

# 30:4D-3, 30:4G-16, Sec.3 Temporary & Executed

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2021 **CHAPTER:** 344

**NJSA:** 30:4D-3, 30:4G-16, Sec.3 Temporary & Executed (Revises eligibility requirements for NJ Workability Program and Personal Assistance Services Program.)

**BILL NO:** S3455 (Substituted for A5262 (2R))

**SPONSOR(S)** Madden, Fred H. and others

**DATE INTRODUCED:** 2/16/2021

**COMMITTEE:** **ASSEMBLY:** Appropriations  
**SENATE:** Health, Human Services & Senior Citizens

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:** **ASSEMBLY:** 12/20/2021  
**SENATE:** 12/2/2021

**DATE OF APPROVAL:** 1/10/2022

### FOLLOWING ARE ATTACHED IF AVAILABLE:

**FINAL TEXT OF BILL** (First Reprint enacted) Yes

#### S3455

**INTRODUCED BILL (INCLUDES SPONSOR'S STATEMENT):** Yes

**COMMITTEE STATEMENT:** **ASSEMBLY:** Yes Appropriations

**SENATE:** Yes Health, Human Services & Senior Citizens

(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 12/2/2021

#### A5262 (2R)

**INTRODUCED BILL (INCLUDES SPONSOR'S STATEMENT):** Yes

**COMMITTEE STATEMENT:** **ASSEMBLY:** Yes Human Services  
Appropriations

**SENATE:** No

(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 11/12/2021  
12/20/2021

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

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**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** No

§3  
T&E and Note  
§5  
Note

P.L. 2021, CHAPTER 344, *approved January 10, 2022*  
Senate, No. 3455 (*First Reprint*)

1 AN ACT concerning medical and support services provided to  
2 certain working individuals with disabilities and amending  
3 <sup>1</sup>**[Title 30 of the Revised Statutes]** P.L.1968, c.410 and  
4 P.L.1987, c.350<sup>1</sup> .  
5

6 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
7 *of New Jersey:*  
8

9 1. Section 3 of P.L.1968, c.413 (C.30:4D-3) is amended to read  
10 as follows:

11 3. Definitions. As used in P.L.1968, c.413 (C.30:4D-1 et seq.),  
12 and unless the context otherwise requires:

13 a. "Applicant" means any person who has made application for  
14 purposes of becoming a "qualified applicant."

15 b. "Commissioner" means the Commissioner of Human  
16 Services.

17 c. "Department" means the Department of Human Services,  
18 which is herein designated as the single State agency to administer  
19 the provisions of this act.

20 d. "Director" means the Director of the Division of Medical  
21 Assistance and Health Services.

22 e. "Division" means the Division of Medical Assistance and  
23 Health Services.

24 f. "Medicaid" means the New Jersey Medical Assistance and  
25 Health Services Program.

26 g. "Medical assistance" means payments on behalf of recipients  
27 to providers for medical care and services authorized under  
28 P.L.1968, c.413.

29 h. "Provider" means any person, public or private institution,  
30 agency, or business concern approved by the division lawfully  
31 providing medical care, services, goods, and supplies authorized  
32 under P.L.1968, c.413, holding, where applicable, a current valid  
33 license to provide such services or to dispense such goods or  
34 supplies.

35 i. "Qualified applicant" means a person who is a resident of  
36 this State, and either a citizen of the United States or an eligible  
37 alien, and is determined to need medical care and services as  
38 provided under P.L.1968, c.413, with respect to whom the period

**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:

<sup>1</sup>Senate SHH committee amendments adopted March 9, 2021.

1 for which eligibility to be a recipient is determined shall be the  
2 maximum period permitted under federal law, and who:

3 (1) Is a dependent child or parent or caretaker relative of a  
4 dependent child who would be, except for resources, eligible for the  
5 aid to families with dependent children program under the State  
6 Plan for Title IV-A of the federal Social Security Act as of July 16,  
7 1996;

8 (2) Is a recipient of Supplemental Security Income for the Aged,  
9 Blind and Disabled under Title XVI of the Social Security Act;

10 (3) Is an "ineligible spouse" of a recipient of Supplemental  
11 Security Income for the Aged, Blind and Disabled under Title XVI  
12 of the Social Security Act, as defined by the federal Social Security  
13 Administration;

14 (4) Would be eligible to receive Supplemental Security Income  
15 under Title XVI of the federal Social Security Act or, without  
16 regard to resources, would be eligible for the aid to families with  
17 dependent children program under the State Plan for Title IV-A of  
18 the federal Social Security Act as of July 16, 1996, except for  
19 failure to meet an eligibility condition or requirement imposed  
20 under such State program which is prohibited under Title XIX of  
21 the federal Social Security Act such as a durational residency  
22 requirement, relative responsibility, consent to imposition of a lien;

23 (5) (Deleted by amendment, P.L.2000, c.71).

24 (6) Is an individual under 21 years of age who, without regard to  
25 resources, would be, except for dependent child requirements,  
26 eligible for the aid to families with dependent children program  
27 under the State Plan for Title IV-A of the federal Social Security  
28 Act as of July 16, 1996, or groups of such individuals, including but  
29 not limited to, children in resource family placement under  
30 supervision of the Division of Child Protection and Permanency in  
31 the Department of Children and Families whose maintenance is  
32 being paid in whole or in part from public funds, children placed in  
33 a resource family home or institution by a private adoption agency  
34 in New Jersey or children in intermediate care facilities, including  
35 developmental centers for the developmentally disabled, or in  
36 psychiatric hospitals;

37 (7) Would be eligible for the Supplemental Security Income  
38 program, but is not receiving such assistance and applies for  
39 medical assistance only;

40 (8) Is determined to be medically needy and meets all the  
41 eligibility requirements described below:

42 (a) The following individuals are eligible for services, if they  
43 are determined to be medically needy:

44 (i) Pregnant women;

45 (ii) Dependent children under the age of 21;

46 (iii) Individuals who are 65 years of age and older; and

47 (iv) Individuals who are blind or disabled pursuant to either  
48 C.F.R.435.530 et seq. or 42 C.F.R.435.540 et seq., respectively.

- 1 (b) The following income standard shall be used to determine  
2 medically needy eligibility:
- 3 (i) For one person and two person households, the income  
4 standard shall be the maximum allowable under federal law, but  
5 shall not exceed 133 1/3% of the State's payment level to two  
6 person households under the aid to families with dependent children  
7 program under the State Plan for Title IV-A of the federal Social  
8 Security Act in effect as of July 16, 1996; and
- 9 (ii) For households of three or more persons, the income  
10 standard shall be set at 133 1/3% of the State's payment level to  
11 similar size households under the aid to families with dependent  
12 children program under the State Plan for Title IV-A of the federal  
13 Social Security Act in effect as of July 16, 1996.
- 14 (c) The following resource standard shall be used to determine  
15 medically needy eligibility:
- 16 (i) For one person households, the resource standard shall be  
17 200% of the resource standard for recipients of Supplemental  
18 Security Income pursuant to 42 U.S.C. s.1382(1)(B);
- 19 (ii) For two person households, the resource standard shall be  
20 200% of the resource standard for recipients of Supplemental  
21 Security Income pursuant to 42 U.S.C. s.1382(2)(B);
- 22 (iii) For households of three or more persons, the resource  
23 standard in subparagraph (c)(ii) above shall be increased by  
24 \$100.00 for each additional person; and
- 25 (iv) The resource standards established in (i), (ii), and (iii) are  
26 subject to federal approval and the resource standard may be lower  
27 if required by the federal Department of Health and Human  
28 Services.
- 29 (d) Individuals whose income exceeds those established in  
30 subparagraph (b) of paragraph (8) of this subsection may become  
31 medically needy by incurring medical expenses as defined in 42  
32 C.F.R.435.831(c) which will reduce their income to the applicable  
33 medically needy income established in subparagraph (b) of  
34 paragraph (8) of this subsection.
- 35 (e) A six-month period shall be used to determine whether an  
36 individual is medically needy.
- 37 (f) Eligibility determinations for the medically needy program  
38 shall be administered as follows:
- 39 (i) County welfare agencies and other entities designated by the  
40 commissioner are responsible for determining and certifying the  
41 eligibility of pregnant women and dependent children. The division  
42 shall reimburse county welfare agencies for 100% of the reasonable  
43 costs of administration which are not reimbursed by the federal  
44 government for the first 12 months of this program's operation.  
45 Thereafter, 75% of the administrative costs incurred by county  
46 welfare agencies which are not reimbursed by the federal  
47 government shall be reimbursed by the division;

1 (ii) The division is responsible for certifying the eligibility of  
2 individuals who are 65 years of age and older and individuals who  
3 are blind or disabled. The division may enter into contracts with  
4 county welfare agencies to determine certain aspects of eligibility.  
5 In such instances the division shall provide county welfare agencies  
6 with all information the division may have available on the  
7 individual.

8 The division shall notify all eligible recipients of the  
9 Pharmaceutical Assistance to the Aged and Disabled program,  
10 P.L.1975, c.194 (C.30:4D-20 et seq.) on an annual basis of the  
11 medically needy program and the program's general requirements.  
12 The division shall take all reasonable administrative actions to  
13 ensure that Pharmaceutical Assistance to the Aged and Disabled  
14 recipients, who notify the division that they may be eligible for the  
15 program, have their applications processed expeditiously, at times  
16 and locations convenient to the recipients; and

17 (iii) The division is responsible for certifying incurred medical  
18 expenses for all eligible persons who attempt to qualify for the  
19 program pursuant to subparagraph (d) of paragraph (8) of this  
20 subsection;

21 (9) (a) Is a child who is at least one year of age and under 19  
22 years of age and, if older than six years of age but under 19 years of  
23 age, is uninsured; and

24 (b) Is a member of a family whose income does not exceed  
25 133% of the poverty level and who meets the federal Medicaid  
26 eligibility requirements set forth in section 9401 of Pub.L.99-509  
27 (42 U.S.C. s.1396a);

28 (10) Is a pregnant woman who is determined by a provider to be  
29 presumptively eligible for medical assistance based on criteria  
30 established by the commissioner, pursuant to section 9407 of  
31 Pub.L.99-509 (42 U.S.C. s.1396a(a));

32 (11) Is an individual 65 years of age and older, or an individual  
33 who is blind or disabled pursuant to section 301 of Pub.L.92-603  
34 (42 U.S.C. s.1382c), whose income does not exceed 100% of the  
35 poverty level, adjusted for family size, and whose resources do not  
36 exceed 100% of the resource standard used to determine medically  
37 needy eligibility pursuant to paragraph (8) of this subsection;

38 (12) Is a qualified disabled and working individual pursuant to  
39 section 6408 of Pub.L.101-239 (42 U.S.C. s.1396d) whose income  
40 does not exceed 200% of the poverty level and whose resources do  
41 not exceed 200% of the resource standard used to determine  
42 eligibility under the Supplemental Security Income Program,  
43 P.L.1973, c.256 (C.44:7-85 et seq.);

44 (13) Is a pregnant woman or is a child who is under one year of  
45 age and is a member of a family whose income does not exceed  
46 185% of the poverty level and who meets the federal Medicaid  
47 eligibility requirements set forth in section 9401 of Pub.L.99-509  
48 (42 U.S.C. s.1396a), except that a pregnant woman who is

1 determined to be a qualified applicant shall, notwithstanding any  
2 change in the income of the family of which she is a member,  
3 continue to be deemed a qualified applicant until the end of the 60-  
4 day period beginning on the last day of her pregnancy;

5 (14) (Deleted by amendment, P.L.1997, c.272).

6 (15) (a) Is a specified low-income Medicare beneficiary  
7 pursuant to 42 U.S.C. s.1396a(a)10(E)iii whose resources beginning  
8 January 1, 1993 do not exceed 200% of the resource standard used  
9 to determine eligibility under the Supplemental Security Income  
10 program, P.L.1973, c.256 (C.44:7-85 et seq.) and whose income  
11 beginning January 1, 1993 does not exceed 110% of the poverty  
12 level, and beginning January 1, 1995 does not exceed 120% of the  
13 poverty level.

14 (b) An individual who has, within 36 months, or within 60  
15 months in the case of funds transferred into a trust, of applying to  
16 be a qualified applicant for Medicaid services in a nursing facility  
17 or a medical institution, or for home or community-based services  
18 under section 1915(c) of the federal Social Security Act (42 U.S.C.  
19 s.1396n(c)), disposed of resources or income for less than fair  
20 market value shall be ineligible for assistance for nursing facility  
21 services, an equivalent level of services in a medical institution, or  
22 home or community-based services under section 1915(c) of the  
23 federal Social Security Act (42 U.S.C. s.1396n(c)). The period of  
24 the ineligibility shall be the number of months resulting from  
25 dividing the uncompensated value of the transferred resources or  
26 income by the average monthly private payment rate for nursing  
27 facility services in the State as determined annually by the  
28 commissioner. In the case of multiple resource or income transfers,  
29 the resulting penalty periods shall be imposed sequentially.  
30 Application of this requirement shall be governed by 42 U.S.C.  
31 s.1396p(c). In accordance with federal law, this provision is  
32 effective for all transfers of resources or income made on or after  
33 August 11, 1993. Notwithstanding the provisions of this subsection  
34 to the contrary, the State eligibility requirements concerning  
35 resource or income transfers shall not be more restrictive than those  
36 enacted pursuant to 42 U.S.C. s.1396p(c).

37 (c) An individual seeking nursing facility services or home or  
38 community-based services and who has a community spouse shall  
39 be required to expend those resources which are not protected for  
40 the needs of the community spouse in accordance with section  
41 1924(c) of the federal Social Security Act (42 U.S.C. s.1396r-5(c))  
42 on the costs of long-term care, burial arrangements, and any other  
43 expense deemed appropriate and authorized by the commissioner.  
44 An individual shall be ineligible for Medicaid services in a nursing  
45 facility or for home or community-based services under section  
46 1915(c) of the federal Social Security Act (42 U.S.C. s.1396n(c)) if  
47 the individual expends funds in violation of this subparagraph. The  
48 period of ineligibility shall be the number of months resulting from

1 dividing the uncompensated value of transferred resources and  
2 income by the average monthly private payment rate for nursing  
3 facility services in the State as determined by the commissioner.  
4 The period of ineligibility shall begin with the month that the  
5 individual would otherwise be eligible for Medicaid coverage for  
6 nursing facility services or home or community-based services.

7 This subparagraph shall be operative only if all necessary  
8 approvals are received from the federal government including, but  
9 not limited to, approval of necessary State plan amendments and  
10 approval of any waivers;

11 (16) Subject to federal approval under Title XIX of the federal  
12 Social Security Act, is a dependent child, parent or specified  
13 caretaker relative of a child who is a qualified applicant, who would  
14 be eligible, without regard to resources, for the aid to families with  
15 dependent children program under the State Plan for Title IV-A of  
16 the federal Social Security Act as of July 16, 1996, except for the  
17 income eligibility requirements of that program, and whose family  
18 earned income,

19 (a) if a dependent child, does not exceed 133% of the poverty  
20 level; and

21 (b) if a parent or specified caretaker relative, beginning  
22 September 1, 2005 does not exceed 100% of the poverty level,  
23 beginning September 1, 2006 does not exceed 115% of the poverty  
24 level and beginning September 1, 2007 does not exceed 133% of  
25 the poverty level, plus such earned income disregards as shall be  
26 determined according to a methodology to be established by  
27 regulation of the commissioner;

28 The commissioner may increase the income eligibility limits for  
29 children and parents and specified caretaker relatives, as funding  
30 permits;

31 (17) Is an individual from 18 through 20 years of age who is not  
32 a dependent child and would be eligible for medical assistance  
33 pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), without regard to  
34 income or resources, who, on the individual's 18th birthday was in  
35 resource family care under the care and custody of the Division of  
36 Child Protection and Permanency in the Department of Children  
37 and Families and whose maintenance was being paid in whole or in  
38 part from public funds;

39 (18) Is a person **【between the ages of】** 16 years of age or older  
40 and **【65】** who is permanently disabled and working, and**【**:

41 (a) whose income is at or below 250% of the poverty level, plus  
42 other established disregards;

43 (b)**】** who pays the premium contribution and other cost sharing  
44 as established by the commissioner based solely on the applicant's  
45 earned and unearned income, subject to the limits and conditions of  
46 federal law**【**; and



1 (c) whose assets, resources and unearned income do not exceed  
2 limitations as established by the commissioner】.

3 A qualified applicant pursuant to this paragraph shall: (a) not be  
4 subject to any eligibility requirements regarding the earned or  
5 unearned income of the applicant or the applicant's spouse; and (b)  
6 remain eligible for medical care and services as provided under  
7 P.L.1968, c.413 for up to a period of one year if, through no fault of  
8 the applicant, a job loss occurs;

9 (19) Is an uninsured individual under 65 years of age who:

10 (a) has been screened for breast or cervical cancer under the  
11 federal Centers for Disease Control and Prevention breast and  
12 cervical cancer early detection program;

13 (b) requires treatment for breast or cervical cancer based upon  
14 criteria established by the commissioner;

15 (c) has an income that does not exceed the income standard  
16 established by the commissioner pursuant to federal guidelines;

17 (d) meets all other Medicaid eligibility requirements; and

18 (e) in accordance with Pub.L.106-354, is determined by a  
19 qualified entity to be presumptively eligible for medical assistance  
20 pursuant to 42 U.S.C. s.1396a(aa), based upon criteria established  
21 by the commissioner pursuant to section 1920B of the federal Social  
22 Security Act (42 U.S.C. s.1396r-1b);

23 (20) Subject to federal approval under Title XIX of the federal  
24 Social Security Act, is a single adult or couple, without dependent  
25 children, whose income in 2006 does not exceed 50% of the poverty  
26 level, in 2007 does not exceed 75% of the poverty level and in 2008  
27 and each year thereafter does not exceed 100% of the poverty level;  
28 except that a person who is a recipient of Work First New Jersey  
29 general public assistance, pursuant to P.L.1947, c.156 (C.44:8-107  
30 et seq.), shall not be a qualified applicant; or

31 (21) is an individual who:

32 (a) has an income that does not exceed the highest income  
33 eligibility level for pregnant women established under the State  
34 plan under Title XIX or Title XXI of the federal Social Security  
35 Act;

36 (b) is not pregnant; and

37 (c) is eligible to receive family planning services provided  
38 under the Medicaid program pursuant to subsection k. of section 6  
39 of P.L.1968, c.413 (C.30:4D-6) and in accordance with 42 U.S.C.  
40 s.1396a(ii).

41 j. "Recipient" means any qualified applicant receiving benefits  
42 under this act.

43 k. "Resident" means a person who is living in the State  
44 voluntarily with the intention of making his home here and not for a  
45 temporary purpose. Temporary absences from the State, with  
46 subsequent returns to the State or intent to return when the purposes  
47 of the absences have been accomplished, do not interrupt continuity  
48 of residence.

- 1       l. "State Medicaid Commission" means the Governor, the  
2 Commissioner of Human Services, the President of the Senate and  
3 the Speaker of the General Assembly, hereby constituted a  
4 commission to approve and direct the means and method for the  
5 payment of claims pursuant to P.L.1968, c.413.
- 6       m. "Third party" means any person, institution, corporation,  
7 insurance company, group health plan as defined in section 607(1)  
8 of the federal "Employee Retirement and Income Security Act of  
9 1974," 29 U.S.C. s.1167(1), service benefit plan, health  
10 maintenance organization, or other prepaid health plan, or public,  
11 private or governmental entity who is or may be liable in contract,  
12 tort, or otherwise by law or equity to pay all or part of the medical  
13 cost of injury, disease or disability of an applicant for or recipient  
14 of medical assistance payable under P.L.1968, c.413.
- 15       n. "Governmental peer grouping system" means a separate  
16 class of skilled nursing and intermediate care facilities administered  
17 by the State or county governments, established for the purpose of  
18 screening their reported costs and setting reimbursement rates under  
19 the Medicaid program that are reasonable and adequate to meet the  
20 costs that must be incurred by efficiently and economically operated  
21 State or county skilled nursing and intermediate care facilities.
- 22       o. "Comprehensive maternity or pediatric care provider" means  
23 any person or public or private health care facility that is a provider  
24 and that is approved by the commissioner to provide comprehensive  
25 maternity care or comprehensive pediatric care as defined in  
26 subsection b. (18) and (19) of section 6 of P.L.1968, c.413  
27 (C.30:4D-6).
- 28       p. "Poverty level" means the official poverty level based on  
29 family size established and adjusted under Section 673(2) of  
30 Subtitle B, the "Community Services Block Grant Act," of  
31 Pub.L.97-35 (42 U.S.C. s.9902(2)).
- 32       q. "Eligible alien" means one of the following:  
33       (1) an alien present in the United States prior to August 22,  
34 1996, who is:  
35       (a) a lawful permanent resident;  
36       (b) a refugee pursuant to section 207 of the federal "Immigration  
37 and Nationality Act" (8 U.S.C. s.1157);  
38       (c) an asylee pursuant to section 208 of the federal  
39 "Immigration and Nationality Act" (8 U.S.C. s.1158);  
40       (d) an alien who has had deportation withheld pursuant to  
41 section 243(h) of the federal "Immigration and Nationality Act" (8  
42 U.S.C. s.1253 (h));  
43       (e) an alien who has been granted parole for less than one year  
44 by the U.S. Citizenship and Immigration Services pursuant to  
45 section 212(d)(5) of the federal "Immigration and Nationality Act"  
46 (8 U.S.C. s.1182(d)(5));

1 (f) an alien granted conditional entry pursuant to section  
2 203(a)(7) of the federal "Immigration and Nationality Act" (8  
3 U.S.C. s.1153(a)(7)) in effect prior to April 1, 1980; or

4 (g) an alien who is honorably discharged from or on active duty  
5 in the United States armed forces and the alien's spouse and  
6 unmarried dependent child.

7 (2) An alien who entered the United States on or after August  
8 22, 1996, who is:

9 (a) an alien as described in paragraph (1)(b), (c), (d) or (g) of  
10 this subsection; or

11 (b) an alien as described in paragraph (1)(a), (e) or (f) of this  
12 subsection who entered the United States at least five years ago.

13 (3) A legal alien who is a victim of domestic violence in  
14 accordance with criteria specified for eligibility for public benefits  
15 as provided in Title V of the federal "Illegal Immigration Reform  
16 and Immigrant Responsibility Act of 1996" (8 U.S.C. s.1641).

17 (cf: P.L.2018, c.1, s.1)

18  
19 2. Section 4 of P.L.1987, c.350 (C.30:4G-16) is amended to  
20 read as follows:

21 4. A person is eligible for the personal assistance services  
22 program if:

23 a. The person has a permanent physical disability;

24 b. The person is 18 **【through 70】** years of age or older;

25 c. The person is a resident of this State;

26 d. The person is in need of personal assistance services  
27 pursuant to a written plan of service;

28 e. The person is capable of managing and supervising their  
29 personal assistance services;

30 f. A relative or other informal caregiver is not available to  
31 provide the services that the person needs;

32 g. The person lives or plans to live in a private house or  
33 apartment, rooming or boarding house, group home, educational  
34 facility or residential health care facility; and the personal  
35 assistance services that the person shall receive are supplemental to,  
36 and not duplicative of, services provided to the person in the  
37 rooming or boarding house, group home, educational facility or  
38 residential health care facility pursuant to licensure requirements.

39 A person who resides, or is a patient, in a nursing, assisted living,  
40 or intermediate care facility, special hospital or other inpatient  
41 medical setting is not eligible for the personal assistance services  
42 program;

43 h. The attending physician of the person who shall receive the  
44 personal assistance services has confirmed in writing that the  
45 person has a permanent physical disability, requires no assistance in  
46 the coordination of therapeutic regimes, and that the personal  
47 assistance services will be appropriate to meet the person's needs;  
48 and

1 i. The person receives no more than 40 hours of personal  
2 assistance services from this program or any other program per  
3 week. The commissioner shall develop rules for individual  
4 exceptions to this requirement.

5 j. The commissioner shall develop rules for individual  
6 exceptions to the age criteria.  
7 (cf: P.L.2009, c.160, s.3)

8  
9 3. The Commissioner of Human Services shall apply for such  
10 State plan amendments or waivers as may be necessary to  
11 implement the provisions of this act and to continue to secure  
12 federal financial participation for the New Jersey Medicaid  
13 program <sup>1</sup>. In applying for State plan amendments or waivers, the  
14 commissioner shall seek authorization under the “Balanced Budget  
15 Act of 1997,” Pub.L.105-33, as may be necessary to ensure the  
16 provisions of this act are authorized under the “Ticket to Work and  
17 Work Incentives Improvement Act of 1999,” Pub.L.106-170, to the  
18 extent necessary to enable individuals age 65 and older who are no  
19 longer eligible for benefits under the “Ticket to Work and Work  
20 Incentives Improvement Act” to have the opportunity to buy into  
21 Medicaid under the NJ WorkAbility Program<sup>1</sup> .

22  
23 4. The Commissioner of Human <sup>1</sup>~~Services~~ <sup>1</sup>Services <sup>1</sup>,  
24 pursuant to the “Administrative Procedure Act,” P.L.1968, c.410  
25 (C.52:14B-1 et seq.) shall adopt such rules and regulations <sup>1</sup>as are<sup>1</sup>  
26 necessary to implement the provisions of this act.

27  
28 5. This act shall take effect immediately, but shall remain  
29 inoperative until the Commissioner of Human Services receives any  
30 federal approvals following the submission of <sup>1</sup>applications for<sup>1</sup>  
31 State plan amendments or waivers <sup>1</sup>~~[,]~~<sup>1</sup> pursuant to section 3 <sup>1</sup>of  
32 this act<sup>1</sup> .

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36  
37 \_\_\_\_\_  
38 Revises eligibility requirements for NJ Workability Program and  
Personal Assistance Services Program.

**SENATE, No. 3455**

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**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

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INTRODUCED FEBRUARY 16, 2021

**Sponsored by:**

**Senator FRED H. MADDEN, JR.**

**District 4 (Camden and Gloucester)**

**Senator ANTHONY M. BUCCO**

**District 25 (Morris and Somerset)**

**SYNOPSIS**

Revises eligibility requirements for NJ Workability Program and Personal Assistance Services Program.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning medical and support services provided to  
2 certain working individuals with disabilities and amending Title  
3 30 of the Revised Statutes.

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

7  
8 1. Section 3 of P.L.1968, c.413 (C.30:4D-3) is amended to read  
9 as follows:

10 3. Definitions. As used in P.L.1968, c.413 (C.30:4D-1 et seq.),  
11 and unless the context otherwise requires:

12 a. "Applicant" means any person who has made application for  
13 purposes of becoming a "qualified applicant."

14 b. "Commissioner" means the Commissioner of Human  
15 Services.

16 c. "Department" means the Department of Human Services,  
17 which is herein designated as the single State agency to administer  
18 the provisions of this act.

19 d. "Director" means the Director of the Division of Medical  
20 Assistance and Health Services.

21 e. "Division" means the Division of Medical Assistance and  
22 Health Services.

23 f. "Medicaid" means the New Jersey Medical Assistance and  
24 Health Services Program.

25 g. "Medical assistance" means payments on behalf of recipients  
26 to providers for medical care and services authorized under  
27 P.L.1968, c.413.

28 h. "Provider" means any person, public or private institution,  
29 agency, or business concern approved by the division lawfully  
30 providing medical care, services, goods, and supplies authorized  
31 under P.L.1968, c.413, holding, where applicable, a current valid  
32 license to provide such services or to dispense such goods or  
33 supplies.

34 i. "Qualified applicant" means a person who is a resident of  
35 this State, and either a citizen of the United States or an eligible  
36 alien, and is determined to need medical care and services as  
37 provided under P.L.1968, c.413, with respect to whom the period  
38 for which eligibility to be a recipient is determined shall be the  
39 maximum period permitted under federal law, and who:

40 (1) Is a dependent child or parent or caretaker relative of a  
41 dependent child who would be, except for resources, eligible for the  
42 aid to families with dependent children program under the State  
43 Plan for Title IV-A of the federal Social Security Act as of July 16,  
44 1996;

45 (2) Is a recipient of Supplemental Security Income for the Aged,  
46 Blind and Disabled under Title XVI of the Social Security Act;

**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.

1 (3) Is an "ineligible spouse" of a recipient of Supplemental  
2 Security Income for the Aged, Blind and Disabled under Title XVI  
3 of the Social Security Act, as defined by the federal Social Security  
4 Administration;

5 (4) Would be eligible to receive Supplemental Security Income  
6 under Title XVI of the federal Social Security Act or, without  
7 regard to resources, would be eligible for the aid to families with  
8 dependent children program under the State Plan for Title IV-A of  
9 the federal Social Security Act as of July 16, 1996, except for  
10 failure to meet an eligibility condition or requirement imposed  
11 under such State program which is prohibited under Title XIX of  
12 the federal Social Security Act such as a durational residency  
13 requirement, relative responsibility, consent to imposition of a lien;

14 (5) (Deleted by amendment, P.L.2000, c.71).

15 (6) Is an individual under 21 years of age who, without regard to  
16 resources, would be, except for dependent child requirements,  
17 eligible for the aid to families with dependent children program  
18 under the State Plan for Title IV-A of the federal Social Security  
19 Act as of July 16, 1996, or groups of such individuals, including but  
20 not limited to, children in resource family placement under  
21 supervision of the Division of Child Protection and Permanency in  
22 the Department of Children and Families whose maintenance is  
23 being paid in whole or in part from public funds, children placed in  
24 a resource family home or institution by a private adoption agency  
25 in New Jersey or children in intermediate care facilities, including  
26 developmental centers for the developmentally disabled, or in  
27 psychiatric hospitals;

28 (7) Would be eligible for the Supplemental Security Income  
29 program, but is not receiving such assistance and applies for  
30 medical assistance only;

31 (8) Is determined to be medically needy and meets all the  
32 eligibility requirements described below:

33 (a) The following individuals are eligible for services, if they  
34 are determined to be medically needy:

35 (i) Pregnant women;

36 (ii) Dependent children under the age of 21;

37 (iii) Individuals who are 65 years of age and older; and

38 (iv) Individuals who are blind or disabled pursuant to either 42  
39 C.F.R.435.530 et seq. or 42 C.F.R.435.540 et seq., respectively.

40 (b) The following income standard shall be used to determine  
41 medically needy eligibility:

42 (i) For one person and two person households, the income  
43 standard shall be the maximum allowable under federal law, but  
44 shall not exceed 133 1/3% of the State's payment level to two  
45 person households under the aid to families with dependent children  
46 program under the State Plan for Title IV-A of the federal Social  
47 Security Act in effect as of July 16, 1996; and

1 (ii) For households of three or more persons, the income  
2 standard shall be set at 133 1/3% of the State's payment level to  
3 similar size households under the aid to families with dependent  
4 children program under the State Plan for Title IV-A of the federal  
5 Social Security Act in effect as of July 16, 1996.

6 (c) The following resource standard shall be used to determine  
7 medically needy eligibility:

8 (i) For one person households, the resource standard shall be  
9 200% of the resource standard for recipients of Supplemental  
10 Security Income pursuant to 42 U.S.C. s.1382(1)(B);

11 (ii) For two person households, the resource standard shall be  
12 200% of the resource standard for recipients of Supplemental  
13 Security Income pursuant to 42 U.S.C. s.1382(2)(B);

14 (iii) For households of three or more persons, the resource  
15 standard in subparagraph (c)(ii) above shall be increased by  
16 \$100.00 for each additional person; and

17 (iv) The resource standards established in (i), (ii), and (iii) are  
18 subject to federal approval and the resource standard may be lower  
19 if required by the federal Department of Health and Human  
20 Services.

21 (d) Individuals whose income exceeds those established in  
22 subparagraph (b) of paragraph (8) of this subsection may become  
23 medically needy by incurring medical expenses as defined in 42  
24 C.F.R.435.831(c) which will reduce their income to the applicable  
25 medically needy income established in subparagraph (b) of  
26 paragraph (8) of this subsection.

27 (e) A six-month period shall be used to determine whether an  
28 individual is medically needy.

29 (f) Eligibility determinations for the medically needy program  
30 shall be administered as follows:

31 (i) County welfare agencies and other entities designated by the  
32 commissioner are responsible for determining and certifying the  
33 eligibility of pregnant women and dependent children. The division  
34 shall reimburse county welfare agencies for 100% of the reasonable  
35 costs of administration which are not reimbursed by the federal  
36 government for the first 12 months of this program's operation.  
37 Thereafter, 75% of the administrative costs incurred by county  
38 welfare agencies which are not reimbursed by the federal  
39 government shall be reimbursed by the division;

40 (ii) The division is responsible for certifying the eligibility of  
41 individuals who are 65 years of age and older and individuals who  
42 are blind or disabled. The division may enter into contracts with  
43 county welfare agencies to determine certain aspects of eligibility.  
44 In such instances the division shall provide county welfare agencies  
45 with all information the division may have available on the  
46 individual.



1 The division shall notify all eligible recipients of the  
2 Pharmaceutical Assistance to the Aged and Disabled program,  
3 P.L.1975, c.194 (C.30:4D-20 et seq.) on an annual basis of the  
4 medically needy program and the program's general requirements.  
5 The division shall take all reasonable administrative actions to  
6 ensure that Pharmaceutical Assistance to the Aged and Disabled  
7 recipients, who notify the division that they may be eligible for the  
8 program, have their applications processed expeditiously, at times  
9 and locations convenient to the recipients; and

10 (iii) The division is responsible for certifying incurred medical  
11 expenses for all eligible persons who attempt to qualify for the  
12 program pursuant to subparagraph (d) of paragraph (8) of this  
13 subsection;

14 (9) (a) Is a child who is at least one year of age and under 19  
15 years of age and, if older than six years of age but under 19 years of  
16 age, is uninsured; and

17 (b) Is a member of a family whose income does not exceed  
18 133% of the poverty level and who meets the federal Medicaid  
19 eligibility requirements set forth in section 9401 of Pub.L.99-509  
20 (42 U.S.C. s.1396a);

21 (10) Is a pregnant woman who is determined by a provider to be  
22 presumptively eligible for medical assistance based on criteria  
23 established by the commissioner, pursuant to section 9407 of  
24 Pub.L.99-509 (42 U.S.C. s.1396a(a));

25 (11) Is an individual 65 years of age and older, or an individual  
26 who is blind or disabled pursuant to section 301 of Pub.L.92-603  
27 (42 U.S.C. s.1382c), whose income does not exceed 100% of the  
28 poverty level, adjusted for family size, and whose resources do not  
29 exceed 100% of the resource standard used to determine medically  
30 needy eligibility pursuant to paragraph (8) of this subsection;

31 (12) Is a qualified disabled and working individual pursuant to  
32 section 6408 of Pub.L.101-239 (42 U.S.C. s.1396d) whose income  
33 does not exceed 200% of the poverty level and whose resources do  
34 not exceed 200% of the resource standard used to determine  
35 eligibility under the Supplemental Security Income Program,  
36 P.L.1973, c.256 (C.44:7-85 et seq.);

37 (13) Is a pregnant woman or is a child who is under one year of  
38 age and is a member of a family whose income does not exceed  
39 185% of the poverty level and who meets the federal Medicaid  
40 eligibility requirements set forth in section 9401 of Pub.L.99-509  
41 (42 U.S.C. s.1396a), except that a pregnant woman who is  
42 determined to be a qualified applicant shall, notwithstanding any  
43 change in the income of the family of which she is a member,  
44 continue to be deemed a qualified applicant until the end of the 60-  
45 day period beginning on the last day of her pregnancy;

46 (14) (Deleted by amendment, P.L.1997, c.272).

47 (15) (a) Is a specified low-income Medicare beneficiary  
48 pursuant to 42 U.S.C. s.1396a(a)10(E)iii whose resources beginning

1 January 1, 1993 do not exceed 200% of the resource standard used  
2 to determine eligibility under the Supplemental Security Income  
3 program, P.L.1973, c.256 (C.44:7-85 et seq.) and whose income  
4 beginning January 1, 1993 does not exceed 110% of the poverty  
5 level, and beginning January 1, 1995 does not exceed 120% of the  
6 poverty level.

7 (b) An individual who has, within 36 months, or within 60  
8 months in the case of funds transferred into a trust, of applying to  
9 be a qualified applicant for Medicaid services in a nursing facility  
10 or a medical institution, or for home or community-based services  
11 under section 1915(c) of the federal Social Security Act (42 U.S.C.  
12 s.1396n(c)), disposed of resources or income for less than fair  
13 market value shall be ineligible for assistance for nursing facility  
14 services, an equivalent level of services in a medical institution, or  
15 home or community-based services under section 1915(c) of the  
16 federal Social Security Act (42 U.S.C. s.1396n(c)). The period of  
17 the ineligibility shall be the number of months resulting from  
18 dividing the uncompensated value of the transferred resources or  
19 income by the average monthly private payment rate for nursing  
20 facility services in the State as determined annually by the  
21 commissioner. In the case of multiple resource or income transfers,  
22 the resulting penalty periods shall be imposed sequentially.  
23 Application of this requirement shall be governed by 42 U.S.C.  
24 s.1396p(c). In accordance with federal law, this provision is  
25 effective for all transfers of resources or income made on or after  
26 August 11, 1993. Notwithstanding the provisions of this subsection  
27 to the contrary, the State eligibility requirements concerning  
28 resource or income transfers shall not be more restrictive than those  
29 enacted pursuant to 42 U.S.C. s.1396p(c).

30 (c) An individual seeking nursing facility services or home or  
31 community-based services and who has a community spouse shall  
32 be required to expend those resources which are not protected for  
33 the needs of the community spouse in accordance with section  
34 1924(c) of the federal Social Security Act (42 U.S.C. s.1396r-5(c))  
35 on the costs of long-term care, burial arrangements, and any other  
36 expense deemed appropriate and authorized by the commissioner.  
37 An individual shall be ineligible for Medicaid services in a nursing  
38 facility or for home or community-based services under section  
39 1915(c) of the federal Social Security Act (42 U.S.C. s.1396n(c)) if  
40 the individual expends funds in violation of this subparagraph. The  
41 period of ineligibility shall be the number of months resulting from  
42 dividing the uncompensated value of transferred resources and  
43 income by the average monthly private payment rate for nursing  
44 facility services in the State as determined by the commissioner.  
45 The period of ineligibility shall begin with the month that the  
46 individual would otherwise be eligible for Medicaid coverage for  
47 nursing facility services or home or community-based services.

1 This subparagraph shall be operative only if all necessary  
2 approvals are received from the federal government including, but  
3 not limited to, approval of necessary State plan amendments and  
4 approval of any waivers;

5 (16) Subject to federal approval under Title XIX of the federal  
6 Social Security Act, is a dependent child, parent or specified  
7 caretaker relative of a child who is a qualified applicant, who would  
8 be eligible, without regard to resources, for the aid to families with  
9 dependent children program under the State Plan for Title IV-A of  
10 the federal Social Security Act as of July 16, 1996, except for the  
11 income eligibility requirements of that program, and whose family  
12 earned income,

13 (a) if a dependent child, does not exceed 133% of the poverty  
14 level; and

15 (b) if a parent or specified caretaker relative, beginning  
16 September 1, 2005 does not exceed 100% of the poverty level,  
17 beginning September 1, 2006 does not exceed 115% of the poverty  
18 level and beginning September 1, 2007 does not exceed 133% of  
19 the poverty level, plus such earned income disregards as shall be  
20 determined according to a methodology to be established by  
21 regulation of the commissioner;

22 The commissioner may increase the income eligibility limits for  
23 children and parents and specified caretaker relatives, as funding  
24 permits;

25 (17) Is an individual from 18 through 20 years of age who is not  
26 a dependent child and would be eligible for medical assistance  
27 pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), without regard to  
28 income or resources, who, on the individual's 18th birthday was in  
29 resource family care under the care and custody of the Division of  
30 Child Protection and Permanency in the Department of Children  
31 and Families and whose maintenance was being paid in whole or in  
32 part from public funds;

33 (18) Is a person **【between the ages of】** 16 years of age or older  
34 and **【65】** who is permanently disabled and working, and**【**:

35 (a) whose income is at or below 250% of the poverty level, plus  
36 other established disregards;

37 (b)**】** who pays the premium contribution and other cost sharing  
38 as established by the commissioner based solely on the applicant's  
39 earned and unearned income, subject to the limits and conditions of  
40 federal law**【**; and

41 (c) whose assets, resources and unearned income do not exceed  
42 limitations as established by the commissioner**】**.

43 A qualified applicant pursuant to this paragraph shall: (a) not be  
44 subject to any eligibility requirements regarding the earned or  
45 unearned income of the applicant or the applicant's spouse; and (b)  
46 remain eligible for medical care and services as provided under

- 1 P.L.1968, c.413 for up to a period of one year if, through no fault of  
2 the applicant, a job loss occurs;
- 3 (19) Is an uninsured individual under 65 years of age who:
- 4 (a) has been screened for breast or cervical cancer under the  
5 federal Centers for Disease Control and Prevention breast and  
6 cervical cancer early detection program;
- 7 (b) requires treatment for breast or cervical cancer based upon  
8 criteria established by the commissioner;
- 9 (c) has an income that does not exceed the income standard  
10 established by the commissioner pursuant to federal guidelines;
- 11 (d) meets all other Medicaid eligibility requirements; and
- 12 (e) in accordance with Pub.L.106-354, is determined by a  
13 qualified entity to be presumptively eligible for medical assistance  
14 pursuant to 42 U.S.C. s.1396a(aa), based upon criteria established  
15 by the commissioner pursuant to section 1920B of the federal Social  
16 Security Act (42 U.S.C. s.1396r-1b);
- 17 (20) Subject to federal approval under Title XIX of the federal  
18 Social Security Act, is a single adult or couple, without dependent  
19 children, whose income in 2006 does not exceed 50% of the poverty  
20 level, in 2007 does not exceed 75% of the poverty level and in 2008  
21 and each year thereafter does not exceed 100% of the poverty level;  
22 except that a person who is a recipient of Work First New Jersey  
23 general public assistance, pursuant to P.L.1947, c.156 (C.44:8-107  
24 et seq.), shall not be a qualified applicant; or
- 25 (21) is an individual who:
- 26 (a) has an income that does not exceed the highest income  
27 eligibility level for pregnant women established under the State  
28 plan under Title XIX or Title XXI of the federal Social Security  
29 Act;
- 30 (b) is not pregnant; and
- 31 (c) is eligible to receive family planning services provided  
32 under the Medicaid program pursuant to subsection k. of section 6  
33 of P.L.1968, c.413 (C.30:4D-6) and in accordance with 42 U.S.C.  
34 s.1396a(ii).
- 35 j. "Recipient" means any qualified applicant receiving benefits  
36 under this act.
- 37 k. "Resident" means a person who is living in the State  
38 voluntarily with the intention of making his home here and not for a  
39 temporary purpose. Temporary absences from the State, with  
40 subsequent returns to the State or intent to return when the purposes  
41 of the absences have been accomplished, do not interrupt continuity  
42 of residence.
- 43 l. "State Medicaid Commission" means the Governor, the  
44 Commissioner of Human Services, the President of the Senate and  
45 the Speaker of the General Assembly, hereby constituted a  
46 commission to approve and direct the means and method for the  
47 payment of claims pursuant to P.L.1968, c.413.

1 m. "Third party" means any person, institution, corporation,  
2 insurance company, group health plan as defined in section 607(1)  
3 of the federal "Employee Retirement and Income Security Act of  
4 1974," 29 U.S.C. s.1167(1), service benefit plan, health  
5 maintenance organization, or other prepaid health plan, or public,  
6 private or governmental entity who is or may be liable in contract,  
7 tort, or otherwise by law or equity to pay all or part of the medical  
8 cost of injury, disease or disability of an applicant for or recipient  
9 of medical assistance payable under P.L.1968, c.413.

10 n. "Governmental peer grouping system" means a separate  
11 class of skilled nursing and intermediate care facilities administered  
12 by the State or county governments, established for the purpose of  
13 screening their reported costs and setting reimbursement rates under  
14 the Medicaid program that are reasonable and adequate to meet the  
15 costs that must be incurred by efficiently and economically operated  
16 State or county skilled nursing and intermediate care facilities.

17 o. "Comprehensive maternity or pediatric care provider" means  
18 any person or public or private health care facility that is a provider  
19 and that is approved by the commissioner to provide comprehensive  
20 maternity care or comprehensive pediatric care as defined in  
21 subsection b. (18) and (19) of section 6 of P.L.1968, c.413  
22 (C.30:4D-6).

23 p. "Poverty level" means the official poverty level based on  
24 family size established and adjusted under Section 673(2) of  
25 Subtitle B, the "Community Services Block Grant Act," of  
26 Pub.L.97-35 (42 U.S.C. s.9902(2)).

27 q. "Eligible alien" means one of the following:

28 (1) an alien present in the United States prior to August 22,  
29 1996, who is:

30 (a) a lawful permanent resident;

31 (b) a refugee pursuant to section 207 of the federal "Immigration  
32 and Nationality Act" (8 U.S.C. s.1157);

33 (c) an asylee pursuant to section 208 of the federal  
34 "Immigration and Nationality Act" (8 U.S.C. s.1158);

35 (d) an alien who has had deportation withheld pursuant to  
36 section 243(h) of the federal "Immigration and Nationality Act" (8  
37 U.S.C. s.1253 (h));

38 (e) an alien who has been granted parole for less than one year  
39 by the U.S. Citizenship and Immigration Services pursuant to  
40 section 212(d)(5) of the federal "Immigration and Nationality Act"  
41 (8 U.S.C. s.1182(d)(5));

42 (f) an alien granted conditional entry pursuant to section  
43 203(a)(7) of the federal "Immigration and Nationality Act" (8  
44 U.S.C. s.1153(a)(7)) in effect prior to April 1, 1980; or

45 (g) an alien who is honorably discharged from or on active duty  
46 in the United States armed forces and the alien's spouse and  
47 unmarried dependent child.

1 (2) An alien who entered the United States on or after August  
2 22, 1996, who is:

3 (a) an alien as described in paragraph (1)(b), (c), (d) or (g) of  
4 this subsection; or

5 (b) an alien as described in paragraph (1)(a), (e) or (f) of this  
6 subsection who entered the United States at least five years ago.

7 (3) A legal alien who is a victim of domestic violence in  
8 accordance with criteria specified for eligibility for public benefits  
9 as provided in Title V of the federal "Illegal Immigration Reform  
10 and Immigrant Responsibility Act of 1996" (8 U.S.C. s.1641).

11 (cf: P.L.2018, c.1, s.1)

12

13 2. Section 4 of P.L.1987, c.350 (C.30:4G-16) is amended to  
14 read as follows:

15 4. A person is eligible for the personal assistance services  
16 program if:

17 a. The person has a permanent physical disability;

18 b. The person is 18 **【through 70】** years of age or older;

19 c. The person is a resident of this State;

20 d. The person is in need of personal assistance services  
21 pursuant to a written plan of service;

22 e. The person is capable of managing and supervising their  
23 personal assistance services;

24 f. A relative or other informal caregiver is not available to  
25 provide the services that the person needs;

26 g. The person lives or plans to live in a private house or  
27 apartment, rooming or boarding house, group home, educational  
28 facility or residential health care facility; and the personal  
29 assistance services that the person shall receive are supplemental to,  
30 and not duplicative of, services provided to the person in the  
31 rooming or boarding house, group home, educational facility or  
32 residential health care facility pursuant to licensure requirements.

33 A person who resides, or is a patient, in a nursing, assisted living,  
34 or intermediate care facility, special hospital or other inpatient  
35 medical setting is not eligible for the personal assistance services  
36 program;

37 h. The attending physician of the person who shall receive the  
38 personal assistance services has confirmed in writing that the  
39 person has a permanent physical disability, requires no assistance in  
40 the coordination of therapeutic regimes, and that the personal  
41 assistance services will be appropriate to meet the person's needs;  
42 and

43 i. The person receives no more than 40 hours of personal  
44 assistance services from this program or any other program per  
45 week. The commissioner shall develop rules for individual  
46 exceptions to this requirement.

1 j. The commissioner shall develop rules for individual  
2 exceptions to the age criteria.

3 (cf: P.L.2009, c.160, s.3)

4  
5 3. The Commissioner of Human Services shall apply for such  
6 State plan amendments or waivers as may be necessary to implement  
7 the provisions of this act and to continue to secure federal financial  
8 participation for the New Jersey Medicaid program.

9  
10 4. The Commissioner of Human services, pursuant to the  
11 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.)  
12 shall adopt such rules and regulations necessary to implement the  
13 provisions of this act.

14  
15 5. This act shall take effect immediately, but shall remain  
16 inoperative until the Commissioner of Human Services receives any  
17 federal approvals following the submission of State plan  
18 amendments or waivers, pursuant to section 3.

19  
20  
21 STATEMENT

22  
23 This bill revises eligibility requirements for the NJ Workability  
24 Program and the Personal Assistance Services Program. It is the  
25 sponsor’s intent that this bill will remove barriers to employment and  
26 career advancement for individuals with disabilities.

27 The NJ Workability Program is a Medicaid buy-in option for  
28 employed, permanently-disabled individuals, authorized under the  
29 federal “Ticket to Work and Work Incentives Improvement Act of  
30 1999,” Pub.L.106-170. The bill expands the eligibility for this  
31 program in various ways. First, the bill removes the upper age limit  
32 for eligibility, providing that any individual who is older than 16 may  
33 qualify. The current age requirement is between 16 and 65 years of  
34 age. Second, the bills requires that the premium contribution  
35 established by the commissioner is to be based solely on the  
36 applicant’s earned and unearned income. In doing so, the income of  
37 the applicant’s spouse cannot be considered in this determination.  
38 Third, the bill eliminates the program’s existing income eligibility  
39 limit of 250 percent of the federal poverty level and explicitly provides  
40 that a qualified applicant is not to be subject to any eligibility  
41 requirements regarding the earned or unearned income of the applicant  
42 or the applicant’s spouse. Finally, the bill permits that an eligible  
43 applicant for the program is to remain eligible for Medicaid for up to a  
44 period of one year if, through no fault of the applicant, a job loss  
45 occurs.

1       The Personal Assistance Services Program is a State-funded  
2 program that provides up to 40 hours per week of non-medical  
3 personal care assistance to those individuals with permanent  
4 physical disabilities who work, seek educational advancement, or  
5 volunteer in the community for a minimum of 20 hours per month.  
6 Currently, only individuals 18 through 70 years of age can qualify  
7 for this program. Under the bill, the age cap is removed, providing  
8 that anyone over the age of 18 may be eligible for these services.



SENATE HEALTH, HUMAN SERVICES AND SENIOR  
CITIZENS COMMITTEE

STATEMENT TO  
**SENATE, No. 3455**

with committee amendments

**STATE OF NEW JERSEY**

DATED: MARCH 9, 2021

The Senate Health, Human Services and Senior Citizens Committee reports favorably and with committee amendments Senate Bill No. 3455.

This bill revises eligibility requirements for the NJ Workability Program and the Personal Assistance Services Program. The NJ Workability Program is a Medicaid buy-in option for employed, permanently-disabled individuals, authorized under the federal “Ticket to Work and Work Incentives Improvement Act of 1999,” Pub.L.106-170. The bill expands the eligibility for this program in various ways. First, the bill removes the upper age limit for eligibility, providing that any individual who is older than 16 may qualify. The current age requirement is between 16 and 65 years of age. Second, the bill requires that the premium contribution established by the commissioner is to be based solely on the applicant’s earned and unearned income. In doing so, the income of the applicant’s spouse cannot be considered in this determination. Third, the bill eliminates the program’s existing income eligibility limit of 250 percent of the federal poverty level and explicitly provides that a qualified applicant is not to be subject to any eligibility requirements regarding the earned or unearned income of the applicant or the applicant’s spouse. Finally, the bill permits that an eligible applicant for the program is to remain eligible for Medicaid for up to a period of one year if, through no fault of the applicant, a job loss occurs.

The Personal Assistance Services Program is a State-funded program that provides up to 40 hours per week of non-medical personal care assistance to those individuals with permanent physical disabilities who work, seek educational advancement, or volunteer in the community for a minimum of 20 hours per month. Currently, only individuals 18 through 70 years of age can qualify for this program. Under the bill, the age cap is removed, providing that anyone over the age of 18 may be eligible for these services.

COMMITTEE AMENDMENTS:

The committee amendments revise the section of the bill requiring the Commissioner of Human Services to apply for any State plan amendments or waivers as are necessary to ensure federal participation for State expenditures under the Medicaid program to expressly require the requested amendments and waivers to seek authorization under certain relevant federal statutes.

The committee amendments make various technical changes to address a citation issue in the title of the bill and to address issues involving syntax.

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

## SENATE, No. 3455 STATE OF NEW JERSEY 219th LEGISLATURE

DATED: DECEMBER 2, 2021

### SUMMARY

- Synopsis:** Revises eligibility requirements for NJ Workability Program and Personal Assistance Services Program.
- Type of Impact:** Annual State expenditure and revenue increases.
- Agencies Affected:** Department of Human Services.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Annual</u></b>
<b>State Cost Increase</b>	Indeterminate
<b>State Revenue Increase</b>	Marginal

- The Office of Legislative Services (OLS) determines that this bill would result in additional costs for the Division of Disability Services (DDS) within the Department of Human Services (DHS) to expand eligibility for the NJ WorkAbility Program by lifting the upper age limit and removing the upper income limit for program eligibility, by limiting the income sources that the DDS considers in calculating the premium contributions required of program participants, and by allowing a NJ WorkAbility participant to remain eligible for Medicaid for up to one year if, through no fault of the individual, a job loss occurs.
- The NJ WorkAbility Program is a Medicaid buy-in option for employed, permanently disabled individuals; as such, program expansion not only will raise State Medicaid expenditures, but also will increase State revenues in the form of federal matching funds for qualifying State Medicaid expenditures.
- The bill also increases State expenditures for the Personal Assistance Services Program by removing the age cap on program eligibility. Currently, only individuals with permanent disabilities who are between the ages of 18 and 70, and work, pursue educational advancement, or volunteer at least 20 hours per month are eligible for services under this program.

## **BILL DESCRIPTION**

This bill revises eligibility requirements for the NJ Workability Program and the Personal Assistance Services Program. The NJ Workability Program is a Medicaid buy-in option for employed, permanently disabled individuals, authorized under the federal “Ticket to Work and Work Incentives Improvement Act of 1999,” Pub.L.106-170. The bill expands the eligibility for this program in various ways. First, the bill removes the upper age limit for program eligibility, providing that any individual who is older than 16 may qualify. The current age requirement is between 16 and 65 years of age. Second, the bill requires that the premium contribution established by the DHS is to be based solely on the applicant’s earned and unearned income. Currently, spousal income, both earned and unearned, is considered as part of a NJ WorkAbility applicant’s premium determination. Third, the bill eliminates the program’s existing income eligibility limit of 250 percent of the federal poverty level, plus established disregards, and explicitly provides that a qualified applicant is not to be subject to any eligibility requirements regarding the earned or unearned income of the applicant or the applicant’s spouse. Finally, the bill permits that an eligible applicant for the program is to remain eligible for Medicaid for up to a period of one year if, through no fault of the applicant, a job loss occurs.

The Personal Assistance Services Program is a State-funded program that provides up to 40 hours per week of non-medical personal care assistance to those individuals with permanent physical disabilities who work, seek educational advancement, or volunteer in the community for a minimum of 20 hours per month. Currently, only individuals 18 through 70 years of age can qualify for this program. Under the bill, the age cap is removed, providing that anyone over the age of 18 may be eligible for these services.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

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

The OLS determines that the program expansions effectuated under various provisions of this bill would cumulatively increase expenditures under the NJ WorkAbility Program and the PASP. Specifically, provisions of the bill that remove the upper age limit and eliminate the upper income limit for applicants to the NJ WorkAbility Program, currently set at 250 percent of the FPL plus certain income disregards, would substantively increase State costs under this program. State expenditures for the program would also grow pursuant to a provision that explicitly disregards the earned and unearned income of both an eligible applicant and the applicant’s spouse as part of an NJ WorkAbility applicant’s income eligibility determination. Under current law, the DHS may take into consideration both earned and unearned spousal income as part of NJ WorkAbility eligibility determinations. State costs also would rise subsequent to the requirement that an eligible applicant’s Medicaid premium and cost-sharing contribution be based solely on the applicant’s earned and unearned income. Existing State regulations specify that spousal income be factored into such premium determinations. NJ WorkAbility Program costs would increase further under the provision in the bill that allows an eligible program applicant to remain eligible for Medicaid coverage for up to one year if, through no fault of the applicant, a job loss occurs.

Estimates of incremental State costs for each of these program expansions are hampered by a lack of publicly available NJ WorkAbility participation and per-capita cost data, as well as a dearth of information on the number of permanently-disabled individuals for whom spousal income renders them ineligible for the program. Data concerning the number of individuals participating in the NJ WorkAbility Program are outdated; the most recent data, from 2013, show 9,530 program participants. By way of context, NJ FamilyCare enrollment data for October 2021, displayed on the DHS' FamilyCare Dashboard, report 207,162 disabled individuals enrolled in NJ FamilyCare, with 85 percent of these individuals aged 21 years or older. These NJ FamilyCare enrollment data also include 809 blind enrollees, of whom 94 percent are aged 21 years or older. The percentage of these NJ FamilyCare enrollees who participate in the NJ WorkAbility Program, however, is not reported. Advances in medicine and medical technology, however, have increased the life expectancy and improved the physical capabilities of many individuals with disabilities, thereby increasing the likelihood that the number of individuals eligible to purchase Medicaid coverage through the NJ WorkAbility Program has increased by some magnitude since 2013.

The DDS, which manages the NJ WorkAbility Program, does not report per-participant cost data on its website. The NJ FamilyCare Comprehensive Demonstration renewal proposal, which the DHS submitted to the federal Centers for Medicare and Medicaid services on September 10, 2021, projects that expenditures for Other Aged, Blind, and Disabled NJ FamilyCare beneficiaries will total \$3.3 million in FY 2023.

Since NJ WorkAbility Program is a Medicaid buy-in initiative, greater State expenses for the program will also increase State revenues in the form of federal financial participation for qualifying State expenditures under the Medicaid program. However, without access to updated participation and expenditure data from the division, any estimate of the magnitude of this State revenue increase would be incomplete.

The bill furthermore removes the upper age limit of 70 years that is currently in effect for the PASP. The DDS, which administers the PASP, does not report client data by age; therefore, the OLS concludes that this provision will increase State costs for PASP services by an indeterminate amount. The PASP, which receives State funding via the General Fund and the Casino Revenue Fund, provides up to 40 hours per week of non-medical personal care assistance to those individuals with permanent physical disabilities who work, seek educational advancement, or volunteer in the community for a minimum of 20 hours per month. Eligible individuals may apply for the PASP starting at age 18 years. By way of context, Evaluation Data in the Governor's FY 2022 Budget (page D-203) show that in FY 2020, the PASP served 490 clients at an average cost of \$20,443 per client. In FY 2022, the DDS anticipates that the PASP will serve 510 clients at an average per capita cost of \$21,253, a four percent cost increase over FY 2020 funding levels.

*Section: Human Services*  
*Analyst: Anne Hunt Cappabianca*  
*Associate Fiscal Analyst*  
*Approved: Thomas Koenig*  
*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 (C.52:13B-6 et seq.).

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

**SENATE, No. 3455**

# **STATE OF NEW JERSEY**

DATED: DECEMBER 13, 2021

The Assembly Appropriations Committee reports favorably Senate Bill No. 3455 (1R).

This bill revises eligibility requirements for the NJ Workability Program and the Personal Assistance Services Program. The NJ Workability Program is a Medicaid buy-in option for employed, permanently-disabled individuals, authorized under the federal “Ticket to Work and Work Incentives Improvement Act of 1999,” Pub.L.106-170. The bill expands the eligibility for this program in various ways. First, the bill removes the upper age limit for eligibility, providing that any individual who is older than 16 may qualify. The current age requirement is between 16 and 65 years of age. Second, the bill requires that the premium contribution established by the commissioner is to be based solely on the applicant’s earned and unearned income. In doing so, the income of the applicant’s spouse cannot be considered in this determination. Third, the bill eliminates the program’s existing income eligibility limit of 250 percent of the federal poverty level and explicitly provides that a qualified applicant is not to be subject to any eligibility requirements regarding the earned or unearned income of the applicant or the applicant’s spouse. Finally, the bill permits that an eligible applicant for the program is to remain eligible for Medicaid for up to a period of one year if, through no fault of the applicant, a job loss occurs.

The Personal Assistance Services Program is a State-funded program that provides up to 40 hours per week of non-medical personal care assistance to those individuals with permanent physical disabilities who work, seek educational advancement, or volunteer in the community for a minimum of 20 hours per month. Currently, only individuals 18 through 70 years of age can qualify for this program. Under the bill, the age cap is removed, providing that anyone over the age of 18 may be eligible for these services.

As reported by the committee, Senate Bill No. 3455 (1R) is identical to Assembly Bill No. 5262 (1R) which was amended and reported by the committee on this date.

### FISCAL IMPACT:

The Office of Legislative Services (OLS) determines that this bill would result in additional costs for the Division of Disability Services

(DDS) within the Department of Human Services to expand eligibility for the NJ WorkAbility Program by lifting the upper age limit and removing the upper income limit for program eligibility, by limiting the income sources that the DDS considers in calculating the premium contributions required for program participants, and by allowing a NJ WorkAbility participant to remain eligible for Medicaid for up to one year, if through no fault of the individual, a job loss occurs.

The NJ WorkAbility Program is a Medicaid buy-in option for employed, permanently disabled individuals; as such, program expansion not only will raise State Medicaid expenditures, but also will increase State revenues in the form of federal matching funds for qualifying State Medicaid expenditures.

The bill also increase State expenditures for the Personal Assistance Services Program by removing the age cap on program eligibility. Currently, only individuals with permanent disabilities who are between the ages of 18 and 70, and work, pursue education advancement, or volunteer at least 20 hours per month are eligible for services under this program.

# ASSEMBLY, No. 5262

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JANUARY 12, 2021

**Sponsored by:**

**Assemblywoman CAROL A. MURPHY**

**District 7 (Burlington)**

**Assemblyman ERIC HOUGHTALING**

**District 11 (Monmouth)**

**Assemblywoman BRITNEE N. TIMBERLAKE**

**District 34 (Essex and Passaic)**

**Co-Sponsored by:**

**Assemblywomen Chaparro and Vainieri Huttie**

**SYNOPSIS**

Revises eligibility requirements for NJ Workability Program and Personal Assistance Services Program.

**CURRENT VERSION OF TEXT**

As introduced.



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



A5262 MURPHY, HOUGHTALING

2

1 AN ACT concerning medical and support services provided to  
2 certain working individuals with disabilities and amending Title  
3 30 of the Revised Statutes.

4

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

7

8 1. Section 3 of P.L.1968, c.413 (C.30:4D-3) is amended to read  
9 as follows:

10 3. Definitions. As used in P.L.1968, c.413 (C.30:4D-1 et seq.),  
11 and unless the context otherwise requires:

12 a. "Applicant" means any person who has made application for  
13 purposes of becoming a "qualified applicant."

14 b. "Commissioner" means the Commissioner of Human  
15 Services.

16 c. "Department" means the Department of Human Services,  
17 which is herein designated as the single State agency to administer  
18 the provisions of this act.

19 d. "Director" means the Director of the Division of Medical  
20 Assistance and Health Services.

21 e. "Division" means the Division of Medical Assistance and  
22 Health Services.

23 f. "Medicaid" means the New Jersey Medical Assistance and  
24 Health Services Program.

25 g. "Medical assistance" means payments on behalf of recipients  
26 to providers for medical care and services authorized under  
27 P.L.1968, c.413.

28 h. "Provider" means any person, public or private institution,  
29 agency, or business concern approved by the division lawfully  
30 providing medical care, services, goods, and supplies authorized  
31 under P.L.1968, c.413, holding, where applicable, a current valid  
32 license to provide such services or to dispense such goods or  
33 supplies.

34 i. "Qualified applicant" means a person who is a resident of  
35 this State, and either a citizen of the United States or an eligible  
36 alien, and is determined to need medical care and services as  
37 provided under P.L.1968, c.413, with respect to whom the period  
38 for which eligibility to be a recipient is determined shall be the  
39 maximum period permitted under federal law, and who:

40 (1) Is a dependent child or parent or caretaker relative of a  
41 dependent child who would be, except for resources, eligible for the  
42 aid to families with dependent children program under the State  
43 Plan for Title IV-A of the federal Social Security Act as of July 16,  
44 1996;

**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.**

- 1 (2) Is a recipient of Supplemental Security Income for the Aged,  
2 Blind and Disabled under Title XVI of the Social Security Act;
- 3 (3) Is an "ineligible spouse" of a recipient of Supplemental  
4 Security Income for the Aged, Blind and Disabled under Title XVI  
5 of the Social Security Act, as defined by the federal Social Security  
6 Administration;
- 7 (4) Would be eligible to receive Supplemental Security Income  
8 under Title XVI of the federal Social Security Act or, without  
9 regard to resources, would be eligible for the aid to families with  
10 dependent children program under the State Plan for Title IV-A of  
11 the federal Social Security Act as of July 16, 1996, except for  
12 failure to meet an eligibility condition or requirement imposed  
13 under such State program which is prohibited under Title XIX of  
14 the federal Social Security Act such as a durational residency  
15 requirement, relative responsibility, consent to imposition of a lien;
- 16 (5) (Deleted by amendment, P.L.2000, c.71).
- 17 (6) Is an individual under 21 years of age who, without regard to  
18 resources, would be, except for dependent child requirements,  
19 eligible for the aid to families with dependent children program  
20 under the State Plan for Title IV-A of the federal Social Security  
21 Act as of July 16, 1996, or groups of such individuals, including but  
22 not limited to, children in resource family placement under  
23 supervision of the Division of Child Protection and Permanency in  
24 the Department of Children and Families whose maintenance is  
25 being paid in whole or in part from public funds, children placed in  
26 a resource family home or institution by a private adoption agency  
27 in New Jersey or children in intermediate care facilities, including  
28 developmental centers for the developmentally disabled, or in  
29 psychiatric hospitals;
- 30 (7) Would be eligible for the Supplemental Security Income  
31 program, but is not receiving such assistance and applies for  
32 medical assistance only;
- 33 (8) Is determined to be medically needy and meets all the  
34 eligibility requirements described below:
- 35 (a) The following individuals are eligible for services, if they  
36 are determined to be medically needy:
- 37 (i) Pregnant women;
- 38 (ii) Dependent children under the age of 21;
- 39 (iii) Individuals who are 65 years of age and older; and
- 40 (iv) Individuals who are blind or disabled pursuant to either 42  
41 C.F.R.435.530 et seq. or 42 C.F.R.435.540 et seq., respectively.
- 42 (b) The following income standard shall be used to determine  
43 medically needy eligibility:
- 44 (i) For one person and two person households, the income  
45 standard shall be the maximum allowable under federal law, but  
46 shall not exceed 133 1/3% of the State's payment level to two  
47 person households under the aid to families with dependent children

1 program under the State Plan for Title IV-A of the federal Social  
2 Security Act in effect as of July 16, 1996; and

3 (ii) For households of three or more persons, the income standard  
4 shall be set at 133 1/3% of the State's payment level to similar size  
5 households under the aid to families with dependent children  
6 program under the State Plan for Title IV-A of the federal Social  
7 Security Act in effect as of July 16, 1996.

8 (c) The following resource standard shall be used to determine  
9 medically needy eligibility:

10 (i) For one person households, the resource standard shall be  
11 200% of the resource standard for recipients of Supplemental  
12 Security Income pursuant to 42 U.S.C. s.1382(1)(B);

13 (ii) For two person households, the resource standard shall be  
14 200% of the resource standard for recipients of Supplemental  
15 Security Income pursuant to 42 U.S.C. s.1382(2)(B);

16 (iii) For households of three or more persons, the resource  
17 standard in subparagraph (c)(ii) above shall be increased by  
18 \$100.00 for each additional person; and

19 (iv) The resource standards established in (i), (ii), and (iii) are  
20 subject to federal approval and the resource standard may be lower  
21 if required by the federal Department of Health and Human  
22 Services.

23 (d) Individuals whose income exceeds those established in  
24 subparagraph (b) of paragraph (8) of this subsection may become  
25 medically needy by incurring medical expenses as defined in 42  
26 C.F.R.435.831(c) which will reduce their income to the applicable  
27 medically needy income established in subparagraph (b) of  
28 paragraph (8) of this subsection.

29 (e) A six-month period shall be used to determine whether an  
30 individual is medically needy.

31 (f) Eligibility determinations for the medically needy program  
32 shall be administered as follows:

33 (i) County welfare agencies and other entities designated by the  
34 commissioner are responsible for determining and certifying the  
35 eligibility of pregnant women and dependent children. The division  
36 shall reimburse county welfare agencies for 100% of the reasonable  
37 costs of administration which are not reimbursed by the federal  
38 government for the first 12 months of this program's operation.  
39 Thereafter, 75% of the administrative costs incurred by county  
40 welfare agencies which are not reimbursed by the federal  
41 government shall be reimbursed by the division;

42 (ii) The division is responsible for certifying the eligibility of  
43 individuals who are 65 years of age and older and individuals who  
44 are blind or disabled. The division may enter into contracts with  
45 county welfare agencies to determine certain aspects of eligibility.  
46 In such instances the division shall provide county welfare agencies  
47 with all information the division may have available on the  
48 individual.

1 The division shall notify all eligible recipients of the  
2 Pharmaceutical Assistance to the Aged and Disabled program,  
3 P.L.1975, c.194 (C.30:4D-20 et seq.) on an annual basis of the  
4 medically needy program and the program's general requirements.  
5 The division shall take all reasonable administrative actions to  
6 ensure that Pharmaceutical Assistance to the Aged and Disabled  
7 recipients, who notify the division that they may be eligible for the  
8 program, have their applications processed expeditiously, at times  
9 and locations convenient to the recipients; and

10 (iii) The division is responsible for certifying incurred medical  
11 expenses for all eligible persons who attempt to qualify for the  
12 program pursuant to subparagraph (d) of paragraph (8) of this  
13 subsection;

14 (9) (a) Is a child who is at least one year of age and under 19  
15 years of age and, if older than six years of age but under 19 years of  
16 age, is uninsured; and

17 (b) Is a member of a family whose income does not exceed  
18 133% of the poverty level and who meets the federal Medicaid  
19 eligibility requirements set forth in section 9401 of Pub.L.99-509  
20 (42 U.S.C. s.1396a);

21 (10) Is a pregnant woman who is determined by a provider to be  
22 presumptively eligible for medical assistance based on criteria  
23 established by the commissioner, pursuant to section 9407 of  
24 Pub.L.99-509 (42 U.S.C. s.1396a(a));

25 (11) Is an individual 65 years of age and older, or an individual  
26 who is blind or disabled pursuant to section 301 of Pub.L.92-603  
27 (42 U.S.C. s.1382c), whose income does not exceed 100% of the  
28 poverty level, adjusted for family size, and whose resources do not  
29 exceed 100% of the resource standard used to determine medically  
30 needy eligibility pursuant to paragraph (8) of this subsection;

31 (12) Is a qualified disabled and working individual pursuant to  
32 section 6408 of Pub.L.101-239 (42 U.S.C. s.1396d) whose income  
33 does not exceed 200% of the poverty level and whose resources do  
34 not exceed 200% of the resource standard used to determine  
35 eligibility under the Supplemental Security Income Program,  
36 P.L.1973, c.256 (C.44:7-85 et seq.);

37 (13) Is a pregnant woman or is a child who is under one year of  
38 age and is a member of a family whose income does not exceed  
39 185% of the poverty level and who meets the federal Medicaid  
40 eligibility requirements set forth in section 9401 of Pub.L.99-509  
41 (42 U.S.C. s.1396a), except that a pregnant woman who is  
42 determined to be a qualified applicant shall, notwithstanding any  
43 change in the income of the family of which she is a member,  
44 continue to be deemed a qualified applicant until the end of the 60-  
45 day period beginning on the last day of her pregnancy;

46 (14) (Deleted by amendment, P.L.1997, c.272).

47 (15) (a) Is a specified low-income Medicare beneficiary pursuant  
48 to 42 U.S.C. s.1396a(a)10(E)iii whose resources beginning January

1 1, 1993 do not exceed 200% of the resource standard used to  
2 determine eligibility under the Supplemental Security Income  
3 program, P.L.1973, c.256 (C.44:7-85 et seq.) and whose income  
4 beginning January 1, 1993 does not exceed 110% of the poverty  
5 level, and beginning January 1, 1995 does not exceed 120% of the  
6 poverty level.

7 (b) An individual who has, within 36 months, or within 60  
8 months in the case of funds transferred into a trust, of applying to  
9 be a qualified applicant for Medicaid services in a nursing facility  
10 or a medical institution, or for home or community-based services  
11 under section 1915(c) of the federal Social Security Act (42 U.S.C.  
12 s.1396n(c)), disposed of resources or income for less than fair  
13 market value shall be ineligible for assistance for nursing facility  
14 services, an equivalent level of services in a medical institution, or  
15 home or community-based services under section 1915(c) of the  
16 federal Social Security Act (42 U.S.C. s.1396n(c)). The period of  
17 the ineligibility shall be the number of months resulting from  
18 dividing the uncompensated value of the transferred resources or  
19 income by the average monthly private payment rate for nursing  
20 facility services in the State as determined annually by the  
21 commissioner. In the case of multiple resource or income transfers,  
22 the resulting penalty periods shall be imposed sequentially.  
23 Application of this requirement shall be governed by 42 U.S.C.  
24 s.1396p(c). In accordance with federal law, this provision is  
25 effective for all transfers of resources or income made on or after  
26 August 11, 1993. Notwithstanding the provisions of this subsection  
27 to the contrary, the State eligibility requirements concerning  
28 resource or income transfers shall not be more restrictive than those  
29 enacted pursuant to 42 U.S.C. s.1396p(c).

30 (c) An individual seeking nursing facility services or home or  
31 community-based services and who has a community spouse shall  
32 be required to expend those resources which are not protected for  
33 the needs of the community spouse in accordance with section  
34 1924(c) of the federal Social Security Act (42 U.S.C. s.1396r-5(c))  
35 on the costs of long-term care, burial arrangements, and any other  
36 expense deemed appropriate and authorized by the commissioner.  
37 An individual shall be ineligible for Medicaid services in a nursing  
38 facility or for home or community-based services under section  
39 1915(c) of the federal Social Security Act (42 U.S.C. s.1396n(c)) if  
40 the individual expends funds in violation of this subparagraph. The  
41 period of ineligibility shall be the number of months resulting from  
42 dividing the uncompensated value of transferred resources and  
43 income by the average monthly private payment rate for nursing  
44 facility services in the State as determined by the commissioner.  
45 The period of ineligibility shall begin with the month that the  
46 individual would otherwise be eligible for Medicaid coverage for  
47 nursing facility services or home or community-based services.

1 This subparagraph shall be operative only if all necessary  
2 approvals are received from the federal government including, but  
3 not limited to, approval of necessary State plan amendments and  
4 approval of any waivers;

5 (16) Subject to federal approval under Title XIX of the federal  
6 Social Security Act, is a dependent child, parent or specified  
7 caretaker relative of a child who is a qualified applicant, who would  
8 be eligible, without regard to resources, for the aid to families with  
9 dependent children program under the State Plan for Title IV-A of  
10 the federal Social Security Act as of July 16, 1996, except for the  
11 income eligibility requirements of that program, and whose family  
12 earned income,

13 (a) if a dependent child, does not exceed 133% of the poverty  
14 level; and

15 (b) if a parent or specified caretaker relative, beginning  
16 September 1, 2005 does not exceed 100% of the poverty level,  
17 beginning September 1, 2006 does not exceed 115% of the poverty  
18 level and beginning September 1, 2007 does not exceed 133% of  
19 the poverty level, plus such earned income disregards as shall be  
20 determined according to a methodology to be established by  
21 regulation of the commissioner;

22 The commissioner may increase the income eligibility limits for  
23 children and parents and specified caretaker relatives, as funding  
24 permits;

25 (17) Is an individual from 18 through 20 years of age who is not  
26 a dependent child and would be eligible for medical assistance  
27 pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), without regard to  
28 income or resources, who, on the individual's 18th birthday was in  
29 resource family care under the care and custody of the Division of  
30 Child Protection and Permanency in the Department of Children  
31 and Families and whose maintenance was being paid in whole or in  
32 part from public funds;

33 (18) Is a person **【between the ages of】** 16 years of age or older  
34 **and 【65】** who is permanently disabled and working, and**【**:

35 (a) whose income is at or below 250% of the poverty level, plus  
36 other established disregards;

37 **【b】** who pays the premium contribution and other cost sharing  
38 as established by the commissioner based solely on the applicant's  
39 earned and unearned income, subject to the limits and conditions of  
40 federal law**【**; and

41 (c) whose assets, resources and unearned income do not exceed  
42 limitations as established by the commissioner**【**.

43 A qualified applicant pursuant to this paragraph shall: (a) not be  
44 subject to any eligibility requirements regarding the earned or  
45 unearned income of the applicant or the applicant's spouse; and (b)  
46 remain eligible for medical care and services as provided under

1 P.L.1968, c.413 for up to a period of one year if, through no fault of  
2 the applicant, a job loss occurs;

3 (19) Is an uninsured individual under 65 years of age who:

4 (a) has been screened for breast or cervical cancer under the  
5 federal Centers for Disease Control and Prevention breast and  
6 cervical cancer early detection program;

7 (b) requires treatment for breast or cervical cancer based upon  
8 criteria established by the commissioner;

9 (c) has an income that does not exceed the income standard  
10 established by the commissioner pursuant to federal guidelines;

11 (d) meets all other Medicaid eligibility requirements; and

12 (e) in accordance with Pub.L.106-354, is determined by a  
13 qualified entity to be presumptively eligible for medical assistance  
14 pursuant to 42 U.S.C. s.1396a(aa), based upon criteria established  
15 by the commissioner pursuant to section 1920B of the federal Social  
16 Security Act (42 U.S.C. s.1396r-1b);

17 (20) Subject to federal approval under Title XIX of the federal  
18 Social Security Act, is a single adult or couple, without dependent  
19 children, whose income in 2006 does not exceed 50% of the poverty  
20 level, in 2007 does not exceed 75% of the poverty level and in 2008  
21 and each year thereafter does not exceed 100% of the poverty level;  
22 except that a person who is a recipient of Work First New Jersey  
23 general public assistance, pursuant to P.L.1947, c.156 (C.44:8-107  
24 et seq.), shall not be a qualified applicant; or

25 (21) is an individual who:

26 (a) has an income that does not exceed the highest income  
27 eligibility level for pregnant women established under the State  
28 plan under Title XIX or Title XXI of the federal Social Security  
29 Act;

30 (b) is not pregnant; and

31 (c) is eligible to receive family planning services provided  
32 under the Medicaid program pursuant to subsection k. of section 6  
33 of P.L.1968, c.413 (C.30:4D-6) and in accordance with 42 U.S.C.  
34 s.1396a(ii).

35 j. "Recipient" means any qualified applicant receiving benefits  
36 under this act.

37 k. "Resident" means a person who is living in the State  
38 voluntarily with the intention of making his home here and not for a  
39 temporary purpose. Temporary absences from the State, with  
40 subsequent returns to the State or intent to return when the purposes  
41 of the absences have been accomplished, do not interrupt continuity  
42 of residence.

43 l. "State Medicaid Commission" means the Governor, the  
44 Commissioner of Human Services, the President of the Senate and  
45 the Speaker of the General Assembly, hereby constituted a  
46 commission to approve and direct the means and method for the  
47 payment of claims pursuant to P.L.1968, c.413.

1 m. "Third party" means any person, institution, corporation,  
2 insurance company, group health plan as defined in section 607(1)  
3 of the federal "Employee Retirement and Income Security Act of  
4 1974," 29 U.S.C. s.1167(1), service benefit plan, health  
5 maintenance organization, or other prepaid health plan, or public,  
6 private or governmental entity who is or may be liable in contract,  
7 tort, or otherwise by law or equity to pay all or part of the medical  
8 cost of injury, disease or disability of an applicant for or recipient  
9 of medical assistance payable under P.L.1968, c.413.

10 n. "Governmental peer grouping system" means a separate  
11 class of skilled nursing and intermediate care facilities administered  
12 by the State or county governments, established for the purpose of  
13 screening their reported costs and setting reimbursement rates under  
14 the Medicaid program that are reasonable and adequate to meet the  
15 costs that must be incurred by efficiently and economically operated  
16 State or county skilled nursing and intermediate care facilities.

17 o. "Comprehensive maternity or pediatric care provider" means  
18 any person or public or private health care facility that is a provider  
19 and that is approved by the commissioner to provide comprehensive  
20 maternity care or comprehensive pediatric care as defined in  
21 subsection b. (18) and (19) of section 6 of P.L.1968, c.413  
22 (C.30:4D-6).

23 p. "Poverty level" means the official poverty level based on  
24 family size established and adjusted under Section 673(2) of  
25 Subtitle B, the "Community Services Block Grant Act," of  
26 Pub.L.97-35 (42 U.S.C. s.9902(2)).

27 q. "Eligible alien" means one of the following:

28 (1) an alien present in the United States prior to August 22,  
29 1996, who is:

30 (a) a lawful permanent resident;

31 (b) a refugee pursuant to section 207 of the federal "Immigration  
32 and Nationality Act" (8 U.S.C. s.1157);

33 (c) an asylee pursuant to section 208 of the federal  
34 "Immigration and Nationality Act" (8 U.S.C. s.1158);

35 (d) an alien who has had deportation withheld pursuant to  
36 section 243(h) of the federal "Immigration and Nationality Act" (8  
37 U.S.C. s.1253 (h));

38 (e) an alien who has been granted parole for less than one year  
39 by the U.S. Citizenship and Immigration Services pursuant to  
40 section 212(d)(5) of the federal "Immigration and Nationality Act"  
41 (8 U.S.C. s.1182(d)(5));

42 (f) an alien granted conditional entry pursuant to section  
43 203(a)(7) of the federal "Immigration and Nationality Act" (8  
44 U.S.C. s.1153(a)(7)) in effect prior to April 1, 1980; or

45 (g) an alien who is honorably discharged from or on active duty  
46 in the United States armed forces and the alien's spouse and  
47 unmarried dependent child.



- 1 (2) An alien who entered the United States on or after August  
2 22, 1996, who is:
- 3 (a) an alien as described in paragraph (1)(b), (c), (d) or (g) of  
4 this subsection; or
- 5 (b) an alien as described in paragraph (1)(a), (e) or (f) of this  
6 subsection who entered the United States at least five years ago.
- 7 (3) A legal alien who is a victim of domestic violence in  
8 accordance with criteria specified for eligibility for public benefits  
9 as provided in Title V of the federal "Illegal Immigration Reform  
10 and Immigrant Responsibility Act of 1996" (8 U.S.C. s.1641).  
11 (cf: P.L.2018, c.1, s.1)

12  
13 2. Section 4 of P.L.1987, c.350 (C.30:4G-16) is amended to  
14 read as follows:

- 15 4. A person is eligible for the personal assistance services  
16 program if:
- 17 a. The person has a permanent physical disability;
- 18 b. The person is 18 **through 70** years of age or older;
- 19 c. The person is a resident of this State;
- 20 d. The person is in need of personal assistance services  
21 pursuant to a written plan of service;
- 22 e. The person is capable of managing and supervising their  
23 personal assistance services;
- 24 f. A relative or other informal caregiver is not available to  
25 provide the services that the person needs;
- 26 g. The person lives or plans to live in a private house or  
27 apartment, rooming or boarding house, group home, educational  
28 facility or residential health care facility; and the personal  
29 assistance services that the person shall receive are supplemental to,  
30 and not duplicative of, services provided to the person in the  
31 rooming or boarding house, group home, educational facility or  
32 residential health care facility pursuant to licensure requirements.  
33 A person who resides, or is a patient, in a nursing, assisted living,  
34 or intermediate care facility, special hospital or other inpatient  
35 medical setting is not eligible for the personal assistance services  
36 program;
- 37 h. The attending physician of the person who shall receive the  
38 personal assistance services has confirmed in writing that the  
39 person has a permanent physical disability, requires no assistance in  
40 the coordination of therapeutic regimes, and that the personal  
41 assistance services will be appropriate to meet the person's needs;  
42 and
- 43 i. The person receives no more than 40 hours of personal  
44 assistance services from this program or any other program per  
45 week. The commissioner shall develop rules for individual  
46 exceptions to this requirement.

1 j. The commissioner shall develop rules for individual  
2 exceptions to the age criteria.

3 (cf: P.L.2009, c.160, s.3)

4  
5 3. The Commissioner of Human Services shall apply for such  
6 State plan amendments or waivers as may be necessary to implement  
7 the provisions of this act and to continue to secure federal financial  
8 participation for the New Jersey Medicaid program.

9  
10 4. The Commissioner of Human services, pursuant to the  
11 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.)  
12 shall adopt such rules and regulations necessary to implement the  
13 provisions of this act.

14  
15 5. This act shall take effect immediately, but shall remain  
16 inoperative until the Commissioner of Human Services receives any  
17 federal approvals following the submission of State plan  
18 amendments or waivers, pursuant to section 3.

19  
20  
21 STATEMENT

22  
23 This bill revises eligibility requirements for the NJ Workability  
24 Program and the Personal Assistance Services Program. It is the  
25 sponsor’s intent that this bill will remove barriers to employment and  
26 career advancement for individuals with disabilities.

27 The NJ Workability Program is a Medicaid buy-in option for  
28 employed, permanently-disabled individuals, authorized under the  
29 federal “Ticket to Work and Work Incentives Improvement Act of  
30 1999,” Pub.L.106-170. The bill expands the eligibility for this  
31 program in various ways. First, the bill removes the upper age limit  
32 for eligibility, providing that any individual who is older than 16 may  
33 qualify. The current age requirement is between 16 and 65 years of  
34 age. Second, the bills requires that the premium contribution  
35 established by the commissioner is to be based solely on the  
36 applicant’s earned and unearned income. In doing so, the income of  
37 the applicant’s spouse cannot be considered in this determination.  
38 Third, the bill eliminates the program’s existing income eligibility  
39 limit of 250 percent of the federal poverty level and explicitly provides  
40 that a qualified applicant is not to be subject to any eligibility  
41 requirements regarding the earned or unearned income of the applicant  
42 or the applicant’s spouse. Finally, the bill permits that an eligible  
43 applicant for the program is to remain eligible for Medicaid for up to a  
44 period of one year if, through no fault of the applicant, a job loss  
45 occurs.

46 The Personal Assistance Services Program is a State-funded  
47 program that provides up to 40 hours per week of non-medical  
48 personal care assistance to those individuals with permanent

**A5262 MURPHY, HOUGHTALING**

12

1 physical disabilities who work, seek educational advancement, or  
2 volunteer in the community for a minimum of 20 hours per month.  
3 Currently, only individuals 18 through 70 years of age can qualify  
4 for this program. Under the bill, the age cap is removed, providing  
5 that anyone over the age of 18 may be eligible for these services.

# ASSEMBLY HUMAN SERVICES COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 5262**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: MAY 12, 2021

The Assembly Health Committee reports favorably and with committee amendments Assembly Bill No. 5262.

As amended by the committee, this bill revises eligibility requirements for the NJ Workability Program and the Personal Assistance Services Program. The NJ Workability Program is a Medicaid buy-in option for employed, permanently-disabled individuals, authorized under the federal "Ticket to Work and Work Incentives Improvement Act of 1999," Pub.L.106-170. As amended, the bill expands the eligibility for this program in various ways. First, the bill removes the upper age limit for eligibility, providing that any individual who is older than 16 may qualify. The current age requirement is between 16 and 65 years of age. Second, the bill requires that the premium contribution established by the commissioner is to be based solely on the applicant's earned and unearned income. In doing so, the income of the applicant's spouse cannot be considered in this determination. Third, as amended by the committee, the bill increases the program's existing income eligibility limit of 250 percent of the federal poverty level to 450 percent of the federal poverty level, and explicitly provides that a qualified applicant is not to be subject to any eligibility requirements regarding the earned or unearned income of the applicant or the applicant's spouse, except when the spouse's earned or unearned income is over \$250,000. Finally, the bill permits that an eligible applicant for the program is to remain eligible for Medicaid for up to a period of one year if, through no fault of the applicant, a job loss occurs.

The Personal Assistance Services Program is a State-funded program that provides up to 40 hours per week of non-medical personal care assistance to those individuals with permanent physical disabilities who work, seek educational advancement, or volunteer in the community for a minimum of 20 hours per month. Currently, only individuals 18 through 70 years of age can qualify for this program. Under the bill, the age cap is removed, providing that anyone over the age of 18 may be eligible for these services.

#### COMMITTEE AMENDMENTS:

The committee amendments increase the State's Medicaid program's existing income eligibility limit of 250 percent of the

federal poverty level to 450 percent of the federal poverty level, and clarifies that if the earned or unearned income of the spouse of a qualified applicant is over \$250,000, the Commissioner of Human Services may take into account that income when determining eligibility.

Originally, the bill eliminated the program's existing income eligibility limit of 250 percent of the federal poverty level and explicitly provided that a qualified applicant is not to be subject to any eligibility requirements regarding the earned or unearned income of the applicant or the applicant's spouse.

The committee amendments revise the section of the bill requiring the commissioner to apply for any State plan amendments or waivers as are necessary to ensure federal participation for State expenditures under the Medicaid program to expressly require the requested amendments and waivers to seek authorization under certain relevant federal statutes.

The committee amendments make various technical changes to address a citation issue in the title of the bill and to address issues involving syntax.

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

## ASSEMBLY, No. 5262

### STATE OF NEW JERSEY 219th LEGISLATURE

DATED: NOVEMBER 12, 2021

#### SUMMARY

- Synopsis:** Revises eligibility requirements for NJ Workability Program and Personal Assistance Services Program.
- Type of Impact:** Annual State expenditure and revenue increases.
- Agencies Affected:** Department of Human Services.

#### Office of Legislative Services Estimate

<b>Fiscal Impact</b>	<b><u>Annual</u></b>
<b>State Cost Increase</b>	Indeterminate
<b>State Revenue Increase</b>	Marginal

- The Office of Legislative Services (OLS) determines that this bill would result in additional costs for the Division of Disability Services (DDS) within the Department of Human Services (DHS) to expand eligibility for the NJ WorkAbility Program by lifting the upper age limit and increasing the upper income limit for program eligibility, by limiting the income sources that the DDS considers in calculating the premium contributions required of program participants, and by allowing a NJ WorkAbility participant to remain eligible for Medicaid for up to one year if, through no fault of the individual, a job loss occurs.
- The NJ WorkAbility Program is a Medicaid buy-in option for employed, permanently disabled individuals; as such, program expansion not only will raise State Medicaid expenditures, but also will increase State revenues in the form of federal matching funds for qualifying State Medicaid expenditures.
- The bill also increases State expenditures for the Personal Assistance Services Program by removing the age cap on program eligibility. Currently, only individuals with permanent disabilities who are between the ages of 18 and 70, and work, pursue educational advancement, or volunteer at least 20 hours per month are eligible for services under this program.

## **BILL DESCRIPTION**

This bill revises eligibility requirements for the NJ WorkAbility Program and the Personal Assistance Services Program (PASP), which operate under the purview of the DDS within the DHS. The NJ WorkAbility Program is a Medicaid buy-in option for employed, permanently disabled individuals, authorized under federal law. Current law limits eligibility for participation in the NJ WorkAbility Program to applicants who are between the ages of 16 and 65 years and have earned income of \$65,196 or less, in the case of an individual, and \$87,900 or less for couples. Program eligibility guidelines, moreover, limit assets to \$20,000 for an eligible individual, and \$30,000 for a couple. However, the NJ WorkAbility Program's asset determination disregards a limited number of applicant assets, including an applicant's primary home, a car necessary for work or medical transportation, and a 401(k) or individual retirement accounts.

Eligibility for the NJ WorkAbility Program is expanded in various ways under the bill. First, the bill removes the upper age limit for program eligibility, providing that any individual aged 16 years or older who meets the program's other requirements may apply. The bill also specifies that the premium contribution required of all NJ WorkAbility applicants, as established by the DHS, is to be based solely on the applicant's earned and unearned income. Spousal income is not to be taken into account in such premium contribution calculations. However, if an applicant's spouse reports over \$250,000 in earned and unearned income combined, the DHS may consider spousal income in determining the premium contribution required of the NJ WorkAbility applicant. Under current law, the earned and unearned income of both the applicant and the applicant's spouse may be considered in determining an applicant's premium contribution.

The bill additionally raises the income eligibility limit for NJ WorkAbility applicants from 250 percent of the federal poverty level (FPL), or \$32,200 for an individual and \$43,550 for a couple, to 450 percent of the FPL, or \$57,960 for a single person and \$78,390 for a couple. The bill, moreover, specifies that an eligible NJ WorkAbility applicant is to remain eligible for Medicaid benefits for up to a period of one year if, through no fault of the applicant, a job loss occurs.

Finally, the bill removes the age cap for individuals who may qualify for benefits through the PASP, a State-funded program that provides up to 40 hours per week of non-medical personal care assistance to individuals with permanent physical disabilities who work, seek educational advancement, or volunteer in the community for a minimum of 20 hours per month. Currently, only individuals 18 through 70 years of age who meet the program's employment, income, and asset criteria may qualify for assistance through this program.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

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

The OLS determines that the program expansions effectuated under various provisions of this bill would cumulatively increase expenditures under the NJ WorkAbility Program and the PASP. Specifically, provisions of the bill that remove the upper age limit and raise the upper income limit for applicants to the NJ WorkAbility Program, from 250 percent to 450 percent of the FPL, would substantively increase State costs under this program. State expenditures for the program would also grow pursuant to a provision that disregards the earned and unearned income of an eligible applicant's spouse, up to a spousal income ceiling of \$250,000. After spousal earned and unearned

income surpasses \$250,000, the DHS may take spousal income into consideration in NJ WorkAbility eligibility determinations. NJ WorkAbility Program costs would increase further under the provision in the bill that allows an eligible program applicant to remain eligible for Medicaid coverage for up to one year if, through no fault of the applicant, a job loss occurs.

Estimates of incremental State costs for each of these program expansions are hampered by a lack of publicly available NJ WorkAbility participation and per-capita cost data, and information on the number of program participants whose spouse has an annual income that exceeds \$250,000. Data concerning the number of individuals participating in the NJ WorkAbility Program are outdated; the most recent data, from 2013, show 9,530 program participants. By way of context, NJ FamilyCare enrollment data for October 2021, displayed on the DHS' FamilyCare Dashboard, report 207,162 disabled individuals enrolled in NJ FamilyCare, with 85 percent of these individuals aged 21 years or older. These NJ FamilyCare enrollment data also include 809 blind enrollees, of whom 94 percent are aged 21 years or older. The percentage of these NJ FamilyCare enrollees who participate in the NJ WorkAbility Program, however, is not reported. Advances in medicine and medical technology, however, have increased the life expectancy and improved the physical capabilities of many individuals with disabilities, thereby increasing the likelihood that the number of individuals eligible to purchase Medicaid coverage through the NJ WorkAbility Program has increased by some magnitude since 2013.

The DDS, which manages the NJ WorkAbility Program, does not report per-participant cost data on its website. The NJ FamilyCare Comprehensive Demonstration renewal proposal, which the DHS submitted to the federal Centers for Medicare and Medicaid services on September 10, 2021, projects that expenditures for Other Aged, Blind, and Disabled NJ FamilyCare beneficiaries will total \$3.3 million in FY 2023.

Since NJ WorkAbility Program is a Medicaid buy-in initiative, greater State expenses for the program will also increase State revenues in the form of federal financial participation for qualifying State expenditures under the Medicaid program. However, without access to updated participation and expenditure data from the division, any estimate of the magnitude of this State revenue increase would be incomplete.

The bill furthermore removes the upper age limit of 70 years that is currently in effect for the PASP. The DDS, which administers the PASP, does not report client data by age; therefore, the OLS concludes that this provision will increase State costs for PASP services by an indeterminate amount. The PASP, which receives State funding via the General Fund and the Casino Revenue Fund, provides up to 40 hours per week of non-medical personal care assistance to those individuals with permanent physical disabilities who work, seek educational advancement, or volunteer in the community for a minimum of 20 hours per month. Eligible individuals may apply for the PASP starting at age 18 years. By way of context, Evaluation Data in the Governor's FY 2022 Budget (page D-203) show that in FY 2020, the PASP served 490 clients at an average cost of \$20,443 per client. In FY 2022, the DDS anticipates that the PASP will serve 510 clients at an average per capita cost of \$21,253, a four percent cost increase over FY 2020 funding levels.

*Section:* Human Services

*Analyst:* Anne Cappabianca  
Associate Fiscal Analyst

*Approved:* Thomas Koenig  
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 (C.52:13B-6 et seq.).



# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

[First Reprint]

## ASSEMBLY, No. 5262

with committee amendments

# STATE OF NEW JERSEY

DATED: DECEMBER 13, 2021

The Assembly Appropriations Committee reports favorably and with committee amendments Assembly Bill No. 5262 (1R).

As amended by the committee, this bill revises eligibility requirements for the NJ Workability Program and the Personal Assistance Services Program. The NJ Workability Program is a Medicaid buy-in option for employed, permanently-disabled individuals, authorized under the federal “Ticket to Work and Work Incentives Improvement Act of 1999,” Pub.L.106-170.

As amended, the bill expands the eligibility for this program in various ways. First, the bill removes the upper age limit for eligibility, providing that any individual who is older than 16 may qualify. The current age requirement is between 16 and 65 years of age. Second, the bill requires that the premium contribution established by the commissioner is to be based solely on the applicant’s earned and unearned income. In doing so, the income of the applicant’s spouse cannot be considered in this determination. Third, as amended by the committee, the bill eliminates the program’s existing income eligibility limit of 250 percent of the federal poverty level and explicitly provides that a qualified applicant is not to be subject to any eligibility requirements regarding the earned or unearned income of the applicant or the applicant’s spouse. Finally, the bill provides that an eligible applicant for the program is to remain eligible for Medicaid for up to a period of one year if, through no fault of the applicant, a job loss occurs.

The Personal Assistance Services Program is a State-funded program that provides up to 40 hours per week of non-medical personal care assistance to those individuals with permanent physical disabilities who work, seek educational advancement, or volunteer in the community for a minimum of 20 hours per month. Currently, only individuals 18 through 70 years of age can qualify for this program. Under the bill, the age cap is removed, providing that anyone over the age of 18 may be eligible for these services.

As amended and reported by the committee, Assembly Bill No. 5262 (1R) is identical to Senate Bill No. 3455 (1R), which also was reported by the committee on this date.

COMMITTEE AMENDMENTS:

The committee amendments remove a provision that would increase the State's Medicaid program's existing income eligibility limit of 250 percent of the federal poverty level to 450 percent of the federal poverty level and clarifies that if the earned or unearned income of the spouse of a qualified applicant is over \$250,000, the Commissioner of Human Services may take into account that income when determining eligibility.

The committee amendments restore a provision that was in the bill as introduced that eliminated the program's existing income eligibility limit of 250 percent of the federal poverty level and explicitly provided that a qualified applicant is not to be subject to any eligibility requirements regarding the earned or unearned income of the applicant or the applicant's spouse.

FISCAL IMPACT:

The Office of Legislative Services (OLS) determines that this bill would result in additional costs for the Division of Disability Services (DDS) within the Department of Human Services to expand eligibility for the NJ WorkAbility Program by lifting the upper age limit and removing the upper income limit for program eligibility, by limiting the income sources that the DDS considers in calculating the premium contributions required for program participants, and by allowing a NJ WorkAbility participant to remain eligible for Medicaid for up to one year, if through no fault of the individual, a job loss occurs.

The NJ WorkAbility Program is a Medicaid buy-in option for employed, permanently disabled individuals; as such, program expansion not only will raise State Medicaid expenditures, but also will increase State revenues in the form of federal matching funds for qualifying State Medicaid expenditures.

The bill also increase State expenditures for the Personal Assistance Services Program by removing the age cap on program eligibility. Currently, only individuals with permanent disabilities who are between the ages of 18 and 70, and work, pursue education advancement, or volunteer at least 20 hours per month are eligible for services under this program

# LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

**ASSEMBLY, No. 5262**

## **STATE OF NEW JERSEY 219th LEGISLATURE**

DATED: DECEMBER 20, 2021

### **SUMMARY**

- Synopsis:** Revises eligibility requirements for NJ Workability Program and Personal Assistance Services Program.
- Type of Impact:** Annual State expenditure and revenue increases.
- Agencies Affected:** Department of Human Services.

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

<b>Fiscal Impact</b>	<b><u>Annual</u></b>
<b>State Cost Increase</b>	Indeterminate
<b>State Revenue Increase</b>	Indeterminate

- The Office of Legislative Services (OLS) determines that this bill would result in additional costs for the Division of Disability Services (DDS) within the Department of Human Services (DHS) to expand eligibility for the NJ WorkAbility Program by lifting the upper age limit and removing the upper income limit for program eligibility, by limiting the income sources that the DDS considers in calculating the premium contributions required of program participants, and by allowing a NJ WorkAbility participant to remain eligible for Medicaid for up to one year if, through no fault of the individual, a job loss occurs.
- The NJ WorkAbility Program is a Medicaid buy-in option for employed, permanently disabled individuals; as such, program expansion not only will raise State Medicaid expenditures, but also will increase State revenues in the form of federal matching funds for qualifying State Medicaid expenditures.
- The bill also increases State expenditures for the Personal Assistance Services Program (PASP) by removing the age cap on program eligibility. Currently, only individuals with permanent disabilities who are between the ages of 18 and 70, and work, pursue educational advancement, or volunteer at least 20 hours per month are eligible for services under this program.

## **BILL DESCRIPTION**

This bill revises eligibility requirements for the NJ Workability Program and the PASP. The NJ Workability Program is a Medicaid buy-in option for employed, permanently disabled individuals, authorized under the federal “Ticket to Work and Work Incentives Improvement Act of 1999,” Pub.L.106-170. The bill expands the eligibility for this program in various ways. First, the bill removes the upper age limit for program eligibility, providing that any individual who is older than 16 may qualify. The current age requirement is between 16 and 65 years of age. Second, the bill requires that the premium contribution established by the DHS is to be based solely on the applicant’s earned and unearned income. Currently, spousal income, both earned and unearned, is considered as part of a NJ WorkAbility applicant’s premium determination. Third, the bill eliminates the program’s existing income eligibility limit of 250 percent of the federal poverty level, plus established disregards, and explicitly provides that a qualified applicant is not to be subject to any eligibility requirements regarding the earned or unearned income of the applicant or the applicant’s spouse. Finally, the bill permits that an eligible applicant for the program is to remain eligible for Medicaid for up to a period of one year if, through no fault of the applicant, a job loss occurs.

The PASP is a State-funded program that provides up to 40 hours per week of non-medical personal care assistance to those individuals with permanent physical disabilities who work, seek educational advancement, or volunteer in the community for a minimum of 20 hours per month. Currently, only individuals 18 through 70 years of age can qualify for this program. Under the bill, the age cap is removed, providing that anyone over the age of 18 may be eligible for these services.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

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

The OLS determines that the program expansions effectuated under various provisions of this bill would cumulatively increase expenditures under the NJ WorkAbility Program and the PASP. Specifically, provisions of the bill that remove the upper age limit and eliminate the upper income limit for applicants to the NJ WorkAbility Program, currently set at 250 percent of the FPL plus certain income disregards, would substantively increase State costs under this program. State expenditures for the program would also grow pursuant to a provision that explicitly disregards the earned and unearned income of both an eligible applicant and the applicant’s spouse as part of an NJ WorkAbility applicant’s income eligibility determination. Under current law, the DHS may take into consideration both earned and unearned spousal income as part of NJ WorkAbility eligibility determinations. State costs also would rise subsequent to the requirement that an eligible applicant’s Medicaid premium and cost-sharing contribution be based solely on the applicant’s earned and unearned income. Existing State regulations specify that spousal income be factored into such premium determinations. NJ WorkAbility Program costs would increase further under the provision in the bill that allows an eligible program applicant to remain eligible for Medicaid coverage for up to one year if, through no fault of the applicant, a job loss occurs.

Estimates of incremental State costs for each of these program expansions are hampered by a lack of publicly available NJ WorkAbility participation and per-capita cost data, as well as a dearth of information on the number of permanently-disabled individuals for whom spousal income renders them ineligible for the program. Data concerning the number of individuals participating in the NJ WorkAbility Program are outdated; the most recent data, from 2013, show 9,530 program participants. By way of context, NJ FamilyCare enrollment data for October 2021, displayed on the DHS' FamilyCare Dashboard, report 207,162 disabled individuals enrolled in NJ FamilyCare, with 85 percent of these individuals aged 21 years or older. These NJ FamilyCare enrollment data also include 809 blind enrollees, of whom 94 percent are aged 21 years or older. The percentage of these NJ FamilyCare enrollees who participate in the NJ WorkAbility Program, however, is not reported. Advances in medicine and medical technology, however, have increased the life expectancy and improved the physical capabilities of many individuals with disabilities, thereby increasing the likelihood that the number of individuals eligible to purchase Medicaid coverage through the NJ WorkAbility Program has increased by some magnitude since 2013.

The DDS, which manages the NJ WorkAbility Program, does not report per-participant cost data on its website. The NJ FamilyCare Comprehensive Demonstration renewal proposal, which the DHS submitted to the federal Centers for Medicare and Medicaid services on September 10, 2021, projects that expenditures for Other Aged, Blind, and Disabled NJ FamilyCare beneficiaries will total \$3.3 million in FY 2023.

Since NJ WorkAbility Program is a Medicaid buy-in initiative, greater State expenses for the program will also increase State revenues in the form of federal financial participation for qualifying State expenditures under the Medicaid program. However, without access to updated participation and expenditure data from the division, any estimate of the magnitude of this State revenue increase would be incomplete.

The bill furthermore removes the upper age limit of 70 years that is currently in effect for the PASP. The DDS, which administers the PASP, does not report client data by age; therefore, the OLS concludes that this provision will increase State costs for PASP services by an indeterminate amount. The PASP, which receives State funding via the General Fund and the Casino Revenue Fund, provides up to 40 hours per week of non-medical personal care assistance to those individuals with permanent physical disabilities who work, seek educational advancement, or volunteer in the community for a minimum of 20 hours per month. Eligible individuals may apply for the PASP starting at age 18 years. By way of context, Evaluation Data in the Governor's FY 2022 Budget (page D-203) show that in FY 2020, the PASP served 490 clients at an average cost of \$20,443 per client. In FY 2022, the DDS anticipates that the PASP will serve 510 clients at an average per capita cost of \$21,253, a four percent cost increase over FY 2020 funding levels.

*Section:* Human Services  
*Analyst:* Anne Cappabianca  
Associate Fiscal Analyst  
*Approved:* Thomas Koenig  
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 (C.52:13B-6 et seq.).

# *Bill S3455 Sca (1R)*

*Session 2020 - 2021*



Revises eligibility requirements for NJ Workability Program and Personal Assistance Services Program.

**Bills and Joint Resolutions Signed by the Governor**

***Identical Bill Number: A5262***

This bill has been certified by OLS for a fiscal note.

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***Primary Sponsor:***

Madden, Fred H., Jr.

Bucco, Anthony M.

Sweeney, Stephen M.

Murphy, Carol A.

Houghtaling, Eric

Timberlake, Britnee N.

***Co-Sponsor:***

Corrado, Kristin M.

Singer, Robert W.

Vitale, Joseph F.

Pou, Nellie

Diegnan, Patrick J., Jr.

Turner, Shirley K.

Chaparro, Annette

Vainieri Huttle, Valerie

Benson, Daniel R.

Dunn, Aura K.

Zwicker, Andrew

Downey, Joann

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**2/16/2021**

Introduced in the Senate, Referred to Senate Health, Human Services and Senior Citizens Committee

**3/9/2021**

Reported from Senate Committee with Amendments, 2nd Reading

**12/2/2021**

Passed by the Senate (36-0)

**12/6/2021**

Received in the Assembly, Referred to Assembly Appropriations Committee

**12/13/2021**

Reported out of Assembly Committee, 2nd Reading

**12/20/2021**

Substituted for A5262 (2R)

**12/20/2021**

Passed Assembly (Passed Both Houses) (69-0-0)

**1/10/2022**

Approved P.L.2021, c.344.

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#### **Introduced**

(12 pages) [PDF Format](#) [HTML Format](#)

#### **Statement - SHH 3/9/21**

(2 pages) [PDF Format](#) [HTML Format](#)

#### **Fiscal Estimate - 12/2/21; 1R**

(5 pages) [PDF Format](#) [HTML Format](#)

#### **Statement - AAP 12/13/21 1R**

(2 pages) [PDF Format](#) [HTML Format](#)

#### **Reprint**

(11 pages) [PDF Format](#) [HTML Format](#)

#### **Advance Law**

(10 pages) [PDF Format](#) [HTML Format](#)

#### **Pamphlet Law - Corrected Copy**

(8 pages) [PDF Format](#) [HTML Format](#)

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#### ***Committee Voting:***

SHH - 3/9/2021 - r/Sca

Yes: 8 No: 0 Not Voting: 0 Abstain: 0

**Roll Call**

Vitale, Joseph F. (P) - **Yes**  
Madden, Fred H. (V) - **Yes**  
Codey, Richard J. - **Yes**  
Corrado, Kristin M. - **Yes**  
Gopal, Vin - **Yes**  
Holzapfel, James W. - **Yes**  
Rice, Ronald L. - **Yes**  
Singer, Robert W. - **Yes**

~~APP - 12/13/2021 - r/favorably~~

**Yes: 10 No: 1 Not Voting: 0 Abstain: 0**

**Roll Call**

Burzichelli, John J. (P) - **Yes**  
Schaer, Gary S. (V) - **Yes**  
Bergen, Brian - **No**  
Conaway, Herb - **Yes**  
Danielsen, Joe - **Yes**  
DeAngelo, Wayne P. - **Yes**  
McClellan, Antwan L. - **Yes**  
Pintor Marin, Eliana - **Yes**  
Rooney, Kevin J. - **Yes**  
Tucker, Cleopatra G. - **Yes**  
Webber, Jay - **Yes**

***Session Voting:***

**Asm. 12/20/2021 - SUB FOR A-5262**

**Yes: 0 No: 0 Not Voting: 80 Abstain: 0 - Voice Vote Passed**

**Asm. 12/20/2021 - 3RDG FINAL PASSAGE**

**Yes: 69 No: 0 Not Voting: 11 Abstain: 0**

**Roll Call**

Armato, John - **Yes**  
Auth, Robert - **Yes**  
Benson, Daniel R. - **Yes**  
Bergen, Brian - **Yes**  
Bramnick, Jon M. - **Not Voting**  
Burzichelli, John J. - **Yes**  
Calabrese, Clinton - **Not Voting**  
Caputo, Ralph R. - **Not Voting**  
Carter, Linda S. - **Yes**  
Catalano, John - **Yes**  
Chaparro, Annette - **Yes**  
Chiaravalloti, Nicholas - **Yes**



Clifton, Robert D. - **Yes**  
Conaway, Herb - **Yes**  
Coughlin, Craig J. - **Yes**  
Dancer, Ronald S. - **Yes**  
Danielsen, Joe - **Yes**  
DeAngelo, Wayne P. - **Yes**  
DeCroce, BettyLou - **Yes**  
DeFuccio, DeAnne C. - **Yes**  
DePhillips, Christopher P. - **Yes**  
DiMaio, John - **Yes**  
DiMaso, Serena - **Not Voting**  
Downey, Joann - **Yes**  
Dunn, Aura K. - **Yes**  
Egan, Joseph V. - **Yes**  
Freiman, Roy - **Yes**  
Giblin, Thomas P. - **Not Voting**  
Gove, DiAnne C. - **Yes**  
Greenwald, Louis D. - **Yes**  
Holley, Jamel C. - **Yes**  
Houghtaling, Eric - **Yes**  
Jasey, Mila M. - **Yes**  
Jimenez, Angelica M. - **Yes**  
Johnson, Gordon M. - **Yes**  
Karabinchak, Robert J. - **Yes**  
Kean, Sean T. - **Not Voting**  
Kennedy, James J. - **Yes**  
Lampitt, Pamela R. - **Yes**  
Lopez, Yvonne - **Yes**  
Mazzeo, Vincent - **Yes**  
McClellan, Antwan L. - **Yes**  
McGuckin, Gregory P. - **Yes**  
McKeon, John F. - **Yes**  
McKnight, Angela V. - **Yes**  
Mejia, Pedro - **Yes**  
Moen, William F. - **Yes**  
Moriarty, Paul D. - **Yes**  
Mosquera, Gabriela M. - **Yes**  
Mukherji, Raj - **Yes**  
Munoz, Nancy F. - **Not Voting**  
Murphy, Carol A. - **Yes**  
Peters, Ryan E. - **Yes**  
Peterson, Erik - **Yes**  
Pintor Marin, Eliana - **Yes**  
Quijano, Annette - **Not Voting**

Reynolds-Jackson, Verlina - **Yes**  
Rooney, Kevin J. - **Yes**  
Rumpf, Brian E. - **Yes**  
Schaer, Gary S. - **Yes**  
Scharfenberger, Gerry - **Yes**  
Simonsen, Erik K. - **Yes**  
Space, Parker - **Not Voting**  
Spearman, William W. - **Yes**  
Speight, Shanique - **Yes**  
Stanfield, Jean - **Yes**  
Stanley, Sterley S. - **Yes**  
Sumter, Shavonda E. - **Yes**  
Swain, Lisa - **Yes**  
Taliaferro, Adam J. - **Not Voting**  
Thomson, Edward H. - **Yes**  
Timberlake, Britnee N. - **Yes**  
Tucker, Cleopatra G. - **Yes**  
Tully, P. Christopher - **Yes**  
Vainieri Huttle, Valerie - **Yes**  
Verrelli, Anthony S. - **Yes**  
Webber, Jay - **Yes**  
Wimberly, Benjie E. - **Yes**  
Wirths, Harold J. - **Yes**  
Zwicker, Andrew - **Not Voting**

**Sen. 12/02/2021 - 3RDG FINAL PASSAGE**

**Yes: 36 No: 0 Not Voting: 4**

**Roll Call**

Addiego, Dawn Marie - **Yes**  
Bateman, Christopher - **Yes**  
Beach, James - **Not Voting**  
Bucco, Anthony M. - **Not Voting**  
Codey, Richard J. - **Yes**  
Connors, Christopher J. - **Yes**  
Corrado, Kristin M. - **Yes**  
Cruz-Perez, Nilsa I. - **Yes**  
Cryan, Joseph P. - **Yes**  
Cunningham, Sandra B. - **Yes**  
Diegnan, Patrick J. - **Yes**  
Doherty, Michael J. - **Not Voting**  
Gill, Nia H. - **Yes**  
Gopal, Vin - **Yes**  
Greenstein, Linda R. - **Yes**  
Holzapfel, James W. - **Yes**

Kean, Thomas H. - **Yes**  
Lagana, Joseph A. - **Yes**  
Madden, Fred H. - **Yes**  
O'Scanlon, Declan J. - **Yes**  
Oroho, Steven V. - **Yes**  
Pennacchio, Joseph - **Yes**  
Polistina, Vincent J. - **Yes**  
Pou, Nellie - **Yes**  
Rice, Ronald L. - **Not Voting**  
Ruiz, M. Teresa - **Yes**  
Sacco, Nicholas J. - **Yes**  
Sarlo, Paul A. - **Yes**  
Schepisi, Holly T. - **Yes**  
Scutari, Nicholas P. - **Yes**  
Singer, Robert W. - **Yes**  
Singleton, Troy - **Yes**  
Smith, Bob - **Yes**  
Stack, Brian P. - **Yes**  
Sweeney, Stephen M. - **Yes**  
Testa, Michael L. - **Yes**  
Thompson, Samuel D. - **Yes**  
Turner, Shirley K. - **Yes**  
Vitale, Joseph F. - **Yes**  
Weinberg, Loretta - **Yes**

*\*indicates synopsis was amended*

# *Bill A5262 AcaAca (2R)*

*Session 2020 - 2021*



Revises eligibility requirements for NJ Workability Program and Personal Assistance Services Program.

**Substituted by another Bill**

***Identical Bill Number: S3455***

This bill has been certified by OLS for a fiscal note.

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***Primary Sponsor:***

Murphy, Carol A.

Houghtaling, Eric

Timberlake, Britnee N.

***Co-Sponsor:***

Chaparro, Annette

Vainieri Huttler, Valerie

Benson, Daniel R.

Dunn, Aura K.

Zwicker, Andrew

Downey, Joann

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**1/12/2021**

Introduced, Referred to Assembly Human Services Committee

**5/12/2021**

Reported out of Asm. Comm. with Amendments, and Referred to Assembly Appropriations Committee

**12/13/2021**

Reported out of Assembly Comm. with Amendments, 2nd Reading

**12/20/2021**

Substituted by S3455 (1R)

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## Introduced

(12 pages) [PDF Format](#) [HTML Format](#)

## Statement - AHU 5/12/21

(2 pages) [PDF Format](#) [HTML Format](#)

## Fiscal Estimate - 11/12/21; 1R

(3 pages) [PDF Format](#) [HTML Format](#)

## Reprint

(11 pages) [PDF Format](#) [HTML Format](#)

## Statement - AAP 12/13/21 1R

(2 pages) [PDF Format](#) [HTML Format](#)

## Fiscal Estimate - 12/20/21; 2R

(3 pages) [PDF Format](#) [HTML Format](#)

## Reprint

(11 pages) [PDF Format](#) [HTML Format](#)

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## *Committee Voting:*

### AHU - 5/12/2021 - r/Aca

Yes: 7 No: 0 Not Voting: 0 Abstain: 0

#### Roll Call

Downey, Joann (P) - **Yes**  
Chiaravalloti, Nicholas (V) - **Yes**  
Dunn, Aura K. - **Yes**  
Speight, Shanique - **Yes**  
Stanfield, Jean - **Yes**  
Tucker, Cleopatra G. - **Yes**  
Vainieri Huttle, Valerie - **Yes**

### AAP - 12/13/2021 - r/Aca

Yes: 10 No: 1 Not Voting: 0 Abstain: 0

#### Roll Call

Burzichelli, John J. (P) - **Yes**  
Schaer, Gary S. (V) - **Yes**  
Bergen, Brian - **No**  
Conaway, Herb - **Yes**  
Danielsen, Joe - **Yes**  
DeAngelo, Wayne P. - **Yes**  
McClellan, Antwan L. - **Yes**  
Pintor Marin, Eliana - **Yes**  
Rooney, Kevin J. - **Yes**

Tucker, Cleopatra G. - **Yes**

Webber, Jay - **Yes**

*\*indicates synopsis was amended*



§4  
C.2A:53A-17.1  
§§5-9  
C.18A:37-37.1 to  
18A:37-37.5  
§10  
Note

P.L. 2021, CHAPTER 338, *approved January 10, 2022*  
Senate, No. 1790 (*First Reprint*)

1 AN ACT concerning bullying, <sup>1</sup>**[designated as Mallory’s Law,]**<sup>1</sup>  
2 revising various parts of the statutory law, and supplementing Title  
3 2A and Title 18A of the New Jersey Statutes.  
4

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

8 1. Section 1 of P.L.2013, c.272 (C.2C:33-4.1) is amended to  
9 read as follows:

10 1. a. A person commits the crime of cyber-harassment if, while  
11 making a communication in an online capacity via any electronic  
12 device or through a social networking site and with the purpose to  
13 harass another, the person:

14 (1) threatens to inflict injury or physical harm to any person or  
15 the property of any person;

16 (2) knowingly sends, posts, comments, requests, suggests, or  
17 proposes any lewd, indecent, or obscene material to or about a  
18 person with the intent to emotionally harm a reasonable person or  
19 place a reasonable person in fear of physical or emotional harm to  
20 his person; or

21 (3) threatens to commit any crime against the person or the  
22 person's property.

23 b. Cyber-harassment is a crime of the fourth degree, unless the  
24 person is 21 years of age or older at the time of the offense and  
25 impersonates a minor for the purpose of cyber-harassing a minor, in  
26 which case it is a crime of the third degree.

27 c. If a minor under the age of 16 is adjudicated delinquent for  
28 cyber-harassment, the court may order as a condition of the  
29 sentence that the minor, accompanied by a parent or guardian,  
30 complete, in a satisfactory manner, one or both of the following:

31 (1) a class or training program intended to reduce the tendency  
32 toward cyber-harassment behavior; or

33 (2) a class or training program intended to bring awareness to  
34 the dangers associated with cyber-harassment.

**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:**

<sup>1</sup>Senate SED committee amendments adopted December 7, 2020.

1 d. A parent or guardian who fails to comply with a condition  
2 imposed by the court pursuant to subsection c. of this section is a  
3 disorderly person and shall be fined not more than ~~[\$25]~~ \$100 for a  
4 first offense and not more than ~~[\$100]~~ \$500 for each subsequent  
5 offense.

6 e. In addition to any other disposition or condition imposed  
7 pursuant to this section, a parent or guardian having legal custody  
8 of a minor who demonstrates willful or wanton disregard in the  
9 exercise of the supervision and control of the conduct of a minor  
10 adjudicated delinquent of cyber-harassment pursuant to this section  
11 may be liable in a civil action pursuant to section 4 of  
12 P.L. ,c. (C. ) (pending before the Legislature as this bill).  
13 (cf: P.L.2013, c.272, s.1)  
14

15 2. Section 1 of P.L.1982, c.163 (C.18A:17-46) is amended to  
16 read as follows:

17 1. Any school employee observing or having direct knowledge  
18 from a participant or victim of an act of violence shall, in  
19 accordance with standards established by the commissioner, file a  
20 report describing the incident to the school principal in a manner  
21 prescribed by the commissioner, and copy of same shall be  
22 forwarded to the district superintendent.

23 The principal shall notify the district superintendent of schools  
24 of the action taken regarding the incident. Two times each school  
25 year, between September 1 and January 1 and between January 1  
26 and June 30, at a public hearing, the superintendent of schools shall  
27 report to the board of education all acts of violence, vandalism, and  
28 harassment, intimidation, or bullying which occurred during the  
29 previous reporting period. The report shall include the number of  
30 reports of harassment, intimidation, or bullying, the status of all  
31 investigations, the nature of the bullying based on one of the  
32 protected categories identified in section 2 of P.L.2002, c.83  
33 (C.18A:37-14), the names of the investigators, the type and nature  
34 of any discipline imposed on any student engaged in harassment,  
35 intimidation, or bullying, and any other measures imposed, training  
36 conducted, or programs implemented, to reduce harassment,  
37 intimidation, or bullying. The information shall also be reported  
38 once during each reporting period to the Department of Education.  
39 The report must include data broken down by the enumerated  
40 categories as listed in section 2 of P.L.2002, c.83 (C.18A:37-14),  
41 and data broken down by each school in the district, in addition to  
42 district-wide data. It shall be a violation to improperly release any  
43 confidential information not authorized by federal or State law for  
44 public release.

45 The report shall be used to grade each school for the purpose of  
46 assessing its effort to implement policies and programs consistent  
47 with the provisions of P.L.2002, c.83 (C.18A:37-13 et seq.). The  
48 district shall receive a grade determined by averaging the grades of



1 all the schools in the district. The commissioner shall promulgate  
2 guidelines for a program to grade schools for the purposes of this  
3 section.

4 The grade received by a school and the district shall be posted on  
5 the homepage of the school's website. The grade for the district and  
6 each school of the district shall be posted on the homepage of the  
7 district's website. A link to the report shall be available on the  
8 district's website. The information shall be posted on the websites  
9 within 10 days of the receipt of a grade by the school and district.

10 If a school district's policy permits a preliminary determination  
11 to be made on whether a reported incident or complaint is a report  
12 outside the scope of the definition of harassment, intimidation, or  
13 bullying pursuant to section 2 of P.L.2002, c.83 (C.18A:37-14), the  
14 superintendent shall also provide annually to the board of education  
15 information on the number of times a preliminary determination  
16 was made that an incident or complaint was outside the scope of  
17 that definition for the purposes of the State's monitoring of the  
18 school district.

19 Verification of the reports on violence, vandalism, and  
20 harassment, intimidation, or bullying shall be part of the State's  
21 monitoring of the school district, and the State Board of Education  
22 shall adopt regulations that impose a penalty on a school employee  
23 who knowingly falsifies the report. A board of education shall  
24 provide ongoing staff training, in cooperation with the Department  
25 of Education, in fulfilling the reporting requirements pursuant to  
26 this section. The majority representative of the school employees  
27 shall have access monthly to the number and disposition of all  
28 reported acts of school violence, vandalism, and harassment,  
29 intimidation, or bullying.

30 (cf: P.L.2010, c.122, s.7)

31

32 3. Section 3 of P.L.2002, c.83 (C.18A:37-15) is amended to read  
33 as follows:

34 3. a. Each school district shall adopt a policy prohibiting  
35 harassment, intimidation or bullying on school property, at a school-  
36 sponsored function or on a school bus. The school district shall adopt  
37 the policy through a process that includes representation of parents or  
38 guardians, school employees, volunteers, students, administrators, and  
39 community representatives.

40 b. A school district shall have local control over the content of the  
41 policy, except that the policy shall contain, at a minimum, the  
42 following components:

43 (1) a statement prohibiting harassment, intimidation or bullying of  
44 a student;

45 (2) a definition of harassment, intimidation or bullying no less  
46 inclusive than that set forth in section 2 of P.L.2002, c.83 (C.18A:37-  
47 14);

1 (3) a description of the type of behavior expected from each  
2 student;

3 (4) consequences and appropriate remedial action for a person  
4 who commits an act of harassment, intimidation or bullying. The  
5 consequences for a student who commits an act of harassment,  
6 intimidation, or bullying may include: for the first act of harassment,  
7 intimidation, or bullying committed by a student, a copy of the results  
8 of the investigation shall be placed in the student's record and the  
9 student may be subject to remedial actions, including the provision of  
10 counseling or behavioral intervention services, or discipline, or both,  
11 as determined by the principal in consultation with appropriate school  
12 staff; for the second act, a copy of the results of the investigation shall  
13 be placed in the student's record and the student may be subject to  
14 remedial actions, including the provision of counseling or behavioral  
15 intervention services, or discipline, or both, as determined by the  
16 principal, in consultation with appropriate school staff; and for the  
17 third and each subsequent act, a copy of the results of the investigation  
18 shall be placed in the student's record, and the principal, in  
19 consultation with appropriate school staff, shall develop an individual  
20 student intervention plan which shall be approved by the  
21 superintendent of schools or the superintendent's designee, and may  
22 include remedial actions including counseling or behavioral  
23 intervention services, or progressive discipline, or both, and may  
24 require the student, accompanied by a parent or guardian, to complete  
25 in a satisfactory manner a class or training program to reduce  
26 harassment, intimidation or bullying behavior.

27 The superintendent of schools or the superintendent's designee and  
28 the principal shall consult law enforcement, as appropriate, pursuant to  
29 the provisions of the Uniform State Memorandum of Agreement  
30 Between Education and Law Enforcement Officials, if the student's  
31 behavior may constitute a possible violation of the New Jersey Code  
32 of Criminal Justice;

33 (5) a procedure for reporting an act of harassment, intimidation or  
34 bullying, including a provision that permits a person to report an act of  
35 harassment, intimidation or bullying anonymously; however, this shall  
36 not be construed to permit formal disciplinary action solely on the  
37 basis of an anonymous report.

38 All acts of harassment, intimidation, or bullying shall be reported  
39 verbally to the school principal on the same day when the school  
40 employee or contracted service provider witnessed or received reliable  
41 information regarding any such incident. The principal shall inform  
42 the parents or guardians of all students involved in the alleged  
43 incident, and may discuss, as appropriate, the availability of  
44 counseling and other intervention services. The principal shall keep a  
45 written record of the date, time, and manner of notification to the  
46 parents or guardians. All acts of harassment, intimidation, or bullying  
47 shall be reported in writing to the school principal within two school  
48 days of when the school employee or contracted service provider

1 witnessed or received reliable information that a student had been  
2 subject to harassment, intimidation, or bullying. The written report  
3 shall be on a numbered form developed by the Department of  
4 Education. A copy of the form shall be submitted <sup>1</sup>【immediately】  
5 promptly<sup>1</sup> by the principal to the superintendent of schools <sup>1</sup>【and to  
6 the board of education no later than the date of the board of education  
7 meeting next following the submission of the copy of the form to the  
8 superintendent of schools】<sup>1</sup>. The form shall be completed even if a  
9 preliminary determination is made under the school district's policy  
10 that the reported incident or complaint is a report outside the scope of  
11 the definition of harassment, intimidation, or bullying pursuant to  
12 section 2 of P.L.2002, c.83 (C.18A:37-14), and shall be kept on file at  
13 the school but shall not be included in any student record, unless the  
14 incident results in disciplinary action or is otherwise required to be  
15 contained in a student's record under State or federal law. <sup>1</sup>【The  
16 superintendent and the members of the board of education shall review  
17 the copy of the form and shall each provide a signed statement to the  
18 principal attesting to the fact that they have reviewed the copy of the  
19 form. The signed statement shall be kept on file at the school with the  
20 original written report】 A redacted copy of the form that removes all  
21 student identification information shall be confidentially shared with  
22 the board of education after the conclusion of the investigation, if a  
23 hearing is requested by a parent or guardian pursuant to subparagraph  
24 (d) of paragraph (6) of this subsection<sup>1</sup>.

25 The school district shall provide a means for a parent or guardian  
26 to complete an online numbered form developed by the Department of  
27 Education to confidentially report an incident of harassment,  
28 intimidation, or bullying.

29 The principal shall report to the <sup>1</sup>【board of education】  
30 superintendent<sup>1</sup> if a preliminary determination is made under the  
31 school district's policy that the reported incident or complaint is a  
32 report outside the scope of the definition of harassment, intimidation,  
33 or bullying, and the <sup>1</sup>【board】 superintendent<sup>1</sup> may require the  
34 principal to conduct an investigation of the incident, if the <sup>1</sup>【board】  
35 superintendent<sup>1</sup> determines that an investigation is necessary <sup>1</sup>because  
36 the incident is within the scope of the definition of harassment,  
37 intimidation, or bullying. The superintendent shall notify the principal  
38 of this determination in writing<sup>1</sup>;

39 (6) a procedure for prompt investigation of reports of violations  
40 and complaints, which procedure shall at a minimum provide that:

41 (a) the investigation shall be initiated by the principal or the  
42 principal's designee within one school day of the report of the incident  
43 and shall be conducted by a school anti-bullying specialist. The  
44 principal may appoint additional personnel who are not school anti-  
45 bullying specialists to assist in the investigation. The investigation  
46 shall be completed as soon as possible, but not later than 10 school  
47 days from the date of the written report of the incident of harassment,

1 intimidation, or bullying <sup>1</sup>or from the date of the written notification  
2 from the superintendent to the principal to initiate an investigation  
3 pursuant to paragraph (5) of this subsection<sup>1</sup>. In the event that there is  
4 information relative to the investigation that is anticipated but not yet  
5 received by the end of the 10-day period, the school anti-bullying  
6 specialist may amend the original report of the results of the  
7 investigation to reflect the information;

8 (b) the results of the investigation shall be reported to the  
9 superintendent of schools within two school days of the completion of  
10 the investigation, and in accordance with regulations promulgated by  
11 the State Board of Education pursuant to the "Administrative  
12 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the  
13 superintendent may decide to provide intervention services, establish  
14 training programs to reduce harassment, intimidation, or bullying and  
15 enhance school climate, impose discipline, order counseling as a result  
16 of the findings of the investigation, or take or recommend other  
17 appropriate action <sup>1</sup>including seeking further information<sup>1</sup>;

18 (c) the results of each investigation shall be reported to the board  
19 of education no later than the date of the board of education meeting  
20 next following the completion of the investigation, along with  
21 information on any services provided, training established, discipline  
22 imposed, or other action taken or recommended by the superintendent;

23 (d) parents or guardians of the students who are parties to the  
24 investigation shall be entitled to receive information about the  
25 investigation, in accordance with federal and State law and regulation,  
26 including the nature of the investigation, whether the district found  
27 evidence of harassment, intimidation, or bullying, or whether  
28 discipline was imposed or services provided to address the incident of  
29 harassment, intimidation, or bullying. This information shall be  
30 provided in writing within 5 school days after the results of the  
31 investigation are reported to the board. A parent or guardian may  
32 request a hearing before the board after receiving the information, and  
33 the hearing shall be held within 10 days of the request. The board  
34 shall meet in executive session for the hearing to protect the  
35 confidentiality of the students. At the hearing the board may hear  
36 from the school anti-bullying specialist about the incident,  
37 recommendations for discipline or services, and any programs  
38 instituted to reduce such incidents;

39 (e) at the next board of education meeting following its receipt of  
40 the report <sup>1</sup>pursuant to subparagraph (c) of paragraph (6) of this  
41 subsection<sup>1</sup>, the board shall issue a decision, in writing, to affirm,  
42 reject, or modify the superintendent's decision. <sup>1</sup>[In addition, the  
43 board may require the investigation to be reopened.]<sup>1</sup> The board's  
44 decision may be appealed to the Commissioner of Education, in  
45 accordance with the procedures set forth in law and regulation, no later  
46 than 90 days after the issuance of the board's decision; and

1 (f) a parent, student, guardian, or organization may file a  
2 complaint with the Division on Civil Rights within 180 days of the  
3 occurrence of any incident of harassment, intimidation, or bullying  
4 based on membership in a protected group as enumerated in the "Law  
5 Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.);

6 (7) the range of ways in which a school will respond once an  
7 incident of harassment, intimidation or bullying is identified, which  
8 shall be defined by the principal in conjunction with the school anti-  
9 bullying specialist, but shall include an appropriate combination of  
10 services that are available within the district such as counseling,  
11 support services, intervention services, and other programs, as defined  
12 by the commissioner. In the event that the necessary programs and  
13 services are not available within the district, the district may apply to  
14 the Department of Education for a grant from the "Bullying Prevention  
15 Fund" established pursuant to section 25 of P.L.2010, c.122  
16 (C.18A:37-28) to support the provision of out-of-district programs and  
17 services;

18 (8) a statement that prohibits reprisal or retaliation against any  
19 person who reports an act of harassment, intimidation or bullying and  
20 the consequence and appropriate remedial action for a person who  
21 engages in reprisal or retaliation;

22 (9) consequences and appropriate remedial action for a person  
23 found to have falsely accused another as a means of retaliation or as a  
24 means of harassment, intimidation or bullying;

25 (10) a statement of how the policy is to be publicized, including  
26 notice that the policy applies to participation in school-sponsored  
27 functions;

28 (11) a requirement that a link to the policy be prominently posted  
29 on the home page of the school district's website and distributed  
30 annually to parents and guardians who have children enrolled in a  
31 school in the school district; <sup>1</sup>**[and]**<sup>1</sup>

32 (12) a requirement that the name, school phone number, school  
33 address and school email address of the district anti-bullying  
34 coordinator be listed on the home page of the school district's website  
35 and that on the home page of each school's website the name, school  
36 phone number, school address and school email address of the school  
37 anti-bullying specialist and the district anti-bullying coordinator be  
38 listed. The information concerning the district anti-bullying  
39 coordinator and the school anti-bullying specialists shall also be  
40 maintained on the department's website <sup>1</sup>; and

41 (13) a requirement that the school district and each school in the  
42 district with a website post on its homepage the current version of the  
43 document, Guidance for Parents on the Anti-Bullying Bill of Rights  
44 Act, developed by the Department of Education. The School Climate  
45 State Coordinator shall ensure that this document is updated as needed  
46 and then promptly disseminated to all school districts<sup>1</sup>.

47 c. A school district shall adopt a policy and transmit a copy of its  
48 policy to the appropriate executive county superintendent of schools

1 by September 1, 2003. A school district shall annually conduct a re-  
2 evaluation, reassessment, and review of its policy, making any  
3 necessary revisions and additions. The board shall include input from  
4 the school anti-bullying specialists in conducting its re-evaluation,  
5 reassessment, and review. The district shall transmit a copy of the  
6 revised policy to the appropriate executive county superintendent of  
7 schools within 30 school days of the revision. The first revised policy  
8 following the effective date of P.L.2010, c.122 (C.18A:37-13.1 et al.)  
9 shall be transmitted to the executive county superintendent of schools  
10 by September 1, 2011.

11 d. (1) To assist school districts in developing policies for the  
12 prevention of harassment, intimidation, or bullying, the Commissioner  
13 of Education shall develop a model policy applicable to grades  
14 kindergarten through 12. This model policy shall be issued no later  
15 than December 1, 2002.

16 (2) The commissioner shall adopt amendments to the model policy  
17 which reflect the provisions of P.L.2010, c.122 (C.18A:37-13.1 et al.)  
18 no later than 90 days after the effective date of that act and shall  
19 subsequently update the model policy as the commissioner deems  
20 necessary.

21 e. Notice of the school district's policy shall appear in any  
22 publication of the school district that sets forth the comprehensive  
23 rules, procedures and standards of conduct for schools within the  
24 school district, and in any student handbook.

25 f. Nothing in this section shall prohibit a school district from  
26 adopting a policy that includes components that are more stringent  
27 than the components set forth in this section.

28 (cf: P.L.2012, c.1, s.1)

29

30 4. (New section) Notwithstanding any other provision of law  
31 to the contrary, a parent or guardian having legal custody of a minor  
32 who demonstrates willful or wanton disregard in the exercise of the  
33 supervision and control of the conduct of a minor adjudicated  
34 delinquent of cyber-harassment, pursuant to section 1 of P.L.2013,  
35 c.272 (C.2C:33-4.1), or harassment, pursuant to N.J.S.2C:33-4,  
36 may be liable in a civil action.

37

38 5. (New section) There is hereby established within the  
39 Department of Education a School Climate State Coordinator to  
40 serve as a resource to parents, students, and educators. The duties  
41 and responsibilities of the State coordinator shall include:

42 a. Identifying and disseminating research and resources,  
43 including professional development resources, to promote best  
44 practices in student social-emotional learning and the development  
45 of a positive, supportive school climate in New Jersey schools;

46 b. Providing information regarding the provisions and  
47 procedures of the "Anti-Bullying Bill of Rights Act," P.L.2002,  
48 c.83 (C.18A:37-13 et seq.), and regulations promulgated thereto,

1 relevant provisions of the "Law Against Discrimination," P.L.1945,  
2 c.169 (C.10:5-1 et seq.), and other State and federal laws addressing  
3 harassment, intimidation, and bullying;

4 c. Reviewing and reporting data collected on harassment,  
5 intimidation and bullying pursuant to section 1 of P.L.1982, c.163  
6 (C.18A:17-46) to identify and report to the Department of  
7 Education any patterns of harassment, intimidation, or bullying in  
8 public schools. The department shall review the information  
9 provided by the State coordinator to develop guidance and  
10 strategies for public schools, parents, school staff, and other  
11 agencies, as appropriate;

12 d. Assisting the Department of Education in creating public  
13 information programs that educate parents, educators, and the  
14 public concerning the duties of the State coordinator, the issue of  
15 harassment, intimidation, and bullying, and the resources available  
16 to address and prevent harassment, intimidation, and bullying;

17 e. Working collaboratively with law enforcement, the  
18 Department of Education, the Division on Civil Rights in the  
19 Department of Law and Public Safety, and the Department of  
20 Health to develop a training program on the impact of harassment,  
21 intimidation, and bullying on students and schools, that will be  
22 available for school districts to use in local anti-bullying programs  
23 and intervention plans;

24 f. Working collaboratively with law enforcement, including  
25 organizations representing school resource officers, to develop  
26 resources and training for law enforcement concerning the impact  
27 of harassment, intimidation, and bullying on students and schools,  
28 and the appropriate role of law enforcement in such matters  
29 pursuant to the Uniform Memorandum of Agreement Between  
30 Education and Law Enforcement Officials; and

31 g. Annually providing to the Commissioner of Education, the  
32 State Board of Education, and pursuant to section 2 of P.L.1991,  
33 c.164 (C.52:14-19.1) the Legislature, a report summarizing the  
34 activities of the State coordinator, and any specific  
35 recommendations concerning school climate best practices and  
36 procedures.

37  
38 6. (New section) The School Climate State Coordinator shall  
39 consider communications received in the course of his duties,  
40 including personally identifiable information regarding students,  
41 parents, and others from whom information is acquired, as  
42 confidential and shall not disclose this information, in accordance  
43 with State and federal law.

44  
45 7. (New section) The Department of Education shall post in a  
46 prominent location on the homepage of its Internet website the  
47 contact information for the School Climate State Coordinator. Each  
48 school district shall post this information on its website at the same

1 location it makes its policy on harassment, intimidation, and  
2 bullying available.

3  
4 8. (New section) The School Climate State Coordinator is  
5 authorized to call upon any department, office, division, or agency  
6 of the State to supply the State coordinator with data and any other  
7 information or assistance available to the department, office,  
8 division, or agency as the State coordinator deems necessary to  
9 discharge the duties under P.L. , c. (C. ) (pending before the  
10 Legislature as this bill). Each department, office, division, or  
11 agency, to the extent not inconsistent with law, shall cooperate fully  
12 with the State coordinator within the limits of its statutory  
13 authority, and provide such assistance on as timely a basis as is  
14 necessary to enable the State coordinator to accomplish his duties  
15 pursuant to P.L. , c. (C. ) (pending before the Legislature as this  
16 act). The State coordinator may consult with experts or other  
17 knowledgeable individuals in the public or private sector on any  
18 aspect of the State coordinator's mission.

19  
20 19. (New section). The Legislature shall appropriate such  
21 monies as necessary to fund the position of School Climate State  
22 Coordinator established pursuant to section 5 of P.L. , c.  
23 (C. ) (pending before the Legislature as this bill), and the  
24 “Bullying Prevention Fund” established pursuant to section 25 of  
25 P.L. 2010, c.122 (C.18A:37-28), and such other monies as  
26 necessary to implement the provisions of this act.<sup>1</sup>

27  
28 <sup>1</sup>**[9.]** 10.<sup>1</sup> Sections 1 and 4 of this act shall take effect  
29 immediately and the remainder of this act shall take effect on July 1  
30 of the first full school year <sup>1</sup>**[next]**<sup>1</sup> following the date of  
31 enactment <sup>1</sup>, or 180 days following the date of enactment,  
32 whichever is later<sup>1</sup>.

33  
34  
35  
36  
37 Revises provisions required in school district's anti-bullying  
38 policy; provides for civil liability of parent of minor adjudicated  
39 delinquent for cyber-harassment or harassment; and increases  
40 certain fines against parents.



# SENATE, No. 1790

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

**Sponsored by:**

**Senator JOSEPH PENNACCHIO**

**District 26 (Essex, Morris and Passaic)**

**Senator PATRICK J. DIEGNAN, JR.**

**District 18 (Middlesex)**

**Co-Sponsored by:**

**Senator Turner**

**SYNOPSIS**

“Mallory’s Law”; revises provisions required in school district’s anti-bullying policy; provides for civil liability of parent of minor adjudicated delinquent for cyber-harassment or harassment; and increases certain fines against parents.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 3/19/2020)**

1 AN ACT concerning bullying, designated as Mallory's Law, revising  
2 various parts of the statutory law, and supplementing Title 2A  
3 and Title 18A of the New Jersey Statutes.

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

7  
8 1. Section 1 of P.L.2013, c.272 (C.2C:33-4.1) is amended to  
9 read as follows:

10 1. a. A person commits the crime of cyber-harassment if, while  
11 making a communication in an online capacity via any electronic  
12 device or through a social networking site and with the purpose to  
13 harass another, the person:

14 (1) threatens to inflict injury or physical harm to any person or  
15 the property of any person;

16 (2) knowingly sends, posts, comments, requests, suggests, or  
17 proposes any lewd, indecent, or obscene material to or about a  
18 person with the intent to emotionally harm a reasonable person or  
19 place a reasonable person in fear of physical or emotional harm to  
20 his person; or

21 (3) threatens to commit any crime against the person or the  
22 person's property.

23 b. Cyber-harassment is a crime of the fourth degree, unless the  
24 person is 21 years of age or older at the time of the offense and  
25 impersonates a minor for the purpose of cyber-harassing a minor, in  
26 which case it is a crime of the third degree.

27 c. If a minor under the age of 16 is adjudicated delinquent for  
28 cyber-harassment, the court may order as a condition of the  
29 sentence that the minor, accompanied by a parent or guardian,  
30 complete, in a satisfactory manner, one or both of the following:

31 (1) a class or training program intended to reduce the tendency  
32 toward cyber-harassment behavior; or

33 (2) a class or training program intended to bring awareness to  
34 the dangers associated with cyber-harassment.

35 d. A parent or guardian who fails to comply with a condition  
36 imposed by the court pursuant to subsection c. of this section is a  
37 disorderly person and shall be fined not more than **[\$25]** \$100 for a  
38 first offense and not more than **[\$100]** \$500 for each subsequent  
39 offense.

40 e. In addition to any other disposition or condition imposed  
41 pursuant to this section, a parent or guardian having legal custody  
42 of a minor who demonstrates willful or wanton disregard in the  
43 exercise of the supervision and control of the conduct of a minor  
44 adjudicated delinquent of cyber-harassment pursuant to this section  
45 may be liable in a civil action pursuant to section 4 of  
46 P.L. ,c. (C. ) (pending before the Legislature as this bill).  
47 (cf: P.L.2013, c.272, s.1)

**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.

1       2. Section 1 of P.L.1982, c.163 (C.18A:17-46) is amended to  
2 read as follows:

3       1. Any school employee observing or having direct knowledge  
4 from a participant or victim of an act of violence shall, in  
5 accordance with standards established by the commissioner, file a  
6 report describing the incident to the school principal in a manner  
7 prescribed by the commissioner, and copy of same shall be  
8 forwarded to the district superintendent.

9       The principal shall notify the district superintendent of schools  
10 of the action taken regarding the incident. Two times each school  
11 year, between September 1 and January 1 and between January 1  
12 and June 30, at a public hearing, the superintendent of schools shall  
13 report to the board of education all acts of violence, vandalism, and  
14 harassment, intimidation, or bullying which occurred during the  
15 previous reporting period. The report shall include the number of  
16 reports of harassment, intimidation, or bullying, the status of all  
17 investigations, the nature of the bullying based on one of the  
18 protected categories identified in section 2 of P.L.2002, c.83  
19 (C.18A:37-14), the names of the investigators, the type and nature  
20 of any discipline imposed on any student engaged in harassment,  
21 intimidation, or bullying, and any other measures imposed, training  
22 conducted, or programs implemented, to reduce harassment,  
23 intimidation, or bullying. The information shall also be reported  
24 once during each reporting period to the Department of Education.  
25 The report must include data broken down by the enumerated  
26 categories as listed in section 2 of P.L.2002, c.83 (C.18A:37-14),  
27 and data broken down by each school in the district, in addition to  
28 district-wide data. It shall be a violation to improperly release any  
29 confidential information not authorized by federal or State law for  
30 public release.

31       The report shall be used to grade each school for the purpose of  
32 assessing its effort to implement policies and programs consistent  
33 with the provisions of P.L.2002, c.83 (C.18A:37-13 et seq.). The  
34 district shall receive a grade determined by averaging the grades of  
35 all the schools in the district. The commissioner shall promulgate  
36 guidelines for a program to grade schools for the purposes of this  
37 section.

38       The grade received by a school and the district shall be posted on  
39 the homepage of the school's website. The grade for the district and  
40 each school of the district shall be posted on the homepage of the  
41 district's website. A link to the report shall be available on the  
42 district's website. The information shall be posted on the websites  
43 within 10 days of the receipt of a grade by the school and district.

44       If a school district's policy permits a preliminary determination  
45 to be made on whether a reported incident or complaint is a report  
46 outside the scope of the definition of harassment, intimidation, or  
47 bullying pursuant to section 2 of P.L.2002, c.83 (C.18A:37-14), the  
48 superintendent shall also provide annually to the board of education

1 information on the number of times a preliminary determination  
2 was made that an incident or complaint was outside the scope of  
3 that definition for the purposes of the State's monitoring of the  
4 school district.

5 Verification of the reports on violence, vandalism, and  
6 harassment, intimidation, or bullying shall be part of the State's  
7 monitoring of the school district, and the State Board of Education  
8 shall adopt regulations that impose a penalty on a school employee  
9 who knowingly falsifies the report. A board of education shall  
10 provide ongoing staff training, in cooperation with the Department  
11 of Education, in fulfilling the reporting requirements pursuant to  
12 this section. The majority representative of the school employees  
13 shall have access monthly to the number and disposition of all  
14 reported acts of school violence, vandalism, and harassment,  
15 intimidation, or bullying.

16 (cf: P.L.2010, c.122, s.7)

17

18 3. Section 3 of P.L.2002, c.83 (C.18A:37-15) is amended to  
19 read as follows:

20 3. a. Each school district shall adopt a policy prohibiting  
21 harassment, intimidation or bullying on school property, at a  
22 school-sponsored function or on a school bus. The school district  
23 shall adopt the policy through a process that includes representation  
24 of parents or guardians, school employees, volunteers, students,  
25 administrators, and community representatives.

26 b. A school district shall have local control over the content of  
27 the policy, except that the policy shall contain, at a minimum, the  
28 following components:

29 (1) a statement prohibiting harassment, intimidation or bullying  
30 of a student;

31 (2) a definition of harassment, intimidation or bullying no less  
32 inclusive than that set forth in section 2 of P.L.2002, c.83  
33 (C.18A:37-14);

34 (3) a description of the type of behavior expected from each  
35 student;

36 (4) consequences and appropriate remedial action for a person  
37 who commits an act of harassment, intimidation or bullying. The  
38 consequences for a student who commits an act of harassment,  
39 intimidation, or bullying may include: for the first act of  
40 harassment, intimidation, or bullying committed by a student, a  
41 copy of the results of the investigation shall be placed in the  
42 student's record and the student may be subject to remedial actions,  
43 including the provision of counseling or behavioral intervention  
44 services, or discipline, or both, as determined by the principal in  
45 consultation with appropriate school staff; for the second act, a  
46 copy of the results of the investigation shall be placed in the  
47 student's record and the student may be subject to remedial actions,  
48 including the provision of counseling or behavioral intervention

1 services, or discipline, or both, as determined by the principal, in  
2 consultation with appropriate school staff; and for the third and  
3 each subsequent act, a copy of the results of the investigation shall  
4 be placed in the student's record, and the principal, in consultation  
5 with appropriate school staff, shall develop an individual student  
6 intervention plan which shall be approved by the superintendent of  
7 schools or the superintendent's designee, and may include remedial  
8 actions including counseling or behavioral intervention services, or  
9 progressive discipline, or both, and may require the student,  
10 accompanied by a parent or guardian, to complete in a satisfactory  
11 manner a class or training program to reduce harassment,  
12 intimidation or bullying behavior.

13 The superintendent of schools or the superintendent's designee  
14 and the principal shall consult law enforcement, as appropriate,  
15 pursuant to the provisions of the Uniform State Memorandum of  
16 Agreement Between Education and Law Enforcement Officials, if  
17 the student's behavior may constitute a possible violation of the  
18 New Jersey Code of Criminal Justice;

19 (5) a procedure for reporting an act of harassment, intimidation  
20 or bullying, including a provision that permits a person to report an  
21 act of harassment, intimidation or bullying anonymously; however,  
22 this shall not be construed to permit formal disciplinary action  
23 solely on the basis of an anonymous report.

24 All acts of harassment, intimidation, or bullying shall be reported  
25 verbally to the school principal on the same day when the school  
26 employee or contracted service provider witnessed or received  
27 reliable information regarding any such incident. The principal  
28 shall inform the parents or guardians of all students involved in the  
29 alleged incident, and may discuss, as appropriate, the availability of  
30 counseling and other intervention services. The principal shall keep  
31 a written record of the date, time, and manner of notification to the  
32 parents or guardians. All acts of harassment, intimidation, or  
33 bullying shall be reported in writing to the school principal within  
34 two school days of when the school employee or contracted service  
35 provider witnessed or received reliable information that a student  
36 had been subject to harassment, intimidation, or bullying. The  
37 written report shall be on a numbered form developed by the  
38 Department of Education. A copy of the form shall be submitted  
39 immediately by the principal to the superintendent of schools and to  
40 the board of education no later than the date of the board of  
41 education meeting next following the submission of the copy of the  
42 form to the superintendent of schools. The form shall be completed  
43 even if a preliminary determination is made under the school  
44 district's policy that the reported incident or complaint is a report  
45 outside the scope of the definition of harassment, intimidation, or  
46 bullying pursuant to section 2 of P.L.2002, c.83 (C.18A:37-14), and  
47 shall be kept on file at the school but shall not be included in any  
48 student record, unless the incident results in disciplinary action or is

1 otherwise required to be contained in a student's record under State  
2 or federal law. The superintendent and the members of the board of  
3 education shall review the copy of the form and shall each provide a  
4 signed statement to the principal attesting to the fact that they have  
5 reviewed the copy of the form. The signed statement shall be kept  
6 on file at the school with the original written report.

7 The school district shall provide a means for a parent or guardian  
8 to complete an online numbered form developed by the Department  
9 of Education to confidentially report an incident of harassment,  
10 intimidation, or bullying.

11 The principal shall report to the board of education if a  
12 preliminary determination is made under the school district's policy  
13 that the reported incident or complaint is a report outside the scope  
14 of the definition of harassment, intimidation, or bullying, and the  
15 board may require the principal to conduct an investigation of the  
16 incident, if the board determines that an investigation is necessary;

17 (6) a procedure for prompt investigation of reports of violations  
18 and complaints, which procedure shall at a minimum provide that:

19 (a) the investigation shall be initiated by the principal or the  
20 principal's designee within one school day of the report of the  
21 incident and shall be conducted by a school anti-bullying specialist.  
22 The principal may appoint additional personnel who are not school  
23 anti-bullying specialists to assist in the investigation. The  
24 investigation shall be completed as soon as possible, but not later  
25 than 10 school days from the date of the written report of the  
26 incident of harassment, intimidation, or bullying. In the event that  
27 there is information relative to the investigation that is anticipated  
28 but not yet received by the end of the 10-day period, the school  
29 anti-bullying specialist may amend the original report of the results  
30 of the investigation to reflect the information;

31 (b) the results of the investigation shall be reported to the  
32 superintendent of schools within two school days of the completion  
33 of the investigation, and in accordance with regulations  
34 promulgated by the State Board of Education pursuant to the  
35 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-  
36 1 et seq.), the superintendent may decide to provide intervention  
37 services, establish training programs to reduce harassment,  
38 intimidation, or bullying and enhance school climate, impose  
39 discipline, order counseling as a result of the findings of the  
40 investigation, or take or recommend other appropriate action;

41 (c) the results of each investigation shall be reported to the  
42 board of education no later than the date of the board of education  
43 meeting next following the completion of the investigation, along  
44 with information on any services provided, training established,  
45 discipline imposed, or other action taken or recommended by the  
46 superintendent;

47 (d) parents or guardians of the students who are parties to the  
48 investigation shall be entitled to receive information about the

1 investigation, in accordance with federal and State law and  
2 regulation, including the nature of the investigation, whether the  
3 district found evidence of harassment, intimidation, or bullying, or  
4 whether discipline was imposed or services provided to address the  
5 incident of harassment, intimidation, or bullying. This information  
6 shall be provided in writing within 5 school days after the results of  
7 the investigation are reported to the board. A parent or guardian  
8 may request a hearing before the board after receiving the  
9 information, and the hearing shall be held within 10 days of the  
10 request. The board shall meet in executive session for the hearing  
11 to protect the confidentiality of the students. At the hearing the  
12 board may hear from the school anti-bullying specialist about the  
13 incident, recommendations for discipline or services, and any  
14 programs instituted to reduce such incidents;

15 (e) at the next board of education meeting following its receipt  
16 of the report, the board shall issue a decision, in writing, to affirm,  
17 reject, or modify the superintendent's decision. In addition, the  
18 board may require the investigation to be reopened. The board's  
19 decision may be appealed to the Commissioner of Education, in  
20 accordance with the procedures set forth in law and regulation, no  
21 later than 90 days after the issuance of the board's decision; and

22 (f) a parent, student, guardian, or organization may file a  
23 complaint with the Division on Civil Rights within 180 days of the  
24 occurrence of any incident of harassment, intimidation, or bullying  
25 based on membership in a protected group as enumerated in the  
26 "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.);

27 (7) the range of ways in which a school will respond once an  
28 incident of harassment, intimidation or bullying is identified, which  
29 shall be defined by the principal in conjunction with the school anti-  
30 bullying specialist, but shall include an appropriate combination of  
31 services that are available within the district such as counseling,  
32 support services, intervention services, and other programs, as  
33 defined by the commissioner. In the event that the necessary  
34 programs and services are not available within the district, the  
35 district may apply to the Department of Education for a grant from  
36 the "Bullying Prevention Fund" established pursuant to section 25  
37 of P.L.2010, c.122 (C.18A:37-28) to support the provision of out-  
38 of-district programs and services;

39 (8) a statement that prohibits reprisal or retaliation against any  
40 person who reports an act of harassment, intimidation or bullying  
41 and the consequence and appropriate remedial action for a person  
42 who engages in reprisal or retaliation;

43 (9) consequences and appropriate remedial action for a person  
44 found to have falsely accused another as a means of retaliation or as  
45 a means of harassment, intimidation or bullying;

46 (10) a statement of how the policy is to be publicized, including  
47 notice that the policy applies to participation in school-sponsored  
48 functions;

1 (11) a requirement that a link to the policy be prominently  
2 posted on the home page of the school district's website and  
3 distributed annually to parents and guardians who have children  
4 enrolled in a school in the school district; and

5 (12) a requirement that the name, school phone number, school  
6 address and school email address of the district anti-bullying  
7 coordinator be listed on the home page of the school district's  
8 website and that on the home page of each school's website the  
9 name, school phone number, school address and school email  
10 address of the school anti-bullying specialist and the district anti-  
11 bullying coordinator be listed. The information concerning the  
12 district anti-bullying coordinator and the school anti-bullying  
13 specialists shall also be maintained on the department's website.

14 c. A school district shall adopt a policy and transmit a copy of  
15 its policy to the appropriate executive county superintendent of  
16 schools by September 1, 2003. A school district shall annually  
17 conduct a re-evaluation, reassessment, and review of its policy,  
18 making any necessary revisions and additions. The board shall  
19 include input from the school anti-bullying specialists in conducting  
20 its re-evaluation, reassessment, and review. The district shall  
21 transmit a copy of the revised policy to the appropriate executive  
22 county superintendent of schools within 30 school days of the  
23 revision. The first revised policy following the effective date of  
24 P.L.2010, c.122 (C.18A:37-13.1 et al.) shall be transmitted to the  
25 executive county superintendent of schools by September 1, 2011.

26 d. (1) To assist school districts in developing policies for the  
27 prevention of harassment, intimidation, or bullying, the  
28 Commissioner of Education shall develop a model policy applicable  
29 to grades kindergarten through 12. This model policy shall be  
30 issued no later than December 1, 2002.

31 (2) The commissioner shall adopt amendments to the model  
32 policy which reflect the provisions of P.L.2010, c.122 (C.18A:37-  
33 13.1 et al.) no later than 90 days after the effective date of that act  
34 and shall subsequently update the model policy as the commissioner  
35 deems necessary.

36 e. Notice of the school district's policy shall appear in any  
37 publication of the school district that sets forth the comprehensive  
38 rules, procedures and standards of conduct for schools within the  
39 school district, and in any student handbook.

40 f. Nothing in this section shall prohibit a school district from  
41 adopting a policy that includes components that are more stringent  
42 than the components set forth in this section.

43 (cf: P.L.2012, c.1, s.1)

44  
45 4. (New section) Notwithstanding any other provision of law  
46 to the contrary, a parent or guardian having legal custody of a minor  
47 who demonstrates willful or wanton disregard in the exercise of the  
48 supervision and control of the conduct of a minor adjudicated



1 delinquent of cyber-harassment, pursuant to section 1 of P.L.2013,  
2 c.272 (C.2C:33-4.1), or harassment, pursuant to N.J.S.2C:33-4,  
3 may be liable in a civil action.

4

5 5. (New section) There is hereby established within the  
6 Department of Education a School Climate State Coordinator to  
7 serve as a resource to parents, students, and educators. The duties  
8 and responsibilities of the State coordinator shall include:

9 a. Identifying and disseminating research and resources,  
10 including professional development resources, to promote best  
11 practices in student social-emotional learning and the development  
12 of a positive, supportive school climate in New Jersey schools;

13 b. Providing information regarding the provisions and  
14 procedures of the "Anti-Bullying Bill of Rights Act," P.L.2002,  
15 c.83 (C.18A:37-13 et seq.), and regulations promulgated thereto,  
16 relevant provisions of the "Law Against Discrimination," P.L.1945,  
17 c.169 (C.10:5-1 et seq.), and other State and federal laws addressing  
18 harassment, intimidation, and bullying;

19 c. Reviewing and reporting data collected on harassment,  
20 intimidation and bullying pursuant to section 1 of P.L.1982, c.163  
21 (C.18A:17-46) to identify and report to the Department of  
22 Education any patterns of harassment, intimidation, or bullying in  
23 public schools. The department shall review the information  
24 provided by the State coordinator to develop guidance and  
25 strategies for public schools, parents, school staff, and other  
26 agencies, as appropriate;

27 d. Assisting the Department of Education in creating public  
28 information programs that educate parents, educators, and the  
29 public concerning the duties of the State coordinator, the issue of  
30 harassment, intimidation, and bullying, and the resources available  
31 to address and prevent harassment, intimidation, and bullying;

32 e. Working collaboratively with law enforcement, the  
33 Department of Education, the Division on Civil Rights in the  
34 Department of Law and Public Safety, and the Department of  
35 Health to develop a training program on the impact of harassment,  
36 intimidation, and bullying on students and schools, that will be  
37 available for school districts to use in local anti-bullying programs  
38 and intervention plans;

39 f. Working collaboratively with law enforcement, including  
40 organizations representing school resource officers, to develop  
41 resources and training for law enforcement concerning the impact  
42 of harassment, intimidation, and bullying on students and schools,  
43 and the appropriate role of law enforcement in such matters  
44 pursuant to the Uniform Memorandum of Agreement Between  
45 Education and Law Enforcement Officials; and

46 g. Annually providing to the Commissioner of Education, the  
47 State Board of Education, and pursuant to section 2 of P.L.1991,  
48 c.164 (C.52:14-19.1) the Legislature, a report summarizing the

1 activities of the State coordinator, and any specific  
2 recommendations concerning school climate best practices and  
3 procedures.

4  
5 6. (New section) The School Climate State Coordinator shall  
6 consider communications received in the course of his duties,  
7 including personally identifiable information regarding students,  
8 parents, and others from whom information is acquired, as  
9 confidential and shall not disclose this information, in accordance  
10 with State and federal law.

11  
12 7. (New section) The Department of Education shall post in a  
13 prominent location on the homepage of its Internet website the  
14 contact information for the School Climate State Coordinator. Each  
15 school district shall post this information on its website at the same  
16 location it makes its policy on harassment, intimidation, and  
17 bullying available.

18  
19 8. (New section) The School Climate State Coordinator is  
20 authorized to call upon any department, office, division, or agency  
21 of the State to supply the State coordinator with data and any other  
22 information or assistance available to the department, office,  
23 division, or agency as the State coordinator deems necessary to  
24 discharge the duties under P.L. , c. (C. ) (pending before the  
25 Legislature as this bill). Each department, office, division, or  
26 agency, to the extent not inconsistent with law, shall cooperate fully  
27 with the State coordinator within the limits of its statutory  
28 authority, and provide such assistance on as timely a basis as is  
29 necessary to enable the State coordinator to accomplish his duties  
30 pursuant to P.L. , c. (C. ) (pending before the Legislature as this  
31 act). The State coordinator may consult with experts or other  
32 knowledgeable individuals in the public or private sector on any  
33 aspect of the State coordinator's mission.

34  
35 9. Sections 1 and 4 of this act shall take effect immediately and  
36 the remainder of this act shall take effect on July 1 of the first full  
37 school year next following the date of enactment.

38

39

40

#### STATEMENT

41

42 Under current law, all acts of harassment, intimidation, or  
43 bullying must be reported in writing to the school principal within  
44 two school days of when the school employee or contracted service  
45 provider witnessed or received reliable information that a student  
46 had been subject to harassment, intimidation, or bullying. This bill  
47 provides that the written report must be on a numbered form  
48 developed by the Department of Education (DOE). The principal

1 will be responsible for immediately submitting the form to the  
2 superintendent of schools and to the board of education. Under the  
3 provisions of the bill, the form must be completed, even if a  
4 preliminary determination is made under the school district's policy  
5 that the reported incident or complaint is a report outside the scope  
6 of the definition of harassment, intimidation, or bullying under the  
7 "Anti-Bullying Bill of Rights Act," P.L.2002, c.83 (C.18A:37-  
8 13 et seq.). The bill requires a school district to provide a means  
9 for a parent or guardian to complete an online form to report an  
10 incident of harassment, intimidation, or bullying.

11 Pursuant to the provisions of the bill, the district's anti-bullying  
12 policy must include specific consequences for a student who  
13 commits an act of harassment, intimidation or bullying. Under the  
14 bill, for the first and second acts of harassment, intimidation, or  
15 bullying committed by a student, a copy of the results of the  
16 investigation will be placed in the student's record and the student  
17 may be subject to remedial actions, including the provision of  
18 counseling or behavioral intervention services, or discipline, or  
19 both, as determined by the principal in consultation with  
20 appropriate school staff; and for the third and each subsequent act, a  
21 copy of the results of the investigation will be placed in the  
22 student's record, and the principal, in consultation with appropriate  
23 school staff, will develop an individual student intervention plan  
24 which will be approved by the superintendent and may include  
25 remedial actions and may require the student, accompanied by a  
26 parent or guardian, to complete a class or training program to  
27 reduce harassment, intimidation, or bullying behavior.

28 The bill requires that as part of the information provided by the  
29 superintendent of schools twice a year to the board of education  
30 regarding acts of violence, vandalism, and bullying which occurred  
31 during the previous reporting period, the superintendent will  
32 provide the board with information on the number of reports that  
33 were determined, pursuant to the district's preliminary  
34 determination process, not to meet the statutory definition of  
35 bullying.

36 Currently, under the provisions of the cyber-harassment statute,  
37 section 1 of P.L.2013, c.272 (C.2C:33-4.1), the court may order a  
38 parent or guardian of a minor under the age of 16 who has been  
39 adjudicated delinquent of cyber-harassment to attend classes or  
40 training with the minor. Failure to comply with these conditions  
41 results in a disorderly persons offense and the imposition of a fine  
42 of not more than \$25 for a first offense and not more than \$100 for  
43 each subsequent offense.

44 The bill would increase the monetary penalty against the parent  
45 or guardian for failure to comply with the class or training program  
46 as follows: (1) the \$25 fine for a first offense would be increased to  
47 \$100; and (2) the \$100 fine for each subsequent offense would be  
48 increased to \$500.

1 In addition, civil liability may be imposed on a parent or  
2 guardian, having legal custody of the minor, who demonstrates a  
3 willful or wanton disregard in the exercise of the supervision and  
4 control of a minor adjudicated delinquent of cyber-harassment or  
5 harassment.

6 The bill also establishes within the DOE a School Climate State  
7 Coordinator. The duties and responsibilities of the State coordinator  
8 will include:

9 (1) Identifying and disseminating research and resources to  
10 promote best practices in student social-emotional learning and the  
11 development of a positive, supportive school climate in schools;

12 (2) Providing information regarding the provisions and  
13 procedures of the “Anti-Bullying Bill of Rights Act,” and other  
14 State and federal laws addressing harassment, intimidation, and  
15 bullying;

16 (3) Reviewing and reporting data collected on harassment,  
17 intimidation and bullying to identify and report to the DOE any  
18 patterns of harassment, intimidation, or bullying in public schools;

19 (4) Assisting the DOE in creating public information programs  
20 that educate parents, educators, and the public concerning the duties  
21 of the State coordinator, the issue of harassment, intimidation, and  
22 bullying and the resources available to address it;

23 (5) Working collaboratively with law enforcement, the DOE, the  
24 Division on Civil Rights in the Department of Law and Public  
25 Safety, and the Department of Health to develop a training program  
26 on the impact of harassment, intimidation, and bullying on students  
27 and schools;

28 (6) Working collaboratively with law enforcement to develop  
29 resources and training for law enforcement concerning the impact  
30 of harassment, intimidation, and bullying on students and schools,  
31 and the appropriate role of law enforcement in such matters; and

32 (7) Annually providing to the Commissioner of Education, the  
33 State Board of Education, and the Legislature, a report summarizing  
34 the activities of the State coordinator, and any specific  
35 recommendations concerning school climate best practices and  
36 procedures.

37 The bill, named Mallory’s Law, is in response to the tragic case  
38 of 12-year old Mallory Grossman who was subjected to unrelenting  
39 bullying at school and online leading up to her suicide. The bill  
40 attempts to address this issue by placing more stringent safeguards  
41 in the “Anti-Bullying Bill of Rights Act.”

# SENATE EDUCATION COMMITTEE

## STATEMENT TO

### **SENATE, No. 1790**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: DECEMBER 7, 2020

The Senate Education Committee favorably reports Senate Bill No. 1790 with committee amendments.

As amended, this bill provides that the form that must be provided to the school principal within two school days of when a school employee or contracted service provider witnessed or received reliable information that a student had been subject to harassment, intimidation, or bullying, must be submitted promptly by the principal to the superintendent of schools.

Under the provisions of the bill, the form must be completed even if a preliminary determination is made under the school district's policy that the reported incident or complaint is a report outside the scope of the definition of harassment, intimidation, or bullying under the "Anti-Bullying Bill of Rights Act," P.L.2002, c.83 (C.18A:37-13 et seq.). As amended, a redacted copy of this form that removes all student identification information shall be confidentially shared with the board of education after the conclusion of the investigation, if a hearing is requested by a parent or guardian pursuant to the provisions of the bill.

As amended, the bill requires a principal to report to the superintendent if a preliminary determination is made under the school district's policy that the reported incident or complaint is a report outside the scope of the definition of harassment, intimidation, or bullying. The superintendent may require the principal to conduct an investigation of the incident, if the superintendent determines that an investigation is necessary, because the incident is within the scope of the definition of harassment, intimidation, or bullying. The superintendent must notify the principal of this determination in writing.

As amended, an investigation into a violation or complaint of harassment, intimidation, or bullying must be completed as soon as possible, but not later than 10 school days from the date of the written report of the incident of harassment, intimidation, or bullying or from the date the principal receives written notification from the superintendent directing the principal to initiate an investigation into an incident preliminarily determined to be outside the scope of the

definition of harassment, intimidation, or bullying. As amended, the bill provides that the superintendent of schools may seek further information following receipt of the results of an investigation.

As amended, the bill provides that a school district's anti-bullying policy must also include a requirement that the school district and each school in the district with a website post on its homepage the current version of the document, Guidance for Parents on the Anti-Bullying Bill of Rights Act, developed by the Department of Education. The School Climate State Coordinator, a position created under the bill, will ensure that this document is updated as needed and then promptly disseminated to all school districts.

The bill establishes the position of School Climate State Coordinator within the DOE. As amended, the bill provides that the Legislature will appropriate such monies as necessary to fund the position of School Climate State Coordinator, and the "Bullying Prevention Fund," and such other monies as necessary to implement the provisions of this act.

The bill provides that sections 1 and 4 of this act shall take effect immediately. As amended, the remaining sections of the bill shall take effect on July 1 of the first full school year following the date of enactment, or 180 days following the date of enactment, whichever is later.

#### COMMITTEE AMENDMENTS:

The committee amended the bill to remove reference to "Mallory's Law" in the title of the bill.

The committee amended the bill to make numerous changes to the information that must be included in a school district's anti-bullying policy and to certain reporting procedures that must be followed once a report or complaint of harassment, intimidation, or bullying is made. The committee amendments provide that a copy of the written form that must be submitted to a school principal within two school days of when the school employee or contract service provider witnessed or received reliable information that a student had been subject to harassment, intimidation, or bullying, must be promptly submitted by a principal to the superintendent of schools.

The amendments eliminated the requirement that the principal also submit this form to the board of education no later than the date of the board of education meeting next following the submission of the copy of the form to the superintendent of schools.

The committee amended the bill to eliminate the requirements that the superintendent and members of the board of education review a copy of the form, that the superintendent and members of the board of education sign a statement attesting to the fact that they have reviewed such form, and that the signed statement be kept on file at the school with the original report. The amendments provide that a copy of the form that removes all student identification information will be

confidentially shared with the board of education after the conclusion of the investigation if a parent or guardian of a student who is a party to the investigation requests a hearing pursuant to provisions of the bill.

The committee amended the bill to provide that the principal will report to the superintendent of schools if a preliminary determination is made that the reported incident or complaint is outside the scope of the definition of harassment, intimidation, or bullying. The amendments provide that the superintendent may require the principal to conduct an investigation if the superintendent determines that an investigation is necessary because the incident is within the scope of the definition of harassment, intimidation, or bullying. The amendments require the superintendent to notify the principal of this determination in writing.

The committee amended the bill to permit the investigation of a report under the district's anti-bullying policy to be completed not later than 10 school days from the date of written notification from the superintendent to the principal to initiate an investigation following a preliminary determination that the reported incident or complaint is outside the scope of the definition of harassment, intimidation, or bullying.

The committee amended the bill to allow the superintendent of schools to seek out further information following receipt of the results of the investigation.

The amendments eliminate a provision in the bill allowing a board of education to require an investigation be reopened following its receipt of the report pursuant to the provisions of the bill.

The committee amended the bill to require that a school district's anti-bullying policy include a requirement that the school district and each school in the district with a website post on its homepage the current version of the document, Guidance for Parents on the Anti-Bullying Bill of Rights Act, developed by the Department of Education. The amendments require the School Climate State Coordinator to ensure this document is updated as needed and then promptly disseminated to all school districts.

The committee amended the bill to require the Legislature to appropriate such monies as necessary to fund the position of School Climate State Coordinator, and the "Bullying Prevention Fund," and such other monies as necessary to implement the provisions of the bill.

The committee amended the effective date to provide that sections 2, 3, and 5 through 9 of the bill will take effect on July 1 of the first full school year following the date of enactment, or 180 days following the date of enactment, whichever is later.

# ASSEMBLY EDUCATION COMMITTEE

## STATEMENT TO

[First Reprint]

**SENATE, No. 1790**

# **STATE OF NEW JERSEY**

DATED: FEBRUARY 24, 2021

The Assembly Education Committee reports favorably Senate Bill No. 1790 (1R).

This bill provides for civil liability of the parent of a minor adjudicated delinquent for cyber-harassment or harassment. Currently, under the provisions of the cyber-harassment statute, section 1 of P.L.2013, c.272 (C.2C:33-4.1), the court may order a parent or guardian of a minor under the age of 16 who has been adjudicated delinquent of cyber-harassment to attend classes or training with the minor. Failure to comply with these conditions results in a disorderly persons offense and the imposition of a fine of not more than \$25 for a first offense and not more than \$100 for each subsequent offense. The bill would increase the monetary penalty against the parent or guardian for failure to comply with the class or training program as follows: (1) the \$25 fine for a first offense would be increased to \$100; and (2) the \$100 fine for each subsequent offense would be increased to \$500. In addition, civil liability may be imposed on a parent or guardian having legal custody of the minor who demonstrates a willful or wanton disregard in the exercise of the supervision and control of a minor adjudicated delinquent of cyber-harassment or harassment.

The bill requires that as part of the information provided by the superintendent of schools twice a year to the board of education regarding acts of violence, vandalism, and bullying which occurred during the previous reporting period, the superintendent will provide the board with information on the number of reports that were determined, pursuant to the district's preliminary determination process, not to meet the statutory definition of bullying.

Pursuant to the provisions of the bill, the district's anti-bullying policy must include specific consequences for a student who commits an act of harassment, intimidation or bullying. Under the bill, for the first and second acts of harassment, intimidation, or bullying committed by a student, a copy of the results of the investigation will be placed in the student's record and the student may be subject to remedial actions, including the provision of counseling or behavioral intervention services, or discipline, or both, as determined by the principal in consultation with appropriate school staff; and for the third



and each subsequent act, a copy of the results of the investigation will be placed in the student's record, and the principal, in consultation with appropriate school staff, will develop an individual student intervention plan which will be approved by the superintendent and may include remedial actions and may require the student, accompanied by a parent or guardian, to complete a class or training program to reduce harassment, intimidation, or bullying behavior.

The bill also provides that the written report that is required under current law to be provided to the school principal within two school days of when a school employee or contracted service provider witnessed or received reliable information that a student had been subject to harassment, intimidation, or bullying, must be on a numbered form developed by the Department of Education (DOE). The principal will be responsible for promptly submitting a copy of the form to the superintendent of schools.

Under the provisions of the bill, the form must be completed even if a preliminary determination is made under the school district's policy that the reported incident or complaint is a report outside the scope of the definition of harassment, intimidation, or bullying under the "Anti-Bullying Bill of Rights Act," P.L.2002, c.83 (C.18A:37-13 et seq.). A redacted copy of this form that removes all student identification information would be confidentially shared with the board of education after the conclusion of the investigation, if a hearing is requested by a parent or guardian. The bill requires a school district to provide a means for a parent or guardian to complete an online form to report an incident of harassment, intimidation, or bullying.

The bill requires a principal to report to the superintendent if a preliminary determination is made under the school district's policy that the reported incident or complaint is a report outside the scope of the definition of harassment, intimidation, or bullying. The superintendent may require the principal to conduct an investigation of the incident, if the superintendent determines that an investigation is necessary, because the incident is within the scope of the definition of harassment, intimidation, or bullying. The superintendent must notify the principal of this determination in writing.

Under the bill, an investigation into a violation or complaint of harassment, intimidation, or bullying must be completed as soon as possible, but not later than 10 school days from the date of the written report of the incident of harassment, intimidation, or bullying or from the date the principal receives written notification from the superintendent directing the principal to initiate an investigation into an incident preliminarily determined to be outside the scope of the definition of harassment, intimidation, or bullying. The bill provides that the superintendent of schools may seek further information following receipt of the results of an investigation.

The bill provides that a school district's anti-bullying policy must also include a requirement that the school district and each school in the district with a website post on its homepage the current version of the document, Guidance for Parents on the Anti-Bullying Bill of Rights Act, developed by the DOE. The School Climate State Coordinator, a position created under the bill, will ensure that this document is updated as needed and then promptly disseminated to all school districts.

The bill establishes the position of School Climate State Coordinator within the DOE to serve as a resource to parents, students, and educators. The bill provides that the Legislature will appropriate such monies as necessary to fund the position of School Climate State Coordinator, and the "Bullying Prevention Fund," and such other monies as necessary to implement the provisions of this act.

The bill provides that sections 1 and 4 of the bill would take effect immediately. The remaining sections of the bill would take effect on July 1 of the first full school year following the date of enactment, or 180 days following the date of enactment, whichever is later.

As reported by the committee, this bill is identical to the Assembly Committee Substitute for Assembly Bill No. 1662, which was reported by the committee on this same date.

**ASSEMBLY, No. 1662**

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**STATE OF NEW JERSEY**

**219th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Assemblywoman ANNETTE QUIJANO**

**District 20 (Union)**

**Assemblywoman ANGELICA M. JIMENEZ**

**District 32 (Bergen and Hudson)**

**Assemblyman JOE DANIELSEN**

**District 17 (Middlesex and Somerset)**

**Co-Sponsored by:**

**Assemblywomen B.DeCroce, Murphy and Vainieri Huttle**

**SYNOPSIS**

“Mallory’s Law”; revises provisions required in school district’s anti-bullying policy; provides for civil liability of parent of minor adjudicated delinquent for cyber-harassment or harassment; and increases certain fines against parents.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 1/27/2020)**

1 AN ACT concerning bullying, designated as Mallory's Law, revising  
2 various parts of the statutory law, and supplementing Title 2A of  
3 the New Jersey Statutes.

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

7  
8 1. Section 1 of P.L.2013, c.272 (C.2C:33-4.1) is amended to  
9 read as follows:

10 1. a. A person commits the crime of cyber-harassment if,  
11 while making a communication in an online capacity via any  
12 electronic device or through a social networking site and with the  
13 purpose to harass another, the person:

14 (1) threatens to inflict injury or physical harm to any person or  
15 the property of any person;

16 (2) knowingly sends, posts, comments, requests, suggests, or  
17 proposes any lewd, indecent, or obscene material to or about a  
18 person with the intent to emotionally harm a reasonable person or  
19 place a reasonable person in fear of physical or emotional harm to  
20 his person; or

21 (3) threatens to commit any crime against the person or the  
22 person's property.

23 b. Cyber-harassment is a crime of the fourth degree, unless the  
24 person is 21 years of age or older at the time of the offense and  
25 impersonates a minor for the purpose of cyber-harassing a minor, in  
26 which case it is a crime of the third degree.

27 c. If a minor under the age of 16 is adjudicated delinquent for  
28 cyber-harassment, the court may order as a condition of the  
29 sentence that the minor, accompanied by a parent or guardian,  
30 complete, in a satisfactory manner, one or both of the following:

31 (1) a class or training program intended to reduce the tendency  
32 toward cyber-harassment behavior; or

33 (2) a class or training program intended to bring awareness to  
34 the dangers associated with cyber-harassment.

35 d. A parent or guardian who fails to comply with a condition  
36 imposed by the court pursuant to subsection c. of this section is a  
37 disorderly person and shall be fined not more than **[\$25]** \$100 for a  
38 first offense and not more than **[\$100]** \$500 for each subsequent  
39 offense.

40 e. In addition to any other disposition or condition imposed  
41 pursuant to this section, a parent or guardian having legal custody  
42 of a minor who demonstrates willful or wonton disregard in the  
43 exercise of the supervision and control of the conduct of a minor  
44 adjudicated delinquent of cyber-harassment pursuant to this section  
45 may be liable in a civil action pursuant to section 5 of P.L. , c.  
46 (C. ) (pending before the Legislature as this bill).

47 (cf: P.L.2013, c.272, s.1)

**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.

1       2. Section 1 of P.L.1982, c.163 (C.18A:17-46) is amended to  
2 read as follows:

3       1. Any school employee observing or having direct knowledge  
4 from a participant or victim of an act of violence shall, in  
5 accordance with standards established by the commissioner, file a  
6 report describing the incident to the school principal in a manner  
7 prescribed by the commissioner, and copy of same shall be  
8 forwarded to the district superintendent.

9       The principal shall notify the district superintendent of schools  
10 of the action taken regarding the incident. Two times each school  
11 year, between September 1 and January 1 and between January 1  
12 and June 30, at a public hearing, the superintendent of schools shall  
13 report to the board of education all acts of violence, vandalism, and  
14 harassment, intimidation, or bullying which occurred during the  
15 previous reporting period. The report shall include the number of  
16 reports of harassment, intimidation, or bullying, the status of all  
17 investigations, the nature of the bullying based on one of the  
18 protected categories identified in section 2 of P.L.2002, c.83  
19 (C.18A:37-14), the names of the investigators, the type and nature  
20 of any discipline imposed on any student engaged in harassment,  
21 intimidation, or bullying, and any other measures imposed, training  
22 conducted, or programs implemented, to reduce harassment,  
23 intimidation, or bullying. The information shall also be reported  
24 once during each reporting period to the Department of Education.  
25 The report must include data broken down by the enumerated  
26 categories as listed in section 2 of P.L.2002, c.83 (C.18A:37-14),  
27 and data broken down by each school in the district, in addition to  
28 district-wide data. It shall be a violation to improperly release any  
29 confidential information not authorized by federal or State law for  
30 public release.

31       The report shall be used to grade each school for the purpose of  
32 assessing its effort to implement policies and programs consistent  
33 with the provisions of P.L.2002, c.83 (C.18A:37-13 et seq.). The  
34 district shall receive a grade determined by averaging the grades of  
35 all the schools in the district. The commissioner shall promulgate  
36 guidelines for a program to grade schools for the purposes of this  
37 section.

38       The grade received by a school and the district shall be posted on  
39 the homepage of the school's website. The grade for the district and  
40 each school of the district shall be posted on the homepage of the  
41 district's website. A link to the report shall be available on the  
42 district's website. The information shall be posted on the websites  
43 within 10 days of the receipt of a grade by the school and district.

44       If a school district's policy permits a preliminary determination  
45 to be made on whether a reported incident or complaint is a report  
46 outside the scope of the definition of harassment, intimidation, or  
47 bullying pursuant to section 2 of P.L.2002, c.83 (C.18A:37-14), the  
48 superintendent shall also provide to the board of education at the

1 public hearings information on the number of times a preliminary  
2 determination was made that an incident or complaint was outside  
3 the scope of that definition.

4 Verification of the reports on violence, vandalism, and  
5 harassment, intimidation, or bullying shall be part of the State's  
6 monitoring of the school district, and the State Board of Education  
7 shall adopt regulations that impose a penalty on a school employee  
8 who knowingly falsifies the report. A board of education shall  
9 provide ongoing staff training, in cooperation with the Department  
10 of Education, in fulfilling the reporting requirements pursuant to  
11 this section. The majority representative of the school employees  
12 shall have access monthly to the number and disposition of all  
13 reported acts of school violence, vandalism, and harassment,  
14 intimidation, or bullying.

15 (cf: P.L.2010, c.122, s.7)

16

17 3. Section 3 of P.L.2002, c.83 (C.18A:37-15) is amended to  
18 read as follows:

19 3. a. Each school district shall adopt a policy prohibiting  
20 harassment, intimidation or bullying on school property, at a  
21 school-sponsored function or on a school bus. The school district  
22 shall adopt the policy through a process that includes representation  
23 of parents or guardians, school employees, volunteers, students,  
24 administrators, and community representatives.

25 b. A school district shall have local control over the content of  
26 the policy, except that the policy shall contain, at a minimum, the  
27 following components:

28 (1) a statement prohibiting harassment, intimidation or bullying  
29 of a student;

30 (2) a definition of harassment, intimidation or bullying no less  
31 inclusive than that set forth in section 2 of P.L.2002, c.83  
32 (C.18A:37-14);

33 (3) a description of the type of behavior expected from each  
34 student;

35 (4) consequences and appropriate remedial action for a person  
36 who commits an act of harassment, intimidation or bullying. The  
37 consequences for a student who commits an act of harassment,  
38 intimidation, or bullying shall include: for the first act of  
39 harassment, intimidation, or bullying committed by a student, a  
40 copy of the results of the investigation shall be placed in the  
41 student's record and the student may be subject to discipline  
42 imposed by the superintendent of schools pursuant to paragraph (6)  
43 of subsection b. of this section; for the second act, a copy of the  
44 results of the investigation shall be placed in the student's record  
45 and the student shall be subject to a plan of disciplinary action  
46 established by the superintendent of schools pursuant to paragraph  
47 (6) of subsection b. of this section; and for the third and each  
48 subsequent act, a copy of the results of the investigation shall be

1 placed in the student's record, and the executive county  
2 superintendent shall be informed and shall impose the appropriate  
3 discipline and require the student, accompanied by a parent or  
4 guardian, to complete, in a satisfactory manner, a class or training  
5 program to reduce the tendency toward harassment, intimidation or  
6 bullying behavior, as selected by the executive county  
7 superintendent. The executive county superintendent may apply for  
8 a court order to compel the participation of the student, parent, or  
9 guardian in the class or training program and the court may, in its  
10 discretion, impose a fine for failure to comply with its order. The  
11 executive county superintendent shall also notify the appropriate  
12 law enforcement official of a possible violation of the New Jersey  
13 Code of Criminal Justice;

14 (5) a procedure for reporting an act of harassment, intimidation  
15 or bullying, including a provision that permits a person to report an  
16 act of harassment, intimidation or bullying anonymously; however,  
17 this shall not be construed to permit formal disciplinary action  
18 solely on the basis of an anonymous report.

19 All acts of harassment, intimidation, or bullying shall be reported  
20 verbally to the school principal on the same day when the school  
21 employee or contracted service provider witnessed or received  
22 reliable information regarding any such incident. The principal  
23 shall inform the parents or guardians of all students involved in the  
24 alleged incident, and may discuss, as appropriate, the availability of  
25 counseling and other intervention services. All acts of harassment,  
26 intimidation, or bullying shall be reported in writing to the school  
27 principal within two school days of when the school employee or  
28 contracted service provider witnessed or received reliable  
29 information that a student had been subject to harassment,  
30 intimidation, or bullying. The written report shall be on a  
31 numbered form developed by the Department of Education. The  
32 form shall also include information on when each parent or  
33 guardian was informed of the alleged incident and the manner in  
34 which they were informed. A copy of the form shall be submitted  
35 immediately by the principal to the superintendent of schools, the  
36 executive county superintendent, and to the parents or guardians of  
37 students involved in the alleged incident in accordance with federal  
38 and State law and regulation. The form shall be completed even if a  
39 preliminary determination is made under the school district's policy  
40 that the reported incident or complaint is a report outside the scope  
41 of the definition of harassment, intimidation, or bullying pursuant to  
42 section 2 of P.L.2002, c.83 (C.18A:37-14), and shall be kept on file  
43 at the school but shall not be included in any student record. If a  
44 school district's policy permits a preliminary determination to be  
45 made on a reported incident or complaint, that determination shall  
46 be made by a safe schools resource officer if one has been assigned  
47 to the school by the board of education.

1       The school district shall provide a means for a parent or guardian  
2 to complete an online numbered form developed by the Department  
3 of Education to confidentially report an incident of harassment,  
4 intimidation, or bullying;

5       (6) a procedure for prompt investigation of reports of violations  
6 and complaints, which procedure shall at a minimum provide that:

7       (a) the investigation shall be initiated by the principal or the  
8 principal's designee within one school day of the report of the  
9 incident and shall be conducted by a school anti-bullying specialist.

10       The principal may appoint additional personnel who are not school  
11 anti-bullying specialists to assist in the investigation. The  
12 investigation shall be completed as soon as possible, but not later  
13 than 10 school days from the date of the written report of the  
14 incident of harassment, intimidation, or bullying. In the event that  
15 there is information relative to the investigation that is anticipated  
16 but not yet received by the end of the 10-day period, the school  
17 anti-bullying specialist may amend the original report of the results  
18 of the investigation to reflect the information;

19       (b) the results of the investigation shall be reported to the  
20 superintendent of schools within two school days of the completion  
21 of the investigation, and in accordance with regulations  
22 promulgated by the State Board of Education pursuant to the  
23 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
24 seq.), the superintendent may decide to provide intervention  
25 services, establish training programs to reduce harassment,  
26 intimidation, or bullying and enhance school climate, impose  
27 discipline in accordance with the provisions of this section, order  
28 counseling as a result of the findings of the investigation, or take or  
29 recommend other appropriate action;

30       (c) the results of each investigation shall be reported to the  
31 board of education no later than the date of the board of education  
32 meeting next following the completion of the investigation, along  
33 with information on any services provided, training established,  
34 discipline imposed, or other action taken or recommended by the  
35 superintendent;

36       (d) parents or guardians of the students who are parties to the  
37 investigation shall be entitled to receive information about the  
38 investigation, in accordance with federal and State law and  
39 regulation, including the nature of the investigation, whether the  
40 district found evidence of harassment, intimidation, or bullying, or  
41 whether discipline was imposed or services provided to address the  
42 incident of harassment, intimidation, or bullying. This information  
43 shall be provided in writing within 5 school days after the results of  
44 the investigation are reported to the board. A parent or guardian  
45 may request a hearing before the board after receiving the  
46 information, and the hearing shall be held within 10 days of the  
47 request. The board shall meet in executive session for the hearing  
48 to protect the confidentiality of the students. At the hearing the



- 1 board may hear from the school anti-bullying specialist about the  
2 incident, recommendations for discipline or services, and any  
3 programs instituted to reduce such incidents;
- 4 (e) at the next board of education meeting following its receipt  
5 of the report, the board shall issue a decision, in writing, to affirm,  
6 reject, or modify the superintendent's decision. The board's  
7 decision may be appealed to the Commissioner of Education, in  
8 accordance with the procedures set forth in law and regulation, no  
9 later than 90 days after the issuance of the board's decision; and
- 10 (f) a parent, student, guardian, or organization may file a  
11 complaint with the Division on Civil Rights within 180 days of the  
12 occurrence of any incident of harassment, intimidation, or bullying  
13 based on membership in a protected group as enumerated in the  
14 "Law Against Discrimination," P.L.1945, c.169 (C.10:5-1 et seq.);
- 15 (7) the range of ways in which a school will respond once an  
16 incident of harassment, intimidation or bullying is identified, which  
17 shall be defined by the principal in conjunction with the school anti-  
18 bullying specialist, but shall include an appropriate combination of  
19 services that are available within the district such as counseling,  
20 support services, intervention services, and other programs, as  
21 defined by the commissioner. In the event that the necessary  
22 programs and services are not available within the district, the  
23 district may apply to the Department of Education for a grant from  
24 the "Bullying Prevention Fund" established pursuant to section 25  
25 of P.L.2010, c.122 (C.18A:37-28) to support the provision of out-  
26 of-district programs and services;
- 27 (8) a statement that prohibits reprisal or retaliation against any  
28 person who reports an act of harassment, intimidation or bullying  
29 and the consequence and appropriate remedial action for a person  
30 who engages in reprisal or retaliation;
- 31 (9) consequences and appropriate remedial action for a person  
32 found to have falsely accused another as a means of retaliation or as  
33 a means of harassment, intimidation or bullying;
- 34 (10) a statement of how the policy is to be publicized, including  
35 notice that the policy applies to participation in school-sponsored  
36 functions;
- 37 (11) a requirement that a link to the policy be prominently posted  
38 on the home page of the school district's website and distributed  
39 annually to parents and guardians who have children enrolled in a  
40 school in the school district; and
- 41 (12) a requirement that the name, school phone number, school  
42 address and school email address of the district anti-bullying  
43 coordinator be listed on the home page of the school district's  
44 website and that on the home page of each school's website the  
45 name, school phone number, school address and school email  
46 address of the school anti-bullying specialist and the district anti-  
47 bullying coordinator be listed. The information concerning the

1 district anti-bullying coordinator and the school anti-bullying  
2 specialists shall also be maintained on the department's website.

3 c. A school district shall adopt a policy and transmit a copy of  
4 its policy to the appropriate executive county superintendent of  
5 schools by September 1, 2003. A school district shall annually  
6 conduct a re-evaluation, reassessment, and review of its policy,  
7 making any necessary revisions and additions. The board shall  
8 include input from the school anti-bullying specialists in conducting  
9 its re-evaluation, reassessment, and review. The district shall  
10 transmit a copy of the revised policy to the appropriate executive  
11 county superintendent of schools within 30 school days of the  
12 revision. The first revised policy following the effective date of  
13 P.L.2010, c.122 (C.18A:37-13.1 et al.) shall be transmitted to the  
14 executive county superintendent of schools by September 1, 2011.

15 d. (1) To assist school districts in developing policies for the  
16 prevention of harassment, intimidation, or bullying, the  
17 Commissioner of Education shall develop a model policy applicable  
18 to grades kindergarten through 12. This model policy shall be  
19 issued no later than December 1, 2002.

20 (2) The commissioner shall adopt amendments to the model  
21 policy which reflect the provisions of P.L.2010, c.122 (C.18A:37-  
22 13.1 et al.) no later than 90 days after the effective date of that act  
23 and shall subsequently update the model policy as the commissioner  
24 deems necessary.

25 e. Notice of the school district's policy shall appear in any  
26 publication of the school district that sets forth the comprehensive  
27 rules, procedures and standards of conduct for schools within the  
28 school district, and in any student handbook.

29 f. Nothing in this section shall prohibit a school district from  
30 adopting a policy that includes components that are more stringent  
31 than the components set forth in this section.

32 (cf: P.L.2012, c.1, s.1)

33

34 4. Section 17 of P.L.2010, c.122 (C.18A:37-20) is amended to  
35 read as follows:

36 17. a. The principal in each school in a school district shall  
37 appoint a school anti-bullying specialist. When a safe schools  
38 resource officer has been assigned to the school by the board of  
39 education, the principal shall appoint that individual to be the  
40 school anti-bullying specialist. If a safe schools resource officer  
41 has not been assigned to the school, and a school guidance  
42 counselor, school psychologist, or another individual similarly  
43 trained is currently employed in the school, the principal shall  
44 appoint that individual to be the school anti-bullying specialist. If  
45 no individual meeting this criteria is currently employed in the  
46 school, the principal shall appoint a school anti-bullying specialist  
47 from currently employed school personnel. The school anti-  
48 bullying specialist shall:

- 1 (1) chair the school safety team as provided in section 18 of  
2 P.L.2010, c.122 (C.18A:37-21);  
3 (2) lead the investigation of incidents of harassment,  
4 intimidation, and bullying in the school; and  
5 (3) act as the primary school official responsible for preventing,  
6 identifying, and addressing incidents of harassment, intimidation,  
7 and bullying in the school.  
8 b. The superintendent of schools shall appoint a district anti-  
9 bullying coordinator. The superintendent shall make every effort to  
10 appoint an employee of the school district to this position. The  
11 district anti-bullying coordinator shall:  
12 (1) be responsible for coordinating and strengthening the school  
13 district's policies to prevent, identify, and address harassment,  
14 intimidation, and bullying of students;  
15 (2) collaborate with school anti-bullying specialists in the  
16 district, the board of education, and the superintendent of schools to  
17 prevent, identify, and respond to harassment, intimidation, and  
18 bullying of students in the district;  
19 (3) provide data, in collaboration with the superintendent of  
20 schools, to the Department of Education regarding harassment,  
21 intimidation, and bullying of students; and  
22 (4) execute such other duties related to school harassment,  
23 intimidation, and bullying as requested by the superintendent of  
24 schools.  
25 c. The district anti-bullying coordinator shall meet at least  
26 twice a school year with the school anti-bullying specialists in the  
27 district to discuss and strengthen procedures and policies to prevent,  
28 identify, and address harassment, intimidation, and bullying in the  
29 district.  
30 (cf: P.L.2010, c.122, s.17)

31  
32 5. (New section) Notwithstanding any other provision of law  
33 to the contrary, a parent or guardian having legal custody of a minor  
34 who demonstrates willful or wonton disregard in the exercise of the  
35 supervision and control of the conduct of a minor adjudicated  
36 delinquent of cyber-harassment, pursuant to section 1 of P.L.2013,  
37 c.272 (C.2C:33-4.1), or harassment, pursuant to N.J.S.2C:33-4,  
38 may be liable in a civil action.

39  
40 6. Sections 1 and 5 of this act shall take effect immediately and  
41 the remainder of this act shall take effect on July 1 of the first full  
42 school year next following the date of enactment.

43  
44 STATEMENT

45  
46 Under current law, all acts of harassment, intimidation, or  
47 bullying must be reported in writing to the school principal within  
48 two school days of when the school employee or contracted service

1 provider witnessed or received reliable information that a student  
2 had been subject to harassment, intimidation, or bullying. This bill  
3 provides that the written report must be on a numbered form  
4 developed by the Department of Education. The principal will be  
5 responsible for immediately submitting the form to the  
6 superintendent of schools, the executive county superintendent, and  
7 to the parents or guardians of students involved in the alleged  
8 incident in accordance with federal and State law and regulations.  
9 Under the provisions of the bill, the form must be completed, even  
10 if a preliminary determination is made under the school district's  
11 policy that the reported incident or complaint is a report outside the  
12 scope of the definition of harassment, intimidation, or bullying  
13 under the "Anti-Bullying Bill of Rights Act," P.L.2002, c.83  
14 (C.18A:37-13 et seq.). If a school district's policy permits a  
15 preliminary determination to be made on a reported incident or  
16 complaint, the determination will be required to be made by a safe  
17 schools resource officer, if one has been assigned to the school by  
18 the board of education. The bill also requires a school district to  
19 provide a means for a parent or guardian to complete an online form  
20 to report an incident of harassment, intimidation, or bullying.

21 Pursuant to the provisions of the bill, the district's anti-bullying  
22 policy must include specific consequences for a student who  
23 commits an act of harassment, intimidation or bullying. Under the  
24 bill, for the first act of harassment, intimidation, or bullying  
25 committed by a student, a copy of the results of the investigation  
26 will be placed in the student's record and the student may be subject  
27 to discipline imposed by the superintendent; for the second act, a  
28 copy of the results of the investigation will be placed in the  
29 student's record and the student will be subject to a plan of  
30 disciplinary action established by the superintendent; and for the  
31 third act, a copy of the results of the investigation will be placed in  
32 the student's record, and the executive county superintendent will  
33 be informed and will impose the appropriate discipline and require  
34 the student, accompanied by a parent or guardian, to complete a  
35 class or training program to reduce the tendency toward harassment,  
36 intimidation or bullying behavior. The executive county  
37 superintendent will also notify the appropriate law enforcement  
38 official of a possible violation of the New Jersey Code of Criminal  
39 Justice.

40 The bill also requires that if a safe schools resource officer has  
41 been assigned to a school, that individual must be appointed by the  
42 principal to the position of school anti-bullying specialist.  
43 Additionally, the bill requires that as part of the information  
44 provided by the superintendent of schools twice a year to the board  
45 of education regarding acts of violence, vandalism, and bullying  
46 which occurred during the previous reporting period, the  
47 superintendent will provide the board with information on the  
48 number of reports that were determined, pursuant to the district's

1 preliminary determination process, not to meet the statutory  
2 definition of bullying.

3 Currently, under the provisions of the cyber-harassment statute,  
4 section 1 of P.L.2013, c.272 (C.2C:33-4.1), the court may order a  
5 parent or guardian of a minor under the age of 16 who has been  
6 adjudicated delinquent of cyber-harassment to attend classes or  
7 training with the minor. Failure to comply with these conditions  
8 results in a disorderly persons offense and the imposition of a fine  
9 of not more than \$25 for a first offense and not more than \$100 for  
10 each subsequent offense.

11 The bill would increase the monetary penalty against the parent  
12 or guardian for failure to comply with the class or training program  
13 as follows: (1) the \$25 fine for a first offense would be increased to  
14 \$100; and (2) the \$100 fine for each subsequent offense would be  
15 increased to \$500.

16 In addition, civil liability may be imposed on a parent or  
17 guardian, having legal custody of the minor, who demonstrates a  
18 willful or wanton disregard in the exercise of the supervision and  
19 control of a minor adjudicated delinquent of cyber-harassment or  
20 harassment.

21 The bill, named Mallory's Law, is in response to the tragic case  
22 of 12-year old Mallory Grossman who was subjected to unrelenting  
23 bullying at school and online leading up to her suicide. The bill  
24 attempts to address this issue by placing more stringent safeguards  
25 in the "Anti-Bullying Bill of Rights Act."

ASSEMBLY EDUCATION COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 1662

**STATE OF NEW JERSEY**

DATED: FEBRUARY 24, 2021

The Assembly Education Committee reports favorably Assembly Committee Substitute for Assembly Bill No. 1662.

This committee substitute provides for civil liability of the parent of a minor adjudicated delinquent for cyber-harassment or harassment. Currently, under the provisions of the cyber-harassment statute, section 1 of P.L.2013, c.272 (C.2C:33-4.1), the court may order a parent or guardian of a minor under the age of 16 who has been adjudicated delinquent of cyber-harassment to attend classes or training with the minor. Failure to comply with these conditions results in a disorderly persons offense and the imposition of a fine of not more than \$25 for a first offense and not more than \$100 for each subsequent offense. The bill would increase the monetary penalty against the parent or guardian for failure to comply with the class or training program as follows: (1) the \$25 fine for a first offense would be increased to \$100; and (2) the \$100 fine for each subsequent offense would be increased to \$500. In addition, civil liability may be imposed on a parent or guardian, having legal custody of the minor, who demonstrates a willful or wanton disregard in the exercise of the supervision and control of a minor adjudicated delinquent of cyber-harassment or harassment.

The bill requires that as part of the information provided by the superintendent of schools twice a year to the board of education regarding acts of violence, vandalism, and bullying which occurred during the previous reporting period, the superintendent will provide the board with information on the number of reports that were determined, pursuant to the district's preliminary determination process, not to meet the statutory definition of bullying.

Pursuant to the provisions of the bill, the district's anti-bullying policy must include specific consequences for a student who commits an act of harassment, intimidation or bullying. Under the bill, for the first and second acts of harassment, intimidation, or bullying committed by a student, a copy of the results of the investigation will be placed in the student's record and the student may be subject to remedial actions, including the provision of counseling or behavioral intervention services, or discipline, or both, as determined by the principal in consultation with appropriate school staff; and for the third

and each subsequent act, a copy of the results of the investigation will be placed in the student's record, and the principal, in consultation with appropriate school staff, will develop an individual student intervention plan which will be approved by the superintendent and may include remedial actions and may require the student, accompanied by a parent or guardian, to complete a class or training program to reduce harassment, intimidation, or bullying behavior.

The bill also provides that the written report that is required under current law to be provided to the school principal within two school days of when a school employee or contracted service provider witnessed or received reliable information that a student had been subject to harassment, intimidation, or bullying, must be on a numbered form developed by the Department of Education (DOE). The principal will be responsible for promptly submitting a copy of the form to the superintendent of schools.

Under the provisions of the bill, the form must be completed even if a preliminary determination is made under the school district's policy that the reported incident or complaint is a report outside the scope of the definition of harassment, intimidation, or bullying under the "Anti-Bullying Bill of Rights Act," P.L.2002, c.83 (C.18A:37-13 et seq.). A redacted copy of this form that removes all student identification information would be confidentially shared with the board of education after the conclusion of the investigation, if a hearing is requested by a parent or guardian. The bill requires a school district to provide a means for a parent or guardian to complete an online form to report an incident of harassment, intimidation, or bullying.

The bill requires a principal to report to the superintendent if a preliminary determination is made under the school district's policy that the reported incident or complaint is a report outside the scope of the definition of harassment, intimidation, or bullying. The superintendent may require the principal to conduct an investigation of the incident, if the superintendent determines that an investigation is necessary, because the incident is within the scope of the definition of harassment, intimidation, or bullying. The superintendent must notify the principal of this determination in writing.

Under the bill, an investigation into a violation or complaint of harassment, intimidation, or bullying must be completed as soon as possible, but not later than 10 school days from the date of the written report of the incident of harassment, intimidation, or bullying or from the date the principal receives written notification from the superintendent directing the principal to initiate an investigation into an incident preliminarily determined to be outside the scope of the definition of harassment, intimidation, or bullying. The bill provides that the superintendent of schools may seek further information following receipt of the results of an investigation.

The bill provides that a school district's anti-bullying policy must also include a requirement that the school district and each school in the district with a website post on its homepage the current version of the document, Guidance for Parents on the Anti-Bullying Bill of Rights Act, developed by the DOE. The School Climate State Coordinator, a position created under the bill, will ensure that this document is updated as needed and then promptly disseminated to all school districts.

The bill establishes the position of School Climate State Coordinator within the DOE to serve as a resource to parents, students, and educators. The bill provides that the Legislature will appropriate such monies as necessary to fund the position of School Climate State Coordinator, and the "Bullying Prevention Fund," and such other monies as necessary to implement the provisions of this act.

The bill provides that sections 1 and 4 of the bill would take effect immediately. The remaining sections of the bill would take effect on July 1 of the first full school year following the date of enactment, or 180 days following the date of enactment, whichever is later.

As reported by the committee, this bill is identical to Senate Bill No. 1790 (1R), which was also reported by the committee on this same date.



# *Bill S1790 Sca (1R)*

*Session 2020 - 2021*



Revises provisions required in school district's anti-bullying policy; provides for civil liability of parent of minor adjudicated delinquent for cyber-harassment or harassment; and increases certain fines against parents.\*

**Bills and Joint Resolutions Signed by the Governor**

***Identical Bill Number: A1662***

***Last Session Bill Number: A5270 S3433***

This bill has not been certified by OLS for a fiscal note.

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***Primary Sponsor:***

Pennacchio, Joseph  
Diegnan, Patrick J., Jr.  
Quijano, Annette  
Jimenez, Angelica M.  
Danielsen, Joe

***Co-Sponsor:***

Turner, Shirley K.  
DeCroce, BettyLou  
Murphy, Carol A.  
Vainieri Huttler, Valerie  
Jasey, Mila M.  
Tully, P. Christopher  
Swain, Lisa  
Stanley, Sterley S.  
Carter, Linda S.  
DiMaio, John

**2/13/2020**

Introduced in the Senate, Referred to Senate Education Committee

**12/7/2020**

Reported from Senate Committee with Amendments, 2nd Reading

**12/17/2020**

Passed by the Senate (40-0)

**12/17/2020**

Received in the Assembly, Referred to Assembly Education Committee

**2/24/2021**

Reported out of Assembly Committee, 2nd Reading

**12/20/2021**

Substituted for A1662 (ACS)

**12/20/2021**

Passed Assembly (Passed Both Houses) (66-1-4)

**1/10/2022**

Approved P.L.2021, c.338.

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### **Introduced**

(12 pages) [PDF Format](#) [HTML Format](#)

### **Statement** - SED 12/7/20

(3 pages) [PDF Format](#) [HTML Format](#)

### **Statement** - AED 2/24/21 1R

(3 pages) [PDF Format](#) [HTML Format](#)

### **Reprint**

(11 pages) [PDF Format](#) [HTML Format](#)

### **Advance Law**

(10 pages) [PDF Format](#) [HTML Format](#)

### **Pamphlet Law**

(7 pages) [PDF Format](#) [HTML Format](#)

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### ***Committee Voting:***

**SED - 12/7/2020 - r/Sca**

**Yes: 5 No: 0 Not Voting: 0 Abstain: 1**

### **Roll Call**

Ruiz, M. Teresa (P) - **Yes**

Beach, James - **Yes**

Cunningham, Sandra B. - **Yes**

Doherty, Michael J. - **Abstain**

Pou, Nellie - **Yes**

Thompson, Samuel D. - **Yes**

~~AED - 2/24/2021 - unfavorably~~

**Yes: 6 No: 0 Not Voting: 0 Abstain: 0**

**Roll Call**

Lampitt, Pamela R. (P) - **Yes**

Jasey, Mila M. (V) - **Yes**

Murphy, Carol A. - **Yes**

Quijano, Annette - **Yes**

Simonsen, Erik K. - **Yes**

Stanfield, Jean - **Yes**

***Session Voting:***

**Sen. 12/17/2020 - 3RDG FINAL PASSAGE**

**Yes: 40 No: 0 Not Voting: 0**

**Roll Call**

Addiego, Dawn Marie - **Yes**

Bateman, Christopher - **Yes**

Beach, James - **Yes**

Brown, Chris A. - **Yes**

Bucco, Anthony M. - **Yes**

Cardinale, Gerald - **Yes**

Codey, Richard J. - **Yes**

Connors, Christopher J. - **Yes**

Corrado, Kristin M. - **Yes**

Cruz-Perez, Nilsa I. - **Yes**

Cryan, Joseph P. - **Yes**

Cunningham, Sandra B. - **Yes**

Diegnan, Patrick J. - **Yes**

Doherty, Michael J. - **Yes**

Gill, Nia H. - **Yes**

Gopal, Vin - **Yes**

Greenstein, Linda R. - **Yes**

Holzapfel, James W. - **Yes**

Kean, Thomas H. - **Yes**

Lagana, Joseph A. - **Yes**

Madden, Fred H. - **Yes**

O'Scanlon, Declan J. - **Yes**

Oroho, Steven V. - **Yes**

Pennacchio, Joseph - **Yes**

Pou, Nellie - **Yes**

Rice, Ronald L. - **Yes**  
Ruiz, M. Teresa - **Yes**  
Sacco, Nicholas J. - **Yes**  
Sarlo, Paul A. - **Yes**  
Scutari, Nicholas P. - **Yes**  
Singer, Robert W. - **Yes**  
Singleton, Troy - **Yes**  
Smith, Bob - **Yes**  
Stack, Brian P. - **Yes**  
Sweeney, Stephen M. - **Yes**  
Testa, Michael L. - **Yes**  
Thompson, Samuel D. - **Yes**  
Turner, Shirley K. - **Yes**  
Vitale, Joseph F. - **Yes**  
Weinberg, Loretta - **Yes**

**Asm. 12/20/2021 - SUB FOR A-1662**

**Yes:** 0 **No:** 0 **Not Voting:** 80 **Abstain:** 0 - Voice Vote Passed

**Asm. 12/20/2021 - 3RDG FINAL PASSAGE**

**Yes:** 66 **No:** 1 **Not Voting:** 9 **Abstain:** 4

**Roll Call**

Armato, John - **Yes**  
Auth, Robert - **Abstain**  
Benson, Daniel R. - **Yes**  
Bergen, Brian - **Yes**  
Bramnick, Jon M. - **Not Voting**  
Burzichelli, John J. - **Yes**  
Calabrese, Clinton - **Not Voting**  
Caputo, Ralph R. - **Not Voting**  
Carter, Linda S. - **Yes**  
Catalano, John - **Abstain**  
Chaparro, Annette - **Yes**  
Chiaravalloti, Nicholas - **Yes**  
Clifton, Robert D. - **Yes**  
Conaway, Herb - **Yes**  
Coughlin, Craig J. - **Yes**  
Dancer, Ronald S. - **Yes**  
Danielsen, Joe - **Yes**  
DeAngelo, Wayne P. - **Yes**  
DeCroce, BettyLou - **Yes**  
DeFuccio, DeAnne C. - **Yes**  
DePhillips, Christopher P. - **Yes**  
DiMaio, John - **Abstain**

DiMaso, Serena - **Yes**  
Downey, Joann - **Yes**  
Dunn, Aura K. - **Yes**  
Egan, Joseph V. - **Yes**  
Freiman, Roy - **Yes**  
Giblin, Thomas P. - **Not Voting**  
Gove, DiAnne C. - **Yes**  
Greenwald, Louis D. - **Yes**  
Holley, Jamel C. - **Yes**  
Houghtaling, Eric - **Yes**  
Jasey, Mila M. - **Yes**  
Jimenez, Angelica M. - **Yes**  
Johnson, Gordon M. - **Yes**  
Karabinchak, Robert J. - **Yes**  
Kean, Sean T. - **Not Voting**  
Kennedy, James J. - **Yes**  
Lampitt, Pamela R. - **Yes**  
Lopez, Yvonne - **Yes**  
Mazzeo, Vincent - **Yes**  
McClellan, Antwan L. - **Yes**  
McGuckin, Gregory P. - **Abstain**  
McKeon, John F. - **Yes**  
McKnight, Angela V. - **Yes**  
Mejia, Pedro - **Yes**  
Moen, William F. - **Yes**  
Moriarty, Paul D. - **Yes**  
Mosquera, Gabriela M. - **Yes**  
Mukherji, Raj - **Yes**  
Munoz, Nancy F. - **Not Voting**  
Murphy, Carol A. - **Yes**  
Peters, Ryan E. - **Yes**  
Peterson, Erik - **No**  
Pintor Marin, Eliana - **Yes**  
Quijano, Annette - **Not Voting**  
Reynolds-Jackson, Verlina - **Yes**  
Rooney, Kevin J. - **Yes**  
Rumpf, Brian E. - **Yes**  
Schaer, Gary S. - **Yes**  
Scharfenberger, Gerry - **Yes**  
Simonsen, Erik K. - **Yes**  
Space, Parker - **Not Voting**  
Spearman, William W. - **Yes**  
Speight, Shanique - **Yes**  
Stanfield, Jean - **Yes**

Stanley, Sterley S. - **Yes**  
Sumter, Shavonda E. - **Yes**  
Swain, Lisa - **Yes**  
Taliaferro, Adam J. - **Yes**  
Thomson, Edward H. - **Yes**  
Timberlake, Britnee N. - **Yes**  
Tucker, Cleopatra G. - **Yes**  
Tully, P. Christopher - **Yes**  
Vainieri Huttler, Valerie - **Yes**  
Verrelli, Anthony S. - **Yes**  
Webber, Jay - **Yes**  
Wimberly, Benjie E. - **Yes**  
Wirths, Harold J. - **Yes**  
Zwicker, Andrew - **Not Voting**

*\*indicates synopsis was amended*



# *Bill A1662 Acs (ACS)*

*Session 2020 - 2021*



Revises provisions required in school district's anti-bullying policy; provides for civil liability of parent of minor adjudicated delinquent for cyber-harassment or harassment; and increases certain fines against parents.\*

**Substituted by another Bill**

***Identical Bill Number: S1790***

***Last Session Bill Number: A5270 S3433***

This bill has not been certified by OLS for a fiscal note.

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***Primary Sponsor:***

Quijano, Annette  
Jimenez, Angelica M.  
Danielsen, Joe

***Co-Sponsor:***

DeCroce, BettyLou  
Murphy, Carol A.  
Vainieri Huttler, Valerie  
Jasey, Mila M.  
Tully, P. Christopher  
Swain, Lisa  
Stanley, Sterley S.  
Carter, Linda S.  
DiMaio, John

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**1/14/2020**

Introduced, Referred to Assembly Education Committee

**2/24/2021**

Reported from Assembly Comm. as a Substitute, 2nd Reading

**12/20/2021**

Substituted by S1790 (1R)

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**Introduced**

(11 pages) [PDF Format](#) [HTML Format](#)

**Statement** - AED 2/24/21 ACS

(3 pages) [PDF Format](#) [HTML Format](#)

**Assembly Committee Substitute**

(11 pages) [PDF Format](#) [HTML Format](#)

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***Committee Voting:***

AED - 2/24/2021 - r/ACS

Yes: 6 No: 0 Not Voting: 0 Abstain: 0

**Roll Call**

Lampitt, Pamela R. (P) - **Yes**

Jasey, Mila M. (V) - **Yes**

Murphy, Carol A. - **Yes**

Quijano, Annette - **Yes**

Simonsen, Erik K. - **Yes**

Stanfield, Jean - **Yes**

*\*indicates synopsis was amended*

