to the placement of a child in them. "Out-of-State" is defined in the bill as more than 30 miles from the border of the State. The establishment of this council is intended as an interim measure until such time as the State can build service capacity within its borders.

The bill requires the council to establish and maintain a registry of qualified out-of-State residential schools and programs that would be publicly accessible on the website of the Department of Children and Families. The Commissioner of Children and Families may charge a fee to be listed in the registry. Out-of-State residential schools and programs would be required to have a current contract with the State concerning placement of children prior to inclusion in the registry.

The council is also required to develop core requirements for inclusion of an out-of-State residential school or program in the registry. Specifically, prior to inclusion in the registry, the appropriate department headed by a member of the council must:

- conduct an evaluation and inspection of the school or program, including a site visit in the case of a facility located in a state that borders this State; or, in the case of a facility located in any other state, the Department of Children and Families could contract with an entity to perform the evaluation;
- determine that the school or program holds a current license or charter from the state in which it is located;
- determine that the state in which the school or program is located has appropriate laws and regulations for the investigation and resolution of allegations of abuse and neglect; and
- determine that the types of care provided are consistent with the applicable laws and regulations of this State.

The bill further provides that prior to contracting with an out-of-State residential school or program for placement of a child, a member of the council must require the school or program to enter into a contract that requires the school or program to:

- hold and maintain a current license, certificate or charter;
- promptly notify the appropriate member of the council of negative action taken with respect to the license, certificate or charter, as applicable, and of corrective action that the school or program is taking;
- take necessary action to be listed and remain listed in the registry, including providing, consistent with state and federal laws, requested information to the appropriate member of the council;
- authorize announced and unannounced site visits;
- promptly notify the appropriate member of the council of abuse or neglect occurring to a child placed by this State in the out-of-State school or program;
- promptly notify the appropriate member of the council of an investigation of a report of abuse or neglect found to result from a systemic problem with the school or program, and the corrective action that the school or program is taking; and
- establish appropriate services and goals for each child placed.

In addition, the bill requires the council to:

- establish a standardized procedure for departments to identify whether in-State service options are available and can be provided in the most appropriate and least restrictive environment, prior to seeking an out-of-State placement for a child;
- develop and update appropriate informational resources which, to the extent feasible, would be accessible on the applicable department's website;
- establish public awareness, training and technical assistance initiatives to strengthen community-based service coordination and streamline in-State and out-of-State placements;
- collect and analyze data on children who are placed in in-State and out-of-State residential schools and programs in order to make

recommendations concerning the development of integrated funding to meet the purposes of the bill; and

- report to the Governor and the Legislature, within one year of the enactment of the bill and annually thereafter, on the implementation of the bill and any recommendations to improve the registry, reduce out-of-State placements, and provide services to children in the most appropriate and least restrictive environment.

In addition, the bill would allow the council to develop recommendations to: avert future out-of-State placements; return children to in-State schools and programs; build and support in-State schools and programs; make changes to eliminate barriers and institute flexibility in funding; and provide for appropriate levels of accountability, at all levels of public decision making, for the placement of children.

The bill provides immunity from civil and criminal liability for a person or institution that reasonably and in good faith complies with the requirements of the bill.

Finally, the bill takes effect on the 180th day after the date of enactment in order to permit time for rule making.

#### COMMITTEE AMENDMENTS

The committee adopted amendments to:

- add a definition for “out-of-State” to mean more than 30 miles from the border of the State;
- add two public members to the council, one representing an in-State residential school or program and one representing an out-of-State residential school or program;
- establish the council in the Department of Children and Families instead of in the Department of Human Services, add the Commissioner of Education to the council and the Department of Education to the provisions of the bill, add the Child Advocate to the council, and remove the Commissioner of Health and Senior Services from the council and the Department of Health and Senior Services from the provisions of the bill;
- state that the establishment of the council is intended as an interim measure until the State can build service capacity within its borders;
- add the requirement that out-of-State residential schools and programs have a current contract with the State concerning placement of children prior to inclusion in the registry;
- provide that the council “may” (rather than “shall”) contract with entities to perform evaluations of out-of-State facilities;
- clarify that the council would streamline placement procedures and collect and analyze data, for residential schools and programs that are in-State and out-of-State; and

- delete references to “in-State” and “out-of-State” with regard to reduction or elimination of identified barriers to flexibility in funding and increasing alternatives to placing a child.

As amended by committee, this bill is similar to Assembly Bill No. 3570 (1R) (Diegnan/Cryan/Munoz/Payne/Gregg), which is pending before the General Assembly.



# SENATE BUDGET AND APPROPRIATIONS COMMITTEE

## STATEMENT TO

### SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 2490**

# **STATE OF NEW JERSEY**

DATED: DECEMBER 3, 2007

The Senate Budget and Appropriations Committee reports favorably a Senate Committee Substitute for Senate Bill No. 2490.

The Senate Committee Substitute for Senate Bill, No. 2490, which is designated "Billy's Law," requires both the Commissioners of Children and Families and Human Services to adopt, within 180 days after enactment, rules and regulations that include standards for the placement of children from this State in out-of-State residential schools and programs. The rules and regulations shall require that:

- Prior to licensing or contracting with an out-of-State residential school or program, the relevant departments shall conduct an evaluation and inspection of the school or program (except in emergency placement cases, in which there is a 30-day period provided after the emergency placement during which the relevant department shall ensure that the school or program meets the department's standards; otherwise, the department must find an alternate school or program). The departments may conduct their own inspections or contract with another entity to perform them;
- The departments' contracts with out-of-State residential schools or programs shall include the authority of the departments to conduct unannounced inspections;
- The departments shall list the out-of-State residential schools and programs that they license or contract with on their official websites; and
- The departments shall share with each other reports of accidents, unusual incidents, or incidents involving suspected abuse or neglect at out-of-State residential schools or programs.

The substitute also requires each department to report to the Governor and Legislature, within 18 months of the adoption of its regulations, on the implementation of the substitute and the department's efforts to expand in-State capacity to provide in-State residential schools and programs and reduce out-of-State placements.

The Senate Committee Substitute eliminates the Council on Out-of-State Placement of Children that was proposed in Senate Bill No. 2490, does not cover the Department of Education, and omits the bill's

definition of an “out-of-State” placement that only included placements that were more than 30 miles beyond the State’s border.

FISCAL IMPACT:

The Office of Legislative Services (OLS) noted in a Legislative Fiscal Estimate for the original bill that no formal information had been received from the Departments of Children and Families (DCF or Human Services (DHS). The OLS Fiscal Estimate noted the possible increased costs necessitated by required inspections. The Senate Committee Substitute also includes that inspections be required through the adoption of rules and regulations. The OLS fiscal analysis would also apply under the terms of the substitute.

There may be a possible increase in costs for either the Office of Licensing in the DHS to hire additional personnel and incur travel costs to conduct inspections, or the department if it contracts with an outside organization to conduct such inspections. The DHS recently estimated their costs in the first year to be \$416,000.

As to the DCF, the OLS fiscal analysis assumed that since the DCF already inspects and licenses out-of-State facilities it may not have to significantly amend its existing practices, and may not incur any additional costs.

The OLS also notes that The Division of Developmental Disabilities within DHS contracts with out-of-State residential facilities or programs that may be monitored and licensed by either DCF or the Department of Education. Any facilities or programs that are already so monitored or licensed are not formally inspected by DHS licensing staff. DHS licensing staff will likely incur some additional costs to monitor and license facilities depending on whether the standards adopted in the DHS rules and regulations are more stringent than any monitoring and licensing standards established by the other departments.

First year start-up costs associated with any new activity to initially review and license out-of-State residential facilities or programs are likely to exceed subsequent years costs as subsequent monitoring and licensing activities are likely to focus only on those residential facilities or programs in which deficiencies were noted.

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

**SENATE, No. 2490**

## **STATE OF NEW JERSEY 212th LEGISLATURE**

DATED: NOVEMBER 21, 2007

### **SUMMARY**

- Synopsis:** “Billy’s Law”; establishes the Council on Out-of-State Placement of Children and a registry of qualified out-of-State residential schools and programs in Department of Children and Families.
- Type of Impact:** Possible increase in costs. Either the Office of Licensing in the Department of Human Services, may have to hire additional personnel and incur travel costs to conduct inspections, or the department may contract with an outside organization to conduct such inspections.
- Agencies Affected:** Department of Children and Families, Department of Human Services, Department of Education, and the Office of the Child Advocate.

### **Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<b><u>Years 1 -3</u></b>
<b>State Cost</b>	<p>Possible increase in costs. Either the Office of Licensing in the Department of Human Services may have to hire additional personnel and incur travel costs to conduct inspections, or the department may contract with an outside organization to conduct such inspections.</p> <p>Costs during the first year are likely to be greater than costs in subsequent years as there would be initial start-up costs to inspect all affected facilities. In subsequent years, costs may be reduced somewhat as inspections may be more focused on certain facilities and problem areas.</p>

### **BILL DESCRIPTION**

Senate Bill No. 2490 (1R) of 2007, designated “Billy’s Law,” establishes the Council on Out-of-State Placement of Children in, but not of, the Department of Children and Families.

The council’s purpose is to coordinate the efforts of the Department of Children and Families, Department of Human Services and Department of Education to provide services to children in the most appropriate and least restrictive environment, and to ensure that out-of-State residential programs meet the requirements of the bill prior to the placement of a child by those

departments in an out-of-State residential program or school. An out-of-State residential program or school is defined as being more than 30 miles from the border of the State.

The council would be required to establish and maintain a registry of qualified out-of-State residential schools and programs. To be included on the registry, the school or program would have to be: evaluated and inspected; licensed or chartered in the state it is located in; provide care that meets New Jersey standards; and have procedures concerning the investigation and resolution of abuse and neglect complaints.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

As of this writing, the affected departments have not provided any formal information on the legislation.

### ***OFFICE OF LEGISLATIVE SERVICES***

As of this writing, no formal information has been received from the Departments of Children and Families (DCF), Education (DOE) or Human Services (DHS), respectively, as to the legislation's impact on any of the out-of-State residential facilities or programs in which children may be placed, and whether additional costs will be incurred.

Informal information indicates the following:

- DCF data from 2006 indicates that the department places children in at least 56 out-of-State residential facilities or programs, though some residential facilities or programs may be within 30 miles of the State's borders and, thus, may not be considered out-of-State facilities.

As out-of-State facilities, regardless of their distance from the State, are already inspected and licensed by DCF, it is assumed that any standards adopted by the Council will not require DCF to significantly amend its existing practices, and that DCF would not incur any additional costs.

- A DOE document, "Approved Out-of-State Private Schools for the Disabled," lists 67 approved out-of-State private schools for the disabled, of which as many as 38 may be within 30 miles of the State's borders and, thus, may not be considered out-of-State facilities.

As these private schools have been approved by DOE, it is assumed that DOE has reviewed the standards under which these private schools operate and that they are meet DOE's standards. It is assumed that any standards adopted by the Council will not require DOE to incur any new costs to monitor and license such private schools.

- The Division of Developmental Disabilities within DHS contracts with 51 out-of-State residential facilities or programs, of which up to 20 residential facilities or programs may be within 30 miles of the State and, thus, may not be considered out-of-State facilities. Further some of these out-of-State residential facilities or programs may be monitored and licensed by either DCF or DOE.
- The DHS licensing staff at present does not formally inspect these out-of-State residential facilities or programs, though DDD program staff will visit clients placed in such facilities to assure that services are being provided. DHS licensing staff will likely incur some additional costs to monitor and license facilities depending on whether the standards adopted by the Council are more stringent than any monitoring and licensing

standards in place in those states where the facility is located. For example, there are nine residential facilities or programs located in Massachusetts. The DHS has not provided any information as to whether the nine programs are monitored and licensed by the State of Massachusetts, and if they are, it is not known whether the standards adopted by the Council would require DHS to independently review the facilities or programs or whether Massachusetts' monitoring and licensing efforts would be considered adequate as far as the Council is concerned.

- Assuming that the standards adopted by the Council require DHS licensing staff to physically visit between 30 to 51 out-of-State residential facilities and programs, DHS may have to hire additional staff to conduct the activities, as current staff are only able to handle its existing inspection and licensing functions. How many additional staff may have to be hired to monitor and license out-of-State residential facilities and programs will not be known until the Council's standards are published. In addition to the need for some additional staff, DHS would incur air travel costs to visit programs in Florida, Kansas, Michigan, Tennessee, Texas and Wisconsin and driving costs to nearby states such as Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, New York and Pennsylvania. Room and board costs would also be incurred for a minimum of at least two days and possibly more days depending on how extensive the State monitors out-of-State residential facilities and programs.

Alternatively, DHS could issue a Request for Proposal and contract with one or more organizations to conduct such reviews.

The comparative cost of whether it is less expensive to have State personnel conduct such reviews or to contract with outside organizations would not be known until the State issues a Request for Proposal for the services and bids are received from prospective organizations that wish to conduct the reviews.

Costs in the second or third year may be less than the initial year, as there are start-up costs associated with any new activity. Further, after out-of-State residential facilities or programs are initially reviewed and licensed, subsequent monitoring and licensing activities are likely to focus on those residential facilities or programs in which deficiencies were noted.

*Section: Human Services*

*Analyst: Jay A. Hershberg  
Principal Fiscal Analyst*

*Approved: David J. Rosen  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

# ASSEMBLY, No. 3570

## STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED OCTOBER 23, 2006

**Sponsored by:**

**Assemblyman PATRICK J. DIEGNAN, JR.**

**District 18 (Middlesex)**

**Assemblyman JOSEPH CRYAN**

**District 20 (Union)**

**Assemblyman ERIC MUNOZ**

**District 21 (Essex, Morris, Somerset and Union)**

**Assemblyman WILLIAM D. PAYNE**

**District 29 (Essex and Union)**

**Assemblyman GUY R. GREGG**

**District 24 (Sussex, Hunterdon and Morris)**

**Co-Sponsored by:**

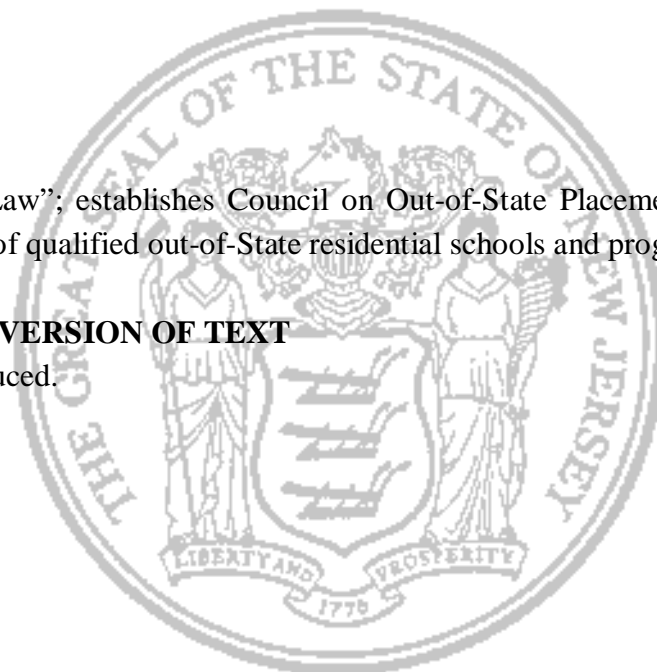
**Assemblywoman Voss, Assemblymen Vas, Giblin, Barnes,  
Assemblywoman Cruz-Perez, Assemblymen Johnson, Wisniewski,  
Assemblywoman Vainieri Huttle and Assemblyman Epps**

**SYNOPSIS**

“Billy’s Law”: establishes Council on Out-of-State Placement of Children and registry of qualified out-of-State residential schools and programs in DHS.

**CURRENT VERSION OF TEXT**

As introduced.



(Sponsorship Updated As Of: 3/9/2007)

1 AN ACT concerning child placements in out-of-State residential  
2 schools and programs and supplementing Title 30 of the Revised  
3 Statutes.

4

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

7

8 1. This act shall be known and may be cited as “Billy’s Law.”

9

10 2. As used in this act:

11 “Council” means the Council on Out-of-State Placement of  
12 Children established pursuant to this act.

13 “Registry” means the registry of qualified out-of-State  
14 residential schools and programs established pursuant to this act.

15

16 3. a. (1) There is established in, but not of, the Department of  
17 Human Services, the Council on Out-of-State Placement of  
18 Children, which shall consist of the Commissioners of Human  
19 Services, Children and Families, and Health and Senior Services, or  
20 their designees, who shall serve ex officio.

21 (2) The purpose of the council shall be to coordinate the efforts  
22 of the Departments of Human Services, Children and Families, and  
23 Health and Senior Services to provide services to children in the  
24 most appropriate and least restrictive environment, and to ensure  
25 that out-of-State residential schools and programs have met the  
26 requirements of this act prior to the placement of a child by one of  
27 these departments in an out-of-State residential school or program.

28 b. The Commissioner of Human Services, or his designee, shall  
29 serve as the chair of the council.

30 c. The council shall meet at such times as may be necessary to  
31 effectuate the provisions of this act. A majority of the members  
32 shall constitute a quorum.

33 d. The council shall be entitled to call to its assistance and avail  
34 itself of the services of the employees of any State, county or  
35 municipal department, board, bureau, commission or agency as it  
36 may require and as may be available to it for its purposes.

37 e. The Department of Human Services shall provide staffing  
38 services to the council.

39

40 4. a. The council shall establish and maintain a registry of  
41 qualified out-of-State residential schools and programs that meet  
42 the requirements of this act. The registry shall be publicly  
43 accessible on the website of the Department of Human Services.

44 b. The council shall develop core requirements for inclusion of  
45 an out-of-State residential school or program in the registry. Prior  
46 to inclusion in the registry, the appropriate department headed by a  
47 member of the council shall:

- 1 (1) conduct an evaluation and inspection of the school or  
2 program, including a site visit in the case of a facility located in a  
3 state that borders this State; or, in the case of a facility located in  
4 any other state, the Department of Human Services shall contract  
5 with an entity to perform the evaluation. The entity shall have  
6 recognized expertise in conducting inspections and site visits;
- 7 (2) determine that the school or program holds a current license  
8 or charter from the appropriate state agency of the state in which the  
9 school or program is located;
- 10 (3) determine that the state in which the school or program is  
11 located has appropriate laws and regulations for the investigation  
12 and resolution of allegations of abuse and neglect; and
- 13 (4) determine that the types of care being provided by the school  
14 or program are consistent with the applicable laws and regulations  
15 of this State.
- 16 c. If the Commissioner of Human Services determines it is  
17 feasible to charge a fee to a residential school or program to be  
18 listed in the registry, the commissioner shall, pursuant to section 8  
19 of this act, set the fee by regulation.  
20
- 21 5. Prior to contracting with an out-of-State residential school or  
22 program for placement of a child in the school or program, a  
23 member of the council shall require the school or program to enter  
24 into a contract that requires the school or program to:
  - 25 a. hold and maintain a current license, certificate or charter from  
26 the appropriate state agency of the state in which the school or  
27 program is located;
  - 28 b. promptly notify the appropriate member of the council of  
29 negative action taken with respect to the license, certificate or  
30 charter of the school or program, as applicable, and of corrective  
31 action that the school or program is taking with respect to that  
32 license, certificate or charter;
  - 33 c. take necessary action to be listed and remain listed in the  
34 registry, including providing, consistent with state and federal laws,  
35 requested information to the appropriate member of the council;
  - 36 d. authorize the appropriate department headed by a member of  
37 the council or the private entity conducting inspections and  
38 evaluations pursuant to section 4 of this act, as applicable, to  
39 conduct announced and unannounced site visits to the school or  
40 program;
  - 41 e. promptly notify the appropriate member of the council of  
42 abuse or neglect occurring to a child placed by this State in the out-  
43 of-State school or program;
  - 44 f. promptly notify the appropriate member of the council of an  
45 investigation of a report of abuse or neglect found to result from a  
46 systemic problem with the school or program, and of the corrective  
47 action that the school or program is taking; and



1 g. establish appropriate services and goals for each child placed,  
2 consistent with state and federal law, and collaborate with the  
3 appropriate department headed by a member of the council in the  
4 establishment of the services and goals.

5

6 6. a. The council shall:

7 (1) establish a standardized procedure which the departments  
8 headed by the members of the council shall use to identify whether  
9 in-State service options are available and can be provided in the  
10 most appropriate and least restrictive environment, prior to seeking  
11 an out-of-State placement for a child;

12 (2) develop and update resources that include, but are not  
13 limited to, service directories, assessment tools, inventories of  
14 availability and capacity of in-State services, referral guides,  
15 funding opportunities, and information concerning research and  
16 evidence-based practices. To the extent feasible, these resources  
17 shall be publicly accessible on the website of the applicable  
18 department headed by a member of the council;

19 (3) establish public awareness, training and technical assistance  
20 initiatives to: strengthen community-based service coordination and  
21 streamline placement procedures; and improve access to  
22 community-based services by engaging community-based service  
23 providers, educators, policy makers, family members and advocates  
24 in developing these initiatives; and

25 (4) collect and analyze data on children who are placed in out-  
26 of-State residential schools and programs in order to make  
27 recommendations concerning the development of integrated funding  
28 that would, at a minimum:

29 (a) reduce or eliminate identified barriers to providing flexibility  
30 in the funding of in-State programs and services for a child at risk  
31 of placement in an out-of-State residential school or program; and

32 (b) increase alternatives to placing a child in an out-of-State  
33 residential school or program, by allowing funds to be allocated so  
34 that the child is placed in the most appropriate and least restrictive  
35 environment, including, but not limited to, applying funds to the  
36 purchase of appropriate services within the child's community, such  
37 as modification of the child's residence.

38 b. The council may develop recommendations to:

39 (1) avert, insofar as practicable, future out-of-State placements in  
40 residential schools and programs;

41 (2) return children from out-of-State placements in residential  
42 schools and programs to in-State schools and programs;

43 (3) build and support in-State schools and programs; and

44 (4) make the necessary changes to eliminate barriers and institute  
45 flexibility in funding, so that services to children may be provided  
46 in the most appropriate and least restrictive environment, including,  
47 but not limited to:

48 (a) receiving services in the child's home;

1 (b) enabling public funding to be allocated for the purchase of  
2 appropriate services for the child; and

3 (c) providing for appropriate levels of accountability, at all  
4 levels of public decision making, for the placement of children.

5 c. The council shall report to the Governor and, pursuant to  
6 section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature on  
7 the implementation of this act and any recommendations to improve  
8 the registry, reduce out-of-State placements, and provide services to  
9 children in the most appropriate and least restrictive environment.  
10 The report shall be submitted within one year of the effective date  
11 of this act and annually thereafter.

12

13 7. A person or institution that reasonably and in good faith  
14 complies with the requirements of this act, including, but not  
15 limited to, establishing or implementing the registry, contract  
16 provisions, and standardized procedures to identify in-State service  
17 options, shall be immune from civil and criminal liability.

18

19 8. Pursuant to the "Administrative Procedure Act," P.L.1968,  
20 c.410 (C.52:14B-1 et seq.), the Commissioner of Human Services,  
21 in consultation with the Commissioners of Children and Families  
22 and Health and Senior Services, shall adopt rules and regulations  
23 necessary to effectuate the purposes of this act.

24

25 9. This act shall take effect on the 180th day after the date of  
26 enactment, but the Commissioner of Human Services, in  
27 consultation with the Commissioners of Children and Families and  
28 Health and Senior Services, may take such anticipatory  
29 administrative action in advance thereof as shall be necessary for  
30 the implementation of this act.

31

32

33

#### STATEMENT

34

35 This bill, which is designated "Billy's Law," establishes the  
36 Council on Out-of-State Placement of Children in, but not of, the  
37 Department of Human Services. The council would consist of the  
38 Commissioners of Human Services, Children and Families, and  
39 Health and Senior Services, or their designees, who would serve ex  
40 officio.

41 The purpose of the council is to coordinate the efforts of the  
42 Departments of Human Services, Children and Families, and Health  
43 and Senior Services to provide services to children in the most  
44 appropriate and least restrictive environment, and to ensure that out-  
45 of-State residential schools and programs have met the requirements  
46 of this bill prior to the placement of a child by one of these  
47 departments in an out-of-State residential school or program.

1 The bill requires the council to establish and maintain a registry  
2 of qualified out-of-State residential schools and programs that  
3 would be publicly accessible on the website of the Department of  
4 Human Services. In addition, the Commissioner of Human Services  
5 may charge a fee to be listed in the registry.

6 The council is also required to develop core requirements for  
7 inclusion of an out-of-State residential school or program in the  
8 registry. Specifically, prior to inclusion in the registry, the  
9 appropriate department headed by a member of the council must:

- 10 • conduct an evaluation and inspection of the school or program,  
11 including a site visit in the case of a facility located in a state  
12 that borders this State; or, in the case of a facility located in  
13 any other state, the Department of Human Services would  
14 contract with an entity (which must have recognized expertise  
15 in conducting inspections and visits) to perform the evaluation;
- 16 • determine that the school or program holds a current license or  
17 charter from the state in which the school or program is  
18 located;
- 19 • determine that the state in which the school or program is  
20 located has appropriate laws and regulations for the  
21 investigation and resolution of allegations of abuse and  
22 neglect; and
- 23 • determine that the types of care being provided by the school  
24 or program are consistent with the applicable laws and  
25 regulations of this State.

26 The bill further provides that prior to contracting with an out-of-  
27 State residential school or program for placement of a child in the  
28 school or program, a member of the council must require the school  
29 or program to enter into a contract that requires the school or  
30 program to:

- 31 - hold and maintain a current license, certificate or charter;
- 32 - promptly notify the appropriate member of the council of  
33 negative action taken with respect to the license, certificate or  
34 charter of the school or program, as applicable, and of corrective  
35 action that the school or program is taking;
- 36 - take necessary action to be listed and remain listed in the  
37 registry, including providing, consistent with state and federal laws,  
38 requested information to the appropriate member of the council;
- 39 - authorize announced and unannounced site visits to the school  
40 or program;
- 41 - promptly notify the appropriate member of the council of abuse  
42 or neglect occurring to a child placed by this State in the out-of-  
43 State school or program;
- 44 - promptly notify the appropriate member of the council of an  
45 investigation of a report of abuse or neglect found to result from a  
46 systemic problem with the school or program, and the corrective  
47 action that the school or program is taking; and
- 48 - establish appropriate services and goals for each child placed.

1       In addition, the bill requires the council to:

- 2       • establish a standardized procedure which the departments must  
3       use to identify whether in-State service options are available and  
4       can be provided in the most appropriate and least restrictive  
5       environment, prior to seeking an out-of-State placement for a  
6       child;
- 7       • develop and update appropriate informational resources which, to  
8       the extent feasible, would be accessible on the applicable  
9       department's website;
- 10      • establish public awareness, training and technical assistance  
11      initiatives with regard to community-based services;
- 12      • collect and analyze data on children who are placed in out-of-  
13      State residential schools and programs in order to make  
14      recommendations concerning the development of integrated  
15      funding to meet the purposes of the bill; and
- 16      • report to the Governor and the Legislature, within one year of the  
17      enactment of the bill and annually thereafter, on the  
18      implementation of the bill and any recommendations to improve  
19      the registry, reduce out-of-State placements, and provide services  
20      to children in the most appropriate and least restrictive  
21      environment.

22      In addition, the bill would allow the council to develop  
23      recommendations to: avert future out-of-State placements; return  
24      children to in-State schools and programs; build and support in-  
25      State schools and programs; make changes to eliminate barriers and  
26      institute flexibility in funding; and provide for appropriate levels of  
27      accountability, at all levels of public decision making, for the  
28      placement of children.

29      The bill provides immunity from civil and criminal liability for a  
30      person or institution that reasonably and in good faith complies with  
31      the requirements of the bill.

32      Finally, the bill takes effect on the 180th day after the date of  
33      enactment in order to permit time for rule making.

# ASSEMBLY HUMAN SERVICES COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 3570**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: MARCH 12, 2007

The Assembly Human Services Committee reports favorably and with committee amendments Assembly Bill No. 3570.

As amended by the committee, this bill, which is designated “Billy’s Law,” establishes the Council on Out-of-State Placement of Children in, but not of, the Department of Human Services. The council would consist of: the Commissioners of Human Services and Children and Families, or their designees, who would serve ex officio; and two public members appointed by the Governor, one of whom would be a representative of an in-State residential school or program and one of whom would be a representative of an out-of-State residential school or program. The public members would serve for a term of two years and be eligible for reappointment and reimbursement for necessary expenses.

The purpose of the council is to coordinate the efforts of the Departments of Human Services and Children and Families to provide services to children in the most appropriate and least restrictive environment, and to ensure that out-of-State residential schools and programs have met the requirements of this bill prior to the placement of a child by one of these departments in an out-of-State residential school or program. “Out-of-State” is defined in the bill as more than 30 miles from the border of the State.

The bill requires the council to establish and maintain a registry of qualified out-of-State residential schools and programs that would be publicly accessible on the website of the Department of Human Services. In addition, the Commissioner of Human Services may charge a fee to be listed in the registry.

The council is also required to develop core requirements for inclusion of an out-of-State residential school or program in the registry. Specifically, prior to inclusion in the registry, the appropriate department headed by a member of the council must:

- conduct an evaluation and inspection of the school or program, including a site visit in the case of a facility located in a state that borders this State; or, in the case of a facility located in any other state, the Department of Human Services would contract with an

entity (which must have recognized expertise in conducting inspections and visits) to perform the evaluation;

- determine that the school or program holds a current license or charter from the state in which the school or program is located;
- determine that the state in which the school or program is located has appropriate laws and regulations for the investigation and resolution of allegations of abuse and neglect; and
- determine that the types of care being provided by the school or program are consistent with the applicable laws and regulations of this State.

The bill further provides that prior to contracting with an out-of-State residential school or program for placement of a child in the school or program, a member of the council must require the school or program to enter into a contract that requires the school or program to:

- hold and maintain a current license, certificate or charter;
- promptly notify the appropriate member of the council of negative action taken with respect to the license, certificate or charter of the school or program, as applicable, and of corrective action that the school or program is taking;
- take necessary action to be listed and remain listed in the registry, including providing, consistent with state and federal laws, requested information to the appropriate member of the council;
- authorize announced and unannounced site visits to the school or program;
- promptly notify the appropriate member of the council of abuse or neglect occurring to a child placed by this State in the out-of-State school or program;
- promptly notify the appropriate member of the council of an investigation of a report of abuse or neglect found to result from a systemic problem with the school or program, and the corrective action that the school or program is taking; and
- establish appropriate services and goals for each child placed.

In addition, the bill requires the council to:

- establish a standardized procedure which the departments must use to identify whether in-State service options are available and can be provided in the most appropriate and least restrictive environment, prior to seeking an out-of-State placement for a child;
- develop and update appropriate informational resources which, to the extent feasible, would be accessible on the applicable department's website;
- establish public awareness, training and technical assistance initiatives to strengthen community-based service coordination and streamline in-State and out-of-State placements;
- collect and analyze data on children who are placed in in-State and out-of-State residential schools and programs in order to make recommendations concerning the development of integrated funding to meet the purposes of the bill; and

- report to the Governor and the Legislature, within one year of the enactment of the bill and annually thereafter, on the implementation of the bill and any recommendations to improve the registry, reduce out-of-State placements, and provide services to children in the most appropriate and least restrictive environment.

In addition, the bill would allow the council to develop recommendations to: avert future out-of-State placements; return children to in-State schools and programs; build and support in-State schools and programs; make changes to eliminate barriers and institute flexibility in funding; and provide for appropriate levels of accountability, at all levels of public decision making, for the placement of children.

The bill provides immunity from civil and criminal liability for a person or institution that reasonably and in good faith complies with the requirements of the bill.

Finally, the bill takes effect on the 180th day after the date of enactment in order to permit time for rule making.

#### COMMITTEE AMENDMENTS:

The committee adopted amendments to:

- add a definition for “out-of-State” to mean more than 30 miles from the border of the State;
- add two public members to the Council on Out-of-State Placement of Children, one representing an in-State residential school or program and one representing an out-of-State residential school or program;
- remove the Commissioner of Health and Senior Services from the council and the Department of Health and Senior Services from the provisions of the bill;
- clarify that the council would streamline placement procedures and collect and analyze data, for residential schools and programs that are in-State and out-of-State; and
- delete references to “in-State” and “out-of-State” with regard to reduction or elimination of identified barriers to flexibility in funding and increasing alternatives to placing a child in a residential school or program.

STATEMENT TO  
[First Reprint]  
**ASSEMBLY, No. 3570**

with Assembly Floor Amendments  
(Proposed By Assemblyman Diegnan)

ADOPTED: JUNE 11, 2007

This floor amendment relocates the Council on Out-of-State Placement of Children and registry, established under the bill, from the Department of Human Services to the Department of Children and Families, and adds the Commissioner of Education and the Child Advocate to the membership of the council and the Department of Education to the provisions of the bill. The amendment also provides that the council is intended as an interim measure until such time as the State can build service capacity within its borders.

In addition, the amendment requires an out-of-State residential school or program to have a current contract with the State concerning placement of children prior to inclusion in the registry, and provides that the Department of Children and Families “may” (rather than shall) contract with an entity to perform the evaluation of out-of-State residential schools and programs.



# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

**ASSEMBLY, No. 3570**

**STATE OF NEW JERSEY  
212th LEGISLATURE**

DATED: JUNE 25, 2007

## SUMMARY

- Synopsis:** “Billy’s Law”; establishes Council on Out-of-State Placement of Children and registry of qualified out-of-State residential schools and programs in DHS.
- Type of Impact:** None.
- Agencies Affected:** Departments of Children and Families (DCF) and Human Services (DHS).

### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Years 1 -3</u></b>
<b>State Cost</b>	No Impact - See Comments Below

## BILL DESCRIPTION

Assembly Bill No. 3570 (1R) of 2006, designated Billy’s Law, establishes the Council on Out-of-State Placement of Children in, but not of the, Department of Human Services.

The council’s purpose is to coordinate the efforts of the Department of Children and Families and the Department of Human Services to provide services to children in the most appropriate and least restrictive environment, and to ensure that out-of-State residential programs have met the requirements of the bill prior to the placement of a child by either the Department of Children and Families or the Department of Human Services in or an out-of-State residential program or school. An out-of-State residential program or school is defined as being more than 30 miles from the border of the State.

## FISCAL ANALYSIS

### ***EXECUTIVE BRANCH***

None received.

***OFFICE OF LEGISLATIVE SERVICES***

There are no costs associated with the legislation, other than the “reimbursement for necessary expenses” for the public members of the council.

Procedures are already in place at the two departments to review the appropriateness of out-of-State placement of children. Further, all DYFS placements, in-State or out-of-State, must be reviewed and approved by the Child Placement Review Board and a judge. Finally, all out-of-State programs are visited, inspected and licensed by the respective departments.

*Section: Human Services*

*Analyst: Jay A. Hershberg  
Principal Fiscal Analyst*

*Approved: David J. Rosen  
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L. 1980, c.67.