

**30:1-1.2a to 30:1-1.2c; Sec.3 Temporary & Executed
LEGISLATIVE HISTORY CHECKLIST**

Compiled by the NJ State Law Library

LAWS OF: 2021 **CHAPTER:** 1

NJSA: 30:1-1.2a to 30:1-1.2c; Sec.3 Temporary & Executed (Requires certain provisions in State contracts for delivery of publicly financed mental health, behavioral health, and addiction services.)

BILL NO: S2708 (Substituted for A4446)

SPONSOR(S) Sweeney, Stephen M. and others

DATE INTRODUCED: 7/22/2020

COMMITTEE: **ASSEMBLY:** ---

SENATE: State Government, Wagering, Tourism & Historic Preservation

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** 1/11/2021

SENATE: 12/17/2020

DATE OF APPROVAL: 1/15/2021

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (First Reprint enacted) Yes

S2708

INTRODUCED BILL (INCLUDES SPONSOR'S STATEMENT): Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes

(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)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

A4446

INTRODUCED BILL (INCLUDES SPONSOR'S STATEMENT): Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

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)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

(continued)

VETO MESSAGE: Yes

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

RH/CL

§§1,2,4
C.30:1-1.2a to
30:1-1.2c
§3 T&E and Note
§5 Note

P.L. 2021, CHAPTER 1, *approved January 15, 2021*
Senate, No. 2708 (*First Reprint*)

1 AN ACT concerning State contracts for social services and
2 supplementing Title 30 of the Revised Statutes.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. The Legislature hereby finds and declares that:

8 a. Publicly financed mental health, behavioral health, and
9 addiction services are critical to the health, safety, and well-being
10 of the people of New Jersey, and comprise an integral and essential
11 component of the State's health and safety network in which the
12 taxpayers invest significant resources and public funds.

13 b. The COVID-19 pandemic and the economic devastation
14 resulting from its outbreak has, and will continue to cause,
15 increased demand for the public provision of these services.
16 Periods of economic shock, insecurity, social isolation, and
17 pandemics increase demand for and reliance on these ¹**[State-**
18 **funded]**¹ essential services ¹funded or administered by the State¹ .

19 c. The Legislature intends to ensure the uninterrupted delivery
20 of essential mental health, behavioral health, and addiction services
21 to its most vulnerable citizens and to ensure such services are
22 delivered efficiently. The State has a proprietary interest in
23 ensuring efficiency and quality in the delivery of these services
24 through licensed community-based organizations and providers,
25 with which the State contracts through the Department of Human
26 Services and the Department of Children and Families. The State's
27 proprietary interest in these services includes ensuring their
28 uninterrupted delivery by contracted providers licensed by the
29 State.

30 d. The COVID-19 pandemic forces recognition of the
31 significant health and safety risks undertaken by the individuals
32 who provide these essential health services to the public on behalf
33 of the State. The State has a responsibility to ensure the ¹**[workers**
34 **delivering the services are provided adequate equipment, resources,**
35 **and protections to ensure their safety,]** resources it provides to

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly amendments adopted in accordance with Governor's recommendations December 17, 2020.

1 community-based organizations and providers with which it
2 contracts support¹ the safety of the employees and¹ recipients of
3 these services ¹ and the safety of the surrounding
4 community. The providers contracted by the State to provide these
5 services must ensure, as a condition of contracting with the State,
6 ready access to rapid testing for the presence of COVID-19,
7 adoption and adherence to policies for the prevention of infection
8 by COVID-19 by workers and recipients, and the provision of
9 adequate personal protective equipment.]¹

10 e. In administering its mental health, behavioral health, and
11 addiction services public health program, it is in the State's interest
12 to ensure the individuals who are employed to deliver the services
13 are entitled to raise concerns, issues, and problems, and have full
14 exercise of their liberty of speech and conscience without fear of
15 reprisal or retaliation.

16 f. The aforementioned interests are best accomplished by
17 requiring all contracts renewed or entered into after the effective
18 date of this act between providers and the State, acting through the
19 Department of Human ¹ Services Services' Division of Mental
20 Health and Addiction Services¹ and Department of Children and
21 Families ¹ and divisions thereof,¹ for the provision and delivery
22 of behavioral health, mental health, and addiction services to
23 ¹ contain, as a material condition of its contract, terms requiring
24 require¹ :

25 (1) adoption and adherence to a policy sufficient to ensure
26 service providers ¹ and¹ service recipients ¹ and the
27 surrounding community¹ are protected from infection and the
28 spread of COVID-19; and

29 (2) certification of a commitment to ensure the uninterrupted
30 delivery of services caused by labor-management disputes ¹ and
31 the ¹ recovery of costs to the taxpayers caused by any such
32 interruptions.¹

33
34 2. a. ¹ Any contract entered into or renewed by Where a
35 labor organization represents or seeks to represent the employees of
36 a covered provider, the maintenance of a labor harmony agreement,
37 or a commitment comparable to a labor harmony agreement, with
38 the labor organization representing or seeking to represent
39 employees of the covered provider shall be an ongoing material
40 condition of maintaining a contract with¹ the Department of Human
41 ¹ Services Services' Division of Mental Health and Addiction
42 Services¹ or the Department of Children and Families ¹ with a
43 private contractor¹ for the provision of mental health, behavioral
44 health, or addiction services ¹ shall contain a commitment that
45 the ¹ contracted services shall not be disrupted or delayed by
46 labor disputes. The commitment shall provide for the execution of

1 an agreement between the contractor and any labor organization
2 that represents or seeks to represent the employees of the private
3 contractor that meets the requirements set forth herein with respect
4 to employees delivering the essential services contracted by the
5 departments.

6 b. The commitment required pursuant to this section shall be a
7 condition of contracting with the departments and may be satisfied
8 through one or more of the following contractual commitments
9 made on the part of the contractor through the term of the contract
10 as a condition of receiving or renewing the contract:

11 (1) An agreement between the contractor and any exclusive
12 representative labor organization representing the employees
13 performing the contracted services that contains a provision
14 prohibiting economic or industrial action on the part of all parties
15 and includes a process for the resolution of disputes between them.

16 (2) An agreement between the contractor and any labor
17 organization seeking to represent the employees performing the
18 contracted services that includes a provision prohibiting the parties
19 from causing, promoting, or encouraging economic, industrial, or
20 other disruptive activity on the part of the contractor or employees
21 performing services under the contract, and includes a procedure for
22 resolution of disputes between parties.】 b. To satisfy the
23 requirements of this section, a covered provider entering into or
24 renewing a contract with the Department of Human Services’
25 Division of Mental Health and Addiction Services or the
26 Department of Children and Families shall, no later than 90 days
27 after the effective date of the contract, either:

28 (1) submit an attestation, signed by a labor organization, stating
29 that the covered provider has entered into a labor harmony
30 agreement with such labor organization;

31 (2) submit an attestation stating that the employees of the
32 covered provider are not currently represented by a labor
33 organization and that no labor organization has sought to represent
34 the covered provider’s employees during the 90-day period
35 following the covered provider entering into or renewing a contract
36 for services with the department after the effective date of this act
37 and up to the time of submission; or¹

38 (3) ¹【Any other】 submit an attestation, signed by a labor
39 organization, stating that the provider has entered into an¹
40 agreement or binding obligation to be maintained through the term
41 of the contract that provides a ¹【comparable】¹ commitment ¹【as
42 paragraphs (1) or (2) of this subsection】 comparable to a labor
43 harmony agreement, as defined in section 4 of P.L. c (C.)
44 (pending before the Legislature as this bill)¹ .

45 ¹【c. The contractual commitments required under this section
46 shall be made a binding provision of any contract subject to this
47 section. Any contract subject to this section that is awarded or

1 renewed shall include a provision providing for reimbursement to
2 the] c. Where a labor organization seeks to represent the
3 employees of a covered provider after the expiration of the 90-day
4 period following the effective date of the contract, the labor
5 organization shall provide notice to the applicable department
6 regarding such efforts. The covered provider shall then submit an
7 attestation signed by the labor organization to the applicable
8 department no later than 90 days after the date of notice stating that
9 it has entered into:

10 (1) a labor harmony agreement with such labor organization; or
11 (2) an agreement or binding obligation to be maintained through
12 the term of the contract that provides a commitment comparable to
13 a labor harmony agreement, as defined in section 4 of P.L. c (C.)
14 (pending before the Legislature as this bill).

15 d. The failure to submit an attestation as required pursuant to
16 subsections b. and c. of this section shall result in financial recovery
17 and a corrective action plan issued by the applicable department.
18 Should the provider not adhere to the terms of the corrective action
19 plan, the applicable department shall cancel or not renew the
20 contract upon the applicable department obtaining a replacement
21 provider to assume the contract or otherwise provide the services.
22 The applicable department may grant an extension to the deadlines
23 in subsections b. and c. of this section based upon extenuating
24 circumstances or for good cause shown. An extension shall be
25 warranted pursuant to subsection b. if a labor organization seeks to
26 represent a covered provider's employees after the contract is
27 renewed or entered into but within the 90-day period following the
28 effective date of the contract.¹

29 ¹department of the actual costs to the department arising from the
30 inadequacy of the commitment provided by the contractor.

31 d. Prior to awarding or renewing any contract subject to this
32 section, the departments shall determine whether there has been any
33 prior disruption in the provision of the services provided by the
34 contractor.

35 The commissioners shall consider any submissions by any
36 interested party in making the determination, that shall be provided
37 to the contractor for response. If a dispute exists with respect to
38 either condition, the commissioners shall refer the matter to the
39 State Treasurer to conduct a hearing and make findings of fact
40 which shall be considered by the commissioners in making any
41 award or renewal.¹

42 e. Any interested person may provide notice to the
43 commissioner of the ¹[pertinent] applicable¹ department of a
44 ¹[refusal] failure¹ by a ¹[contractor] covered provider¹ to adhere
45 to ¹[its contractual commitments required by this act] the
46 requirements of this section¹ . Upon filing of such a notice, the
47 commissioner ¹may review and make findings, or, in consultation

1 with the Commissioner of Labor and Workforce Development, the
2 State Board of Mediation, or both, as appropriate,¹ shall commence
3 an investigation ¹**and, upon** . Upon¹ finding ¹**of a failure or**
4 **breach,** that a covered provider failed to adhere to the requirements
5 of this section, the commissioner of the applicable department shall
6 take corrective action which may include a corrective action plan,
7 financial recovery and cost recoupment, and cancelling or declining
8 to renew the contract. Should the covered provider fail to engage in
9 or complete corrective action, the commissioner of the applicable
10 department¹ shall cancel or decline to renew the contract. Such
11 findings shall be reviewable, pursuant to the “Administrative
12 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.). The
13 ¹**pertinent contract shall not be awarded or renewed**
14 commissioner of the applicable department shall not take corrective
15 action¹ until the conclusion of such proceedings ¹**,** but may be
16 maintained on a month-to-month basis¹ . The provisions of this
17 subsection shall be limited solely to the issue of adherence to the
18 contractual commitment made by the contractor and accepted by the
19 departments as a condition of the contract, and is neither exclusive
20 nor preclusive as to any claim under the “Conscientious Employee
21 Protection Act,” P.L.1986, c.105 (C.34:19-1 et seq.), or the “New
22 Jersey False Claims Act,” P.L.2007, c.265 (C.2A:32C-1 et seq.).

23 ¹**f. As used in this section, “labor organization” means a labor**
24 **organization that is the collective bargaining representative of not**
25 **less than 1,000 employees in the State of New Jersey that serve in**
26 **similar classifications or provide similar services as those provided**
27 **by the employees performing the contract for the Department of**
28 **Human Services or the Department of Children and Families.**¹

29
30 3. a. A contract entered into or renewed after the effective date
31 of this act for the services described in ¹**subsection a. of**¹ section
32 2 of this act shall contain a COVID-19 ¹**containment and**
33 **mitigation** health and safety¹ commitment that ¹**requires the**
34 **covered provider to make a good faith effort to comply with**
35 **minimum health and safety protocols issued by the applicable**
36 **department to**¹ adequately ¹**ensures** ensure¹ the safety of the
37 ¹**contractors’** covered providers’¹ employees, ¹**and**¹ service
38 recipients ¹**,** and surrounding community. The] ¹
39 ¹**commissioners of the departments shall jointly adopt a model**
40 **written commitment to which contractors shall ascribe to provide**
41 **for regular COVID-19 testing, training, reporting, and the provision**
42 **of adequate personal protective equipment.**¹

43 b. Prior to awarding or renewing any contract subject to this
44 section, the departments shall ¹**determine:** collect information as
45 to whether there have been¹

1 ¹[(1) whether there has been any prior disruption in the
2 provision of the services provided by the contractor; and]¹

3 ¹[(2)]¹ any prior failures to demonstrate a good faith effort to¹
4 contain, limit, or mitigate the spread of COVID-19 among the
5 ¹[contractor's] covered provider's¹ employees or service
6 recipients.

7 The ¹[commissioners] commissioner of the applicable
8 department¹ shall consider any submissions by any interested party
9 in making the determination, that shall be provided to the
10 ¹[contractor] covered provider¹ for response. ¹[If a dispute exists
11 with respect to] The commissioner of the applicable department
12 shall take into account such failures prior to awarding or renewing
13 any contract and, at a minimum, require submission of a corrective
14 plan to contain, limit, or mitigate the spread of COVID-19 cases.
15 Should a provider fail to implement a plan or repeatedly fail to
16 demonstrate good faith efforts to contain, limit, or mitigate the
17 spread of COVID-19, the commissioner shall take action, including
18 financial penalties or cancellation or non-renewal of the contract.¹
19 ¹[either condition, the commissioners shall refer the matter to the
20 State Treasurer to conduct a hearing and make findings of fact
21 which shall be considered by the commissioners in making any
22 award or renewal.]¹

23
24 ¹4. As used in this act:

25 'Covered employee' means any regular full-time or regular part-
26 time employee who principally works for a covered provider and
27 who performs or provides any type of work to deliver those services
28 to individuals who are eligible to receive those services.

29 'Covered provider' means the entity entering into a Contract
30 with the Department of Human Services' Division of Mental Health
31 and Addiction Services or the Department of Children and Families
32 to provide mental health, behavioral health, and addiction services
33 that employs more than 10 covered employees.

34 'Labor harmony agreement' means an agreement between a
35 provider and any exclusive representative labor organization which
36 represents or seeks to represent employees performing services
37 under contract with the Department of Human Services' Division of
38 Mental Health and Addiction Services or the Department of
39 Children and Families that contains a provision prohibiting
40 economic or industrial action on the part of all parties and includes
41 a process for the resolution of disputes between them.

42 'Labor organization' means a labor organization that is the
43 collective bargaining representative of not less than 1,000
44 employees in the State of New Jersey that serve in similar
45 classifications or provide similar services as those provided by the
46 employees performing the contract for the Department of Human

1 Services' Division of Mental Health and Addiction Services or the
2 Department of Children and Families contemplated in this act.¹

3

4 ¹~~4.~~ 5.¹ This act shall take effect on ¹~~the 91st day following~~
5 ~~enactment~~ July 1, 2021 and shall apply to all contracts entered into
6 or renewed on or after the effective date.¹ ~~and section~~ Section¹ 3
7 of this act shall expire on the 366th day following the end of the
8 public health emergency and state of emergency declared by the
9 Governor in Executive Order No. 103 of 2020.

10

11

12

13

14 _____
15 Requires certain provisions in State contracts for delivery of
16 publicly financed mental health, behavioral health, and addiction
services.

SENATE, No. 2708

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JULY 22, 2020

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

Senator RICHARD J. CODEY

District 27 (Essex and Morris)

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Assemblyman ANTHONY S. VERRELLI

District 15 (Hunterdon and Mercer)

Co-Sponsored by:

Senators Ruiz, Diegnan, Sacco, Singleton, Turner, Vitale, Pou,

Assemblyman Chiaravalloti, Assemblywomen Murphy, Sumter,

Assemblyman Mejia, Assemblywomen Jasey, Downey, Lampitt, Lopez and

Assemblyman Freiman

SYNOPSIS

Requires certain provisions in State contracts for delivery of publicly financed mental health, behavioral health, and addiction services.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/29/2020)

1 AN ACT concerning State contracts for social services and
2 supplementing Title 30 of the Revised Statutes.

3

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

6

7 1. The Legislature hereby finds and declares that:

8 a. Publicly financed mental health, behavioral health, and
9 addiction services are critical to the health, safety, and well-being of
10 the people of New Jersey, and comprise an integral and essential
11 component of the State's health and safety network in which the
12 taxpayers invest significant resources and public funds.

13 b. The COVID-19 pandemic and the economic devastation
14 resulting from its outbreak has, and will continue to cause, increased
15 demand for the public provision of these services. Periods of
16 economic shock, insecurity, social isolation, and pandemics increase
17 demand for and reliance on these State-funded essential services.

18 c. The Legislature intends to ensure the uninterrupted delivery
19 of essential mental health, behavioral health, and addiction services
20 to its most vulnerable citizens and to ensure such services are
21 delivered efficiently. The State has a proprietary interest in ensuring
22 efficiency and quality in the delivery of these services through
23 licensed community-based organizations and providers, with which
24 the State contracts through the Department of Human Services and
25 the Department of Children and Families. The State's proprietary
26 interest in these services includes ensuring their uninterrupted
27 delivery by contracted providers licensed by the State.

28 d. The COVID-19 pandemic forces recognition of the significant
29 health and safety risks undertaken by the individuals who provide
30 these essential health services to the public on behalf of the State.
31 The State has a responsibility to ensure the workers delivering the
32 services are provided adequate equipment, resources, and protections
33 to ensure their safety, the safety of the recipients of these services,
34 and the safety of the surrounding community. The providers
35 contracted by the State to provide these services must ensure, as a
36 condition of contracting with the State, ready access to rapid testing
37 for the presence of COVID-19, adoption and adherence to policies
38 for the prevention of infection by COVID-19 by workers and
39 recipients, and the provision of adequate personal protective
40 equipment.

41 e. In administering its mental health, behavioral health, and
42 addiction services public health program, it is in the State's interest
43 to ensure the individuals who are employed to deliver the services
44 are entitled to raise concerns, issues, and problems, and have full
45 exercise of their liberty of speech and conscience without fear of
46 reprisal or retaliation.

47 f. The aforementioned interests are best accomplished by
48 requiring all contracts renewed or entered into after the effective date

S2708 SWEENEY, CODEY

1 of this act between providers and the State, acting through the
2 Department of Human Services and Department of Children and
3 Families, and divisions thereof, for the provision and delivery of
4 behavioral health, mental health, and addiction services to contain,
5 as a material condition of its contract, terms requiring:

6 (1) adoption and adherence to a policy sufficient to ensure service
7 providers, service recipients, and the surrounding community are
8 protected from infection and the spread of COVID-19; and

9 (2) certification of a commitment to ensure the uninterrupted
10 delivery of services caused by labor-management disputes, and the
11 recovery of costs to the taxpayers caused by any such interruptions.

12

13 2. a. Any contract entered into or renewed by the Department of
14 Human Services or the Department of Children and Families with a
15 private contractor for the provision of mental health, behavioral
16 health, or addiction services shall contain a commitment that the
17 contracted services shall not be disrupted or delayed by labor
18 disputes. The commitment shall provide for the execution of an
19 agreement between the contractor and any labor organization that
20 represents or seeks to represent the employees of the private
21 contractor that meets the requirements set forth herein with respect
22 to employees delivering the essential services contracted by the
23 departments.

24 b. The commitment required pursuant to this section shall be a
25 condition of contracting with the departments and may be satisfied
26 through one or more of the following contractual commitments made
27 on the part of the contractor through the term of the contract as a
28 condition of receiving or renewing the contract:

29 (1) An agreement between the contractor and any exclusive
30 representative labor organization representing the employees
31 performing the contracted services that contains a provision
32 prohibiting economic or industrial action on the part of all parties and
33 includes a process for the resolution of disputes between them.

34 (2) An agreement between the contractor and any labor
35 organization seeking to represent the employees performing the
36 contracted services that includes a provision prohibiting the parties
37 from causing, promoting, or encouraging economic, industrial, or
38 other disruptive activity on the part of the contractor or employees
39 performing services under the contract, and includes a procedure for
40 resolution of disputes between parties.

41 (3) Any other agreement or binding obligation to be maintained
42 through the term of the contract that provides a comparable
43 commitment as paragraphs (1) or (2) of this subsection.

44 c. The contractual commitments required under this section
45 shall be made a binding provision of any contract subject to this
46 section. Any contract subject to this section that is awarded or
47 renewed shall include a provision providing for reimbursement to the

1 department of the actual costs to the department arising from the
2 inadequacy of the commitment provided by the contractor.

3 d. Prior to awarding or renewing any contract subject to this
4 section, the departments shall determine whether there has been any
5 prior disruption in the provision of the services provided by the
6 contractor.

7 The commissioners shall consider any submissions by any
8 interested party in making the determination, that shall be provided
9 to the contractor for response. If a dispute exists with respect to
10 either condition, the commissioners shall refer the matter to the State
11 Treasurer to conduct a hearing and make findings of fact which shall
12 be considered by the commissioners in making any award or renewal.

13 e. Any interested person may provide notice to the
14 commissioner of the pertinent department of a refusal by a contractor
15 to adhere to its contractual commitments required by this act. Upon
16 filing of such a notice, the commissioner shall commence an
17 investigation and, upon finding of a failure or breach, shall cancel or
18 decline to renew the contract. Such findings shall be reviewable,
19 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
20 (C.52:14B-1 et seq.). The pertinent contract shall not be awarded or
21 renewed until the conclusion of such proceedings, but may be
22 maintained on a month-to-month basis. The provisions of this
23 subsection shall be limited solely to the issue of adherence to the
24 contractual commitment made by the contractor and accepted by the
25 departments as a condition of the contract, and is neither exclusive
26 nor preclusive as to any claim under the "Conscientious Employee
27 Protection Act," P.L.1986, c.105 (C.34:19-1 et seq.), or the "New
28 Jersey False Claims Act," P.L.2007, c.265 (C.2A:32C-1 et seq.).

29 f. As used in this section, "labor organization" means a labor
30 organization that is the collective bargaining representative of not
31 less than 1,000 employees in the State of New Jersey that serve in
32 similar classifications or provide similar services as those provided
33 by the employees performing the contract for the Department of
34 Human Services or the Department of Children and Families.

35
36 3. a. A contract entered into or renewed after the effective date
37 of this act for the services described in subsection a. of section 2 of
38 this act shall contain a COVID-19 containment and mitigation
39 commitment that adequately ensures the safety of the contractors'
40 employees, service recipients, and surrounding community. The
41 commissioners of the departments shall jointly adopt a model written
42 commitment to which contractors shall ascribe to provide for regular
43 COVID-19 testing, training, reporting, and the provision of adequate
44 personal protective equipment.

45 b. Prior to awarding or renewing any contract subject to this
46 section, the departments shall determine:

47 (1) whether there has been any prior disruption in the provision
48 of the services provided by the contractor; and

1 (2) any prior failures to contain, limit, or mitigate the spread of
2 COVID-19 among the contractor's employees or service recipients.

3 The commissioners shall consider any submissions by any
4 interested party in making the determination, that shall be provided
5 to the contractor for response. If a dispute exists with respect to
6 either condition, the commissioners shall refer the matter to the State
7 Treasurer to conduct a hearing and make findings of fact which shall
8 be considered by the commissioners in making any award or renewal.

9
10 4. This act shall take effect on the 91st day following enactment
11 and section 3 of this act shall expire on the 366th day following the
12 end of the public health emergency and state of emergency declared
13 by the Governor in Executive Order No. 103 of 2020.

14
15
16 STATEMENT

17
18 This bill ensures and improves the delivery of publicly financed
19 mental and behavioral health and addiction services to the people of
20 New Jersey. The bill does this by mitigating the possibility of
21 interruption of service delivery and protecting service providers,
22 service recipients, and the surrounding community from the spread
23 of the novel coronavirus.

24 Publicly financed mental health, behavioral health, and addiction
25 services are critical to the health, safety, and well-being of the people
26 of New Jersey, and comprise an integral and essential component of
27 the State's health and safety network in which the taxpayers invest
28 significant resources and public funds. Despite the COVID-19
29 pandemic, the Legislature intends to ensure the uninterrupted
30 delivery of essential mental health, behavioral health, and addiction
31 services to its most vulnerable citizens, and to ensure such services
32 are delivered efficiently.

33 This bill requires that any contract entered into or renewed by the
34 Department of Human Services or the Department of Children and
35 Families with a private contractor for the provision of mental health,
36 behavioral health, or addiction services will contain a commitment
37 that the contracted services will not be disrupted or delayed by labor
38 disputes. The commitment may be satisfied by: (1) an agreement
39 between the contractor and any exclusive representative labor
40 organization representing the employees performing the contracted
41 services that contains a provision prohibiting economic or industrial
42 action on the part of all parties and includes a process for the
43 resolution of disputes between them; (2) an agreement between the
44 contractor and any labor organization seeking to represent the
45 employees performing the contracted services that includes a
46 provision prohibiting the parties from causing, promoting, or
47 encouraging economic, industrial, or other disruptive activity on the
48 part of the contractor or employees performing services under the

S2708 SWEENEY, CODEY

6

1 contract, and includes a procedure for resolution of disputes between
2 parties; or (3) any other agreement or binding obligation to be
3 maintained through the term of the contract that provides a
4 comparable commitment as paragraphs (1) or (2). The bill provides
5 the departments the opportunity to discover prior disruptions in
6 service from contractors and a means to address any disputes through
7 the State Treasurer.

8 The bill also adds a temporary section requiring State contracts to
9 contain a COVID-19 containment and mitigation commitment. The
10 section allows for additional protections concerning COVID-19 in
11 such contracts or a review of past failures to implement appropriate
12 COVID-19 safety guidelines.

13 The bill would take effect on the 91st day following enactment
14 and the section concerning contracts requiring a COVID-19
15 containment and mitigation commitment would expire one year
16 following the end of the public health emergency and state of
17 emergency declared by the Governor.

SENATE STATE GOVERNMENT, WAGERING, TOURISM &
HISTORIC PRESERVATION COMMITTEE

STATEMENT TO

SENATE, No. 2708

STATE OF NEW JERSEY

DATED: AUGUST 20, 2020

The Senate State Government, Wagering, Tourism and Historic Preservation Committee reports favorably Senate Bill No. 2708.

This bill requires that any contract entered into or renewed by the Department of Human Services or the Department of Children and Families with a private contractor for the provision of mental health, behavioral health, or addiction services will contain a commitment that the contracted services will not be disrupted or delayed by labor disputes. The commitment may be satisfied by: (1) an agreement between the contractor and any exclusive representative labor organization representing the employees performing the contracted services that contains a provision prohibiting economic or industrial action on the part of all parties and includes a process for the resolution of disputes between them; (2) an agreement between the contractor and any labor organization seeking to represent the employees performing the contracted services that includes a provision prohibiting the parties from causing, promoting, or encouraging economic, industrial, or other disruptive activity on the part of the contractor or employees performing services under the contract, and includes a procedure for resolution of disputes between parties; or (3) any other agreement or binding obligation to be maintained through the term of the contract that provides a comparable commitment as paragraphs (1) or (2). The bill provides the departments the opportunity to discover prior disruptions in service from contractors and a means to address any disputes through the State Treasurer.

The bill also adds a temporary section requiring State contracts to contain a COVID-19 containment and mitigation commitment. The section allows for additional protections concerning COVID-19 in such contracts or a review of past failures to implement appropriate COVID-19 safety guidelines.

The bill would take effect on the 91st day following enactment and the section concerning contracts requiring a COVID-19 containment and mitigation commitment would expire one year following the end of the public health emergency and state of emergency declared by the Governor.

ASSEMBLY, No. 4446

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED JULY 23, 2020

Sponsored by:

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Assemblyman ANTHONY S. VERRELLI

District 15 (Hunterdon and Mercer)

Co-Sponsored by:

**Assemblyman Chiaravalloti, Assemblywomen Murphy, Sumter,
Assemblyman Mejia, Assemblywomen Jasey, Downey, Lampitt, Lopez and
Assemblyman Freiman**

SYNOPSIS

Requires certain provisions in State contracts for delivery of publicly financed mental health, behavioral health, and addiction services.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/29/2020)

1 AN ACT concerning State contracts for social services and
2 supplementing Title 30 of the Revised Statutes.

3

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

6

7 1. The Legislature hereby finds and declares that:

8 a. Publicly financed mental health, behavioral health, and
9 addiction services are critical to the health, safety, and well-being of
10 the people of New Jersey, and comprise an integral and essential
11 component of the State's health and safety network in which the
12 taxpayers invest significant resources and public funds.

13 b. The COVID-19 pandemic and the economic devastation
14 resulting from its outbreak has, and will continue to cause, increased
15 demand for the public provision of these services. Periods of
16 economic shock, insecurity, social isolation, and pandemics increase
17 demand for and reliance on these State-funded essential services.

18 c. The Legislature intends to ensure the uninterrupted delivery
19 of essential mental health, behavioral health, and addiction services
20 to its most vulnerable citizens and to ensure such services are
21 delivered efficiently. The State has a proprietary interest in ensuring
22 efficiency and quality in the delivery of these services through
23 licensed community-based organizations and providers, with which
24 the State contracts through the Department of Human Services and
25 the Department of Children and Families. The State's proprietary
26 interest in these services includes ensuring their uninterrupted
27 delivery by contracted providers licensed by the State.

28 d. The COVID-19 pandemic forces recognition of the significant
29 health and safety risks undertaken by the individuals who provide
30 these essential health services to the public on behalf of the State.
31 The State has a responsibility to ensure the workers delivering the
32 services are provided adequate equipment, resources, and protections
33 to ensure their safety, the safety of the recipients of these services,
34 and the safety of the surrounding community. The providers
35 contracted by the State to provide these services must ensure, as a
36 condition of contracting with the State, ready access to rapid testing
37 for the presence of COVID-19, adoption and adherence to policies
38 for the prevention of infection by COVID-19 by workers and
39 recipients, and the provision of adequate personal protective
40 equipment.

41 e. In administering its mental health, behavioral health, and
42 addiction services public health program, it is in the State's interest
43 to ensure the individuals who are employed to deliver the services
44 are entitled to raise concerns, issues, and problems, and have full
45 exercise of their liberty of speech and conscience without fear of
46 reprisal or retaliation.

1 f. The aforementioned interests are best accomplished by
2 requiring all contracts renewed or entered into after the effective date
3 of this act between providers and the State, acting through the
4 Department of Human Services and Department of Children and
5 Families, and divisions thereof, for the provision and delivery of
6 behavioral health, mental health, and addiction services to contain,
7 as a material condition of its contract, terms requiring:

8 (1) adoption and adherence to a policy sufficient to ensure service
9 providers, service recipients, and the surrounding community are
10 protected from infection and the spread of COVID-19; and

11 (2) certification of a commitment to ensure the uninterrupted
12 delivery of services caused by labor-management disputes, and the
13 recovery of costs to the taxpayers caused by any such interruptions.
14

15 2. a. Any contract entered into or renewed by the Department
16 of Human Services or the Department of Children and Families with
17 a private contractor for the provision of mental health, behavioral
18 health, or addiction services shall contain a commitment that the
19 contracted services shall not be disrupted or delayed by labor
20 disputes. The commitment shall provide for the execution of an
21 agreement between the contractor and any labor organization that
22 represents or seeks to represent the employees of the private
23 contractor that meets the requirements set forth herein with respect
24 to employees delivering the essential services contracted by the
25 departments.

26 b. The commitment required pursuant to this section shall be a
27 condition of contracting with the departments and may be satisfied
28 through one or more of the following contractual commitments made
29 on the part of the contractor through the term of the contract as a
30 condition of receiving or renewing the contract:

31 (1) An agreement between the contractor and any exclusive
32 representative labor organization representing the employees
33 performing the contracted services that contains a provision
34 prohibiting economic or industrial action on the part of all parties and
35 includes a process for the resolution of disputes between them.

36 (2) An agreement between the contractor and any labor
37 organization seeking to represent the employees performing the
38 contracted services that includes a provision prohibiting the parties
39 from causing, promoting, or encouraging economic, industrial, or
40 other disruptive activity on the part of the contractor or employees
41 performing services under the contract, and includes a procedure for
42 resolution of disputes between parties.

43 (3) Any other agreement or binding obligation to be maintained
44 through the term of the contract that provides a comparable
45 commitment as paragraphs (1) or (2) of this subsection.

46 c. The contractual commitments required under this section
47 shall be made a binding provision of any contract subject to this
48 section. Any contract subject to this section that is awarded or

1 renewed shall include a provision providing for reimbursement to the
2 department of the actual costs to the department arising from the
3 inadequacy of the commitment provided by the contractor.

4 d. Prior to awarding or renewing any contract subject to this
5 section, the departments shall determine whether there has been any
6 prior disruption in the provision of the services provided by the
7 contractor.

8 The commissioners shall consider any submissions by any
9 interested party in making the determination, that shall be provided
10 to the contractor for response. If a dispute exists with respect to
11 either condition, the commissioners shall refer the matter to the State
12 Treasurer to conduct a hearing and make findings of fact which shall
13 be considered by the commissioners in making any award or renewal.

14 e. Any interested person may provide notice to the
15 commissioner of the pertinent department of a refusal by a contractor
16 to adhere to its contractual commitments required by this act. Upon
17 filing of such a notice, the commissioner shall commence an
18 investigation and, upon finding of a failure or breach, shall cancel or
19 decline to renew the contract. Such findings shall be reviewable,
20 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
21 (C.52:14B-1 et seq.). The pertinent contract shall not be awarded or
22 renewed until the conclusion of such proceedings, but may be
23 maintained on a month-to-month basis. The provisions of this
24 subsection shall be limited solely to the issue of adherence to the
25 contractual commitment made by the contractor and accepted by the
26 departments as a condition of the contract, and is neither exclusive
27 nor preclusive as to any claim under the "Conscientious Employee
28 Protection Act," P.L.1986, c.105 (C.34:19-1 et seq.), or the "New
29 Jersey False Claims Act," P.L.2007, c.265 (C.2A:32C-1 et seq.).

30 f. As used in this section, "labor organization" means a labor
31 organization that is the collective bargaining representative of not
32 less than 1,000 employees in the State of New Jersey that serve in
33 similar classifications or provide similar services as those provided
34 by the employees performing the contract for the Department of
35 Human Services or the Department of Children and Families.

36
37 3. a. A contract entered into or renewed after the effective date
38 of this act for the services described in subsection a. of section 2 of
39 this act shall contain a COVID-19 containment and mitigation
40 commitment that adequately ensures the safety of the contractors'
41 employees, service recipients, and surrounding community. The
42 commissioners of the departments shall jointly adopt a model written
43 commitment to which contractors shall ascribe to provide for regular
44 COVID-19 testing, training, reporting, and the provision of adequate
45 personal protective equipment.

46 b. Prior to awarding or renewing any contract subject to this
47 section, the departments shall determine:

1 (1) whether there has been any prior disruption in the provision
2 of the services provided by the contractor; and

3 (2) any prior failures to contain, limit, or mitigate the spread of
4 COVID-19 among the contractor's employees or service recipients.

5 The commissioners shall consider any submissions by any
6 interested party in making the determination, that shall be provided
7 to the contractor for response. If a dispute exists with respect to
8 either condition, the commissioners shall refer the matter to the State
9 Treasurer to conduct a hearing and make findings of fact which shall
10 be considered by the commissioners in making any award or renewal.

11

12 4. This act shall take effect on the 91st day following enactment
13 and section 3 of this act shall expire on the 366th day following the
14 end of the public health emergency and state of emergency declared
15 by the Governor in Executive Order No. 103 of 2020.

16

17

18

STATEMENT

19

20 This bill ensures and improves the delivery of publicly financed
21 mental and behavioral health and addiction services to the people of
22 New Jersey. The bill does this by mitigating the possibility of
23 interruption of service delivery and protecting service providers,
24 service recipients, and the surrounding community from the spread
25 of the novel coronavirus.

26 Publicly financed mental health, behavioral health, and addiction
27 services are critical to the health, safety, and well-being of the people
28 of New Jersey, and comprise an integral and essential component of
29 the State's health and safety network in which the taxpayers invest
30 significant resources and public funds. Despite the COVID-19
31 pandemic, the Legislature intends to ensure the uninterrupted
32 delivery of essential mental health, behavioral health, and addiction
33 services to its most vulnerable citizens, and to ensure such services
34 are delivered efficiently.

35 This bill requires that any contract entered into or renewed by the
36 Department of Human Services or the Department of Children and
37 Families with a private contractor for the provision of mental health,
38 behavioral health, or addiction services will contain a commitment
39 that the contracted services will not be disrupted or delayed by labor
40 disputes. The commitment may be satisfied by: (1) an agreement
41 between the contractor and any exclusive representative labor
42 organization representing the employees performing the contracted
43 services that contains a provision prohibiting economic or industrial
44 action on the part of all parties and includes a process for the
45 resolution of disputes between them; (2) an agreement between the
46 contractor and any labor organization seeking to represent the

1 employees performing the contracted services that includes a
2 provision prohibiting the parties from causing, promoting, or
3 encouraging economic, industrial, or other disruptive activity on the
4 part of the contractor or employees performing services under the
5 contract, and includes a procedure for resolution of disputes between
6 parties; or (3) any other agreement or binding obligation to be
7 maintained through the term of the contract that provides a
8 comparable commitment as paragraphs (1) or (2). The bill provides
9 the departments the opportunity to discover prior disruptions in
10 service from contractors and a means to address any disputes through
11 the State Treasurer.

12 The bill also adds a temporary section requiring State contracts to
13 contain a COVID-19 containment and mitigation commitment. The
14 section allows for additional protections concerning COVID-19 in
15 such contracts or a review of past failures to implement appropriate
16 COVID-19 safety guidelines.

17 The bill would take effect on the 91st day following enactment
18 and the section concerning contracts requiring a COVID-19
19 containment and mitigation commitment would expire one year
20 following the end of the public health emergency and state of
21 emergency declared by the Governor.

ASSEMBLY STATE AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4446

STATE OF NEW JERSEY

DATED: OCTOBER 19, 2020

The Assembly State and Local Government Committee reports favorably Assembly Bill No. 4446.

This bill requires that any contract entered into or renewed by the Department of Human Services or the Department of Children and Families with a private contractor for the provision of mental health, behavioral health, or addiction services will contain a commitment that the contracted services will not be disrupted or delayed by labor disputes. The commitment may be satisfied by: (1) an agreement between the contractor and any exclusive representative labor organization representing the employees performing the contracted services that contains a provision prohibiting economic or industrial action on the part of all parties and includes a process for the resolution of disputes between them; (2) an agreement between the contractor and any labor organization seeking to represent the employees performing the contracted services that includes a provision prohibiting the parties from causing, promoting, or encouraging economic, industrial, or other disruptive activity on the part of the contractor or employees performing services under the contract, and includes a procedure for resolution of disputes between parties; or (3) any other agreement or binding obligation to be maintained through the term of the contract that provides a comparable commitment as paragraphs (1) or (2). The bill provides the departments the opportunity to discover prior disruptions in service from contractors and a means to address any disputes through the State Treasurer.

The bill also adds a temporary section requiring State contracts to contain a COVID-19 containment and mitigation commitment. The section allows for additional protections concerning COVID-19 in such contracts or a review of past failures to implement appropriate COVID-19 safety guidelines.

The bill would take effect on the 91st day following enactment and the section concerning contracts requiring a COVID-19 containment and mitigation commitment would expire one year following the end of the public health emergency and state of emergency declared by the Governor.

SENATE BILL NO. 2708

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 2708 with my recommendations for reconsideration.

This bill would require that any contract entered into or renewed by the Department of Human Services ("DHS") or the Department of Children and Families ("DCF") with a private contractor for the provision of mental health, behavioral health, or addiction services contain a commitment that the contracted services will not be disrupted or delayed by labor disputes. That commitment would require every provider to enter into a labor harmony agreement - an agreement that would prevent both management and labor from engaging in certain disruptive activities and would require both parties to agree to a dispute resolution process - with a collective bargaining representative that represents or seeks to represent the provider's employees at the time the provider renews or enters into a contract with either DHS or DCF. The bill would require the commissioners to decline to enter into or renew such a contract if such a labor harmony agreement is not in place.

Additionally, the bill would require these contracts to contain a Coronavirus disease 2019 ("COVID-19") containment and mitigation commitment. Failures to implement appropriate COVID-19 safety guidelines, including past failures, would again result in potential contract termination.

I commend the bill's sponsors for promoting goals that I share - protecting reasonable access for labor unions to organize and encouraging amicable labor-management relationships. We have realized clear and tangible benefits from strengthening the presence of labor across all sectors, including in the industry implicated by this legislation. Appropriate compensation, protections, and workforce supports attract high quality workers, which in turn lead to the provision of high-quality care. Our essential workers, who have continued to provide critical care for individuals throughout the pandemic, deserve the opportunity to access these benefits. And in the settings of mental health,

behavioral health, and addiction services, where the State depends on contracts with reliable providers, labor harmony agreements can help protect the State's proprietary interest in efficient delivery of services.

We must, however, balance those goals against the need to ensure continuity of care and maintain a sufficient number of providers for the vulnerable population of individuals serviced by this workforce, and I am concerned that automatic non-renewal or cancellation of contracts could result in gaps in the availability of mental health, behavioral health, and addiction services. Further, the bill tasks DHS and DCF with reviewing information regarding labor-management relations. Neither department is equipped to manage this responsibility, particularly in the abbreviated timeframes currently contemplated in the bill. This could delay the contracting process and divert strained departmental resources, potentially further compromising the State's ability to provide this critical care.

To protect against these unintended outcomes, and with the support of our partners in labor, I am recommending revisions to the bill that would leave intact the central purpose of the bill while also instituting additional safeguards to ensure the State can continue to serve these critical populations. This includes an attestation process that would allow providers, with the approval of their collective bargaining representatives, the ability to certify that they have entered in a labor harmony agreement with a union after entering into or renewing a contract with the State. Where a provider fails to attest without a valid reason, the respective commissioner would institute corrective action to encourage immediate compliance. My proposed amendments would then require the respective commissioner to terminate the contract if the provider continues to violate the requirements of the bill. Where issues arise regarding the provider's compliance with the requirements of the bill, I am recommending that the commissioners of DHS and DCF consult with the commissioner of the Department of Labor and Workforce

Development, the State Board of Mediation, or both, as they are better equipped to consider labor-management issues.

I am further recommending modest revisions to the portion of the bill relating to contractual protections against COVID-19 to require providers to commit to make a good faith effort to comply with all applicable COVID-19 health and safety protocols that protect workers and service recipients alike. The commissioners would be directed to review potential violations of this commitment in making decisions about contract renewal. Finally, I am amending the effective date to better align with the current timeline for provider contracts and avoid disruption of multi-year contracts.

Therefore, I herewith return Senate Bill No. 2708 and recommend that it be amended as follows:

<u>Page 2, Section 1, Line 17:</u>	Delete "State funded"
<u>Page 2, Section 1, Line 17:</u>	After services insert "funded or administered by the State"
<u>Page 2, Section 1, Line 31:</u>	After "ensure the" insert "resources it provides to community-based organizations and providers with which it contracts support"
<u>Page 2, Section 1, Lines 31-33:</u>	Delete "workers delivering the services are provided adequate equipment, resources, and protections to ensure their safety,"
<u>Page 2, Section 1, Line 33:</u>	After "of the" insert "employees and"
<u>Page 2, Section 1, Line 33:</u>	After "services" delete "," and insert "."
<u>Page 2, Section 1, Lines 34-40:</u>	Delete in their entirety
<u>Page 3, Section 1, Line 2:</u>	Delete "Services" and insert "Services' Division of Mental Health and Addiction Services"
<u>Page 3, Section 1, Line 3:</u>	Delete ", and divisions thereof,"
<u>Page 3, Section 1, Lines 4-5:</u>	Delete "contain, as a material condition of its contract, terms requiring" and insert "require"
<u>Page 3, Section 1, Line 7:</u>	After "providers" delete "," and insert "and"
<u>Page 3, Section 1, Line 7:</u>	Delete ", and the surrounding community"

<u>Page 3, Section 1, Line 10:</u>	Delete ", and the" and insert "."
<u>Page 3, Section 1, Line 11:</u>	Delete in its entirety
<u>Page 3, Section 2, Line 13:</u>	Delete "Any contract entered into or renewed by" and insert "Where a labor organization represents or seeks to represent the employees of a covered provider, the maintenance of a labor harmony agreement, or a commitment comparable to a labor harmony agreement, with the labor organization representing or seeking to represent employees of the covered provider shall be an ongoing material condition of maintaining a contract with"
<u>Page 3, Section 2, Line 14:</u>	Delete "Services" and insert "Services' Division of Mental Health and Addiction Services"
<u>Page 3, Section 2, Lines 14-15:</u>	Delete "with a private contractor"
<u>Page 3, Section 2, Line 16:</u>	Delete "shall contain a commitment that the" and insert "."
<u>Page 3, Section 2, Lines 17-40:</u>	<p>Delete in their entirety and insert "b. To satisfy the requirements of this section, a covered provider entering into or renewing a contract with the Department of Human Services' Division of Mental Health and Addiction Services or the Department of Children and Families shall, no later than 90 days after the effective date of the contract, either:</p> <p>(1) submit an attestation, signed by a labor organization, stating that the covered provider has entered into a labor harmony agreement with such labor organization;</p> <p>(2) submit an attestation stating that the employees of the covered provider are not currently represented by a labor organization and that no labor organization has sought to represent the covered provider's employees during the 90-day period following the covered provider entering into or renewing a contract for services with the department after the effective date of this act and up to the time of submission; or"</p>
<u>Page 3, Section 2, Line 41:</u>	Delete "Any other" and insert "submit an attestation, signed by a labor organization, stating

that the provider has entered into an"

Page 3, Section 2, Line 42:

Delete "comparable"

Page 3, Section 2, Line 43:

Delete "as paragraphs (1) or (2) of this subsection" and insert "comparable to a labor harmony agreement, as defined in section 4 of P.L. c (C.) (pending before the Legislature as this bill)"

Page 3, Section 2, Lines 44-47:

Delete in their entirety and insert "c. Where a labor organization seeks to represent the employees of a covered provider after the expiration of the 90-day period following the effective date of the contract, the labor organization shall provide notice to the applicable department regarding such efforts. The covered provider shall then submit an attestation signed by the labor organization to the applicable department no later than 90 days after the date of notice stating that it has entered into:

(1) a labor harmony agreement with such labor organization; or

(2) an agreement or binding obligation to be maintained through the term of the contract that provides a commitment comparable to a labor harmony agreement, as defined in section 4 of P.L. c (C.) (pending before the Legislature as this bill).

d. The failure to submit an attestation as required pursuant to subsections b. and c. of this section shall result in financial recovery and a corrective action plan issued by the applicable department. Should the provider not adhere to the terms of the corrective action plan, the applicable department shall cancel or not renew the contract upon the applicable department obtaining a replacement provider to assume the contract or otherwise provide the services. The applicable department may grant an extension to the deadlines in subsections b. and c. of this section based upon extenuating circumstances or for good cause shown. An extension shall be warranted pursuant to subsection b. if a labor organization seeks to represent a covered provider's employees after the contract is renewed or entered into but within the 90-

day period following the effective date of the contract."

Page 4, Section 2, Lines 1-12:

Delete in their entirety

Page 4, Section 2, Line 14:

Delete "pertinent" and insert "applicable"

Page 4, Section 2, Line 14:

Delete "refusal" and insert "failure"

Page 4, Section 2, Line 14:

Delete "contractor" and insert "covered provider"

Page 4, Section 2, Line 15:

Delete "its contractual commitments required by this act" and insert "the requirements of this section"

Page 4, Section 2, Line 16:

After "commissioner" insert "may review and make findings, or, in consultation with the Commissioner of Labor and Workforce Development, the State Board of Mediation, or both, as appropriate,"

Page 4, Section 2, Line 17:

After "investigation" delete "and, upon" and insert ". Upon"

Page 4, Section 2, Line 17:

Delete "of a failure or breach," and insert "that a covered provider failed to adhere to the requirements of this section, the commissioner of the applicable department shall take corrective action which may include a corrective action plan, financial recovery and cost recoupment, and cancelling or declining to renew the contract. Should the covered provider fail to engage in or complete corrective action, the commissioner of the applicable department"

Page 4, Section 2, Lines 20-21:

Delete "pertinent contract shall not be awarded or renewed" and insert "commissioner of the applicable department shall not take corrective action"

Page 4, Section 2, Lines 21-22:

Delete ", but may be maintained on a month-to-month basis"

Page 4, Section 2, Lines 29-34:

Delete in their entirety

Page 4, Section 3, Line 37:

Delete "subsection a. of"

Page 4, Section 3, Line 38:

Delete "containment and mitigation" and insert "health and safety"

Page 4, Section 3, Line 39:

After "that" insert "requires the covered provider to make a good faith effort to comply with minimum health and safety protocols issued by the applicable department to"

<u>Page 4, Section 3, Line 39:</u>	Delete "ensures" and insert "ensure"
<u>Page 4, Section 3, Line 39:</u>	Delete "contractors'" and insert "covered providers'"
<u>Page 4, Section 3, Line 40:</u>	After "employees," insert "and"
<u>Page 4, Section 3, Line 40:</u>	Delete ", and surrounding community. The" and insert "."
<u>Page 4, Section 3, Lines 41-44:</u>	Delete in their entirety
<u>Page 4, Section 3, Line 46:</u>	Delete "determine:" and insert "collect information as to whether there have been"
<u>Page 4, Section 3, Lines 47-48:</u>	Delete in their entirety
<u>Page 5, Section 3, Line 1:</u>	Delete "(2)"
<u>Page 5, Section 3, Line 1:</u>	After "to" insert "demonstrate a good faith effort to"
<u>Page 5, Section 3, Line 2:</u>	Delete "contractor's" and insert "covered provider's"
<u>Page 5, Section 3, Line 3:</u>	Delete "commissioners" and insert "commissioner of the applicable department"
<u>Page 5, Section 3, Line 5:</u>	Delete "contractor" and insert "covered provider"
<u>Page 5, Section 3, Line 5:</u>	Delete "If a dispute exists with respect to" and insert "The commissioner of the applicable department shall take into account such failures prior to awarding or renewing any contract and, at a minimum, require submission of a corrective plan to contain, limit, or mitigate the spread of COVID-19 cases. Should a provider fail to implement a plan or repeatedly fail to demonstrate good faith efforts to contain, limit, or mitigate the spread of COVID-19, the commissioner shall take action, including financial penalties or cancellation or non-renewal of the contract."
<u>Page 5, Section 3, Lines 6-8:</u>	Delete in their entirety

Page 5, Line 9:

Insert new section:

"4. As used in this act:

'Covered employee' means any regular full-time or regular part-time employee who principally works for a covered provider and who performs or provides any type of work to deliver those services to individuals who are eligible to receive those services.

'Covered provider' means the entity entering into a Contract with the Department of Human Services' Division of Mental Health and Addiction Services or the Department of Children and Families to provide mental health, behavioral health, and addiction services that employs more than 10 covered employees.

'Labor harmony agreement' means an agreement between a provider and any exclusive representative labor organization which represents or seeks to represent employees performing services under contract with the Department of Human Services' Division of Mental Health and Addiction Services or the Department of Children and Families that contains a provision prohibiting economic or industrial action on the part of all parties and includes a process for the resolution of disputes between them.

'Labor organization' means a labor organization that is the collective bargaining representative of not less than 1,000 employees in the State of New Jersey that serve in similar classifications or provide similar services as those provided by the employees performing the contract for the Department of Human Services' Division of Mental Health and Addiction Services or the Department of Children and Families contemplated in this act."

Page 5, Section 4, Line 10:

Delete "4." and insert "5."

Page 5, Section 4, Line 10:

Delete "the 91st day following enactment" and insert "July 1, 2021 and shall apply to all contracts entered into or renewed on or after the effective date."

Page 5, Section 4, Line 11:

Delete "and section" and insert
"Section"

[seal]

Respectfully,

/s/ Philip D. Murphy

Governor

Attest:

/s/ Parimal Garg

Chief Counsel to the Governor

Governor Murphy Takes Action on Legislation

01/15/2021

TRENTON – Today, Governor Phil Murphy signed the following bill into law:

S-2708 w/GR (Sweeney, Codey/Benson, Vainieri Huttie, Verrelli) – Requires certain provisions in State contracts for delivery of publicly financed mental health, behavioral health, and addiction services.