

30.1-12
LEGISLATIVE HISTORY CHECKLIST
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(Human Services--reumbursement)

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First reprint enacted
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COMMITTEE STATEMENT: ASSEMBLY: No
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P.L.1995, CHAPTER 155, approved June 30, 1995
1995 Senate No. 2177 (First Reprint)

1 AN ACT concerning reimbursement for services provided by the
2 Department of Human Services and revising parts of statutory
3 law.
4

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

7 1. R.S.30:1-12 is amended to read as follows:

8 30:1-12. a. The Legislature finds that the Commissioner of
9 Human Services is obligated by State and federal law to assure
10 that programs that serve eligible, low-income, handicapped,
11 elderly, abused, and disabled persons are provided in an
12 accessible, efficient, cost-effective and high quality manner. In
13 order to meet these ends, the commissioner must have sufficient
14 authority to require institutions and agencies that are under his
15 direct or indirect supervision to meet State and federal
16 mandates. This authority is especially necessary given the
17 manner in which certain services are provided by county or local
18 agencies, but are funded in whole or part by the State. The
19 Legislature finds that the commissioner must have the authority
20 to establish rules, regulations and directives, including incentives
21 and sanctions, to assure that these institutions and agencies are
22 providing services in a manner consistent with these mandates.

23 b. The commissioner shall have power to determine all matters
24 relating to the unified and continuous development of the
25 institutions and noninstitutional agencies within his jurisdiction.
26 He shall determine all matters of policy and shall have power to
27 regulate the administration of the institutions or noninstitutional
28 agencies within his jurisdiction, correct and adjust the same so
29 that each shall function as an integral part of a general system.
30 The rules, regulations, orders and directions issued by the
31 commissioner pursuant thereto, for this purpose shall be accepted
32 and enforced by the executive having charge of any institution or
33 group of institutions or noninstitutional agencies or any phase of
34 the work within the jurisdiction of the department.

35 In order to implement the public policy of this State concerning
36 the provision of charitable, hospital, relief and training
37 institutions established for diagnosis, care, treatment, training,
38 rehabilitation and welfare of persons in need thereof, for
39 research and for training of personnel, and in order that the
40 personnel, buildings, land, and other facilities provided be most
41 effectively used to these ends and to advance the public interest,
42 the commissioner is hereby empowered to classify and designate
43 from time to time the specific functions to be performed at and

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:
Senate SBA committee amendments adopted June 22, 1995.

1 by any of the aforesaid institutions under his jurisdiction and to
2 designate, by general classification of disease or disability, age or
3 sex, the classes of persons who may be admitted to, or served by,
4 these institutions or agencies.

5 In addition to and in conjunction with its general facilities and
6 services for the mentally ill, mentally retarded and tuberculous,
7 the department may at its discretion establish and maintain
8 specialized facilities and services for the residential care,
9 treatment and rehabilitation of persons who are suffering from
10 chronic mental or neurological disorders, including, but not
11 limited to alcoholism, drug addiction, epilepsy and cerebral palsy.

12 The commissioner shall have the power to regulate the
13 administration of agencies under his supervision including, but not
14 limited to, municipal and county welfare agencies. The
15 commissioner may issue rules, regulations, orders and directions
16 to assure that programs administered by the agencies are
17 financially and programmatically efficient and effective, and to
18 establish incentives and impose sanctions to assure the
19 appropriate operation of programs and compliance with State and
20 federal laws and regulations.

21 In addition, the commissioner shall have the authority to:

22 (1) review and approve county and municipal welfare agency
23 budgets; and

24 (2) take over and operate county or municipal welfare
25 operations in situations in which the commissioner determines
26 that the welfare board is failing to substantially follow federal or
27 State law, thereby placing clients, who are dependent on public
28 assistance benefits to survive in a humane and healthy manner, at
29 serious risk. In this situation, the commissioner shall have the
30 authority to bill the county for the cost of such operations and
31 for necessary changes to assure that services are provided to
32 accomplish federal and State mandates in an effective and
33 efficient manner.

34 No rule, regulation, order or direction shall abridge the
35 authority of a county or municipal welfare agency to establish
36 wages and terms and conditions of employment for its employees
37 through collective negotiation with an authorized employee
38 organization pursuant to P.L.1984, c.14 (C.44:7-6.1 et seq.).

39 The commissioner shall have the power to promulgate
40 regulations to assure that services in State and county psychiatric
41 facilities are provided in an efficient and accessible manner and
42 are of the highest quality. Regulations shall include, but shall not
43 be limited to, the transfer of patients between facilities; the
44 maintenance of quality in order to obtain certification by the
45 United States Department of Health and Human Services; the
46 review of the facility's budget; and the establishment of
47 sanctions to assure the appropriate operation of facilities in
48 compliance with State and federal laws and regulations.

49 The commissioner shall have the power to promulgate
50 regulations to assure that county adjusters effectively and
51 efficiently conduct investigations, notify legally responsible
52 persons of amounts to be assessed against them, petition the
53 courts, represent patients in psychiatric facilities, and as
54 necessary reopen the question of payment for maintenance of

1 persons residing in psychiatric facilities (or facilities for
2 developmentally disabled persons). Regulations may include
3 minimum standards for determining payment of care by legally
4 responsible persons; a uniform reporting system of findings,
5 conclusions and recommendations; and the establishment of
6 sanctions to assure compliance with State laws and regulations.

7 c. The commissioner shall have the power to conduct an
8 investigation into the financial ability to pay, directly or
9 indirectly, of any person receiving services from the department,
10 or his chargeable relatives. This authority shall include the
11 power to issue subpoenas to compel testimony and the production
12 of documents. The commissioner may contract with a public or
13 private entity to perform the functions set forth in this
14 subsection, subject to terms and conditions required by the
15 commissioner.

16 (cf: P.L.1990,c.73,s.1)

17 2. R.S.30:4-24 is amended to read as follows:

18 30:4-24. The provisions of [this] Title 30 of the Revised
19 Statutes shall govern the admission and commitment of the
20 mentally ill, tuberculous, and mentally retarded to the several
21 institutions designated therefor and govern and control all phases
22 of the relationship between such patients and such institutions
23 including payments, maintenance, custody, treatment, parole and
24 discharge as though each provision of [this] Title 30 of the
25 Revised Statutes has been specifically enacted, unless otherwise
26 specified in law, with relation to each institution, its board of
27 managers and officials, and to all other officials, boards and
28 authorities.

29 [This] Title 30 of the Revised Statutes is to be administered in
30 accordance with the general principles laid down in this section,
31 which are declared to be the public policy of this State that:

32 (1) adequate residential and nonresidential facilities be
33 provided for the prompt and effective diagnosis, care, treatment,
34 training and rehabilitation of individuals suffering from diseases
35 and dysfunctions of the brain, mind and nervous system, including
36 the various forms of mental illness and mental retardation;

37 (2) such facilities be closely integrated with other community
38 health, welfare and social resources;

39 (3) the human dignity and the moral and constitutional rights of
40 such individuals be upheld and protected by appropriate statutes;

41 (4) family and community ties and mutual responsibilities be
42 reinforced;

43 (5) inasmuch as such mental disorders may in some cases
44 substantially impair the individual's ability to guide his actions in
45 his own best interests or with due regard for the rights of others,
46 provision be made for the due process of law by which such an
47 individual may be placed under protection, treatment or restraint
48 in his own or the public interest;

49 (6) the primary responsibility for the costs of services provided
50 to an individual rests with him and his responsible relatives;

51 (7) it is in the public interest that facilities be available to all
52 persons without limitation because of economic circumstances,
53 and that extraordinary hardships to any individual or his relatives
54 which may result from severe or prolonged disability be mitigated;

1 (8) means and facilities be provided by the State for scientific
2 studies directed toward expanding knowledge of the causes,
3 prevention, control, management and cure of diseases and
4 dysfunctions of the brain, mind and nervous system; and

5 (9) as an intrinsic part of the program established by the State,
6 provision be made for the instruction of professional and
7 nonprofessional personnel in the skills required for the proper
8 diagnosis, care, training, treatment and rehabilitation of persons
9 suffering from disorders of the brain, mind and nervous system,
10 and for the pursuit of relevant research.

11 (cf: P.L.1965, c.59, s.8)

12 3. Section 11 of P.L.1965, c.59 (C.30:4-24.3) is amended to
13 read as follows:

14 11. All certificates, applications, records, and reports made
15 pursuant to the provisions of [this] Title 30 of the Revised
16 Statutes and directly or indirectly identifying any individual
17 presently or formerly receiving services in a noncorrectional
18 institution under [this] Title 30 of the Revised Statutes, or for
19 whom services in a noncorrectional institution shall be sought
20 under this act shall be kept confidential and shall not be disclosed
21 by any person, except insofar as:

22 a. the individual identified or his legal guardian, if any, or, if
23 he is a minor, his parent or legal guardian, shall consent; or

24 b. disclosure may be necessary to carry out any of the
25 provisions of this act or of article 9 of chapter 82 of Title 2A of
26 the New Jersey Statutes; or

27 c. a court may direct, upon its determination that disclosure is
28 necessary for the conduct of proceedings before it and that
29 failure to make such disclosure would be contrary to the public
30 interest; or

31 d. disclosure may be necessary to conduct an investigation into
32 the financial ability to pay of any person receiving services or his
33 chargeable relatives pursuant to the provisions of R.S.30:4-12.

34 Nothing in this section shall preclude disclosure, upon proper
35 inquiry, of information as to a patient's current medical
36 condition to any relative or friend or to the patient's personal
37 physician or attorney if it appears that the information is to be
38 used directly or indirectly for the benefit of the patient.

39 Nothing in this section shall preclude the professional staff of a
40 community agency under contract with the Division of Mental
41 Health Services in the Department of Human Services, or of a
42 screening service, short-term care or psychiatric facility as those
43 facilities are defined in section 2 of P.L.1987, c.116 (C.30:4-27.2)
44 from disclosing information that is relevant to a patient's
45 current treatment to the staff of another such agency.

46 (cf: P.L.1995,c.4,s.1)

47 4. Section 13 of P.L.1965, c.59 (C.30:4-25.1) is amended to
48 read as follows:

49 13. a. For the purpose of Title 30 of the Revised Statutes:

50 (1) "Eligible mentally retarded person" or "eligible
51 developmentally disabled person" means a person who has been
52 declared eligible for admission to functional services of the
53 [department] Division of Developmental Disabilities and who
54 complies with the provisions of section 5 of P.L. , c. (C.)

1 (pending before the Legislature as this bill).

2 (2) "Evaluation services" means those services and procedures
3 in the [department] Division of Developmental Disabilities by
4 which eligibility for functional services for the mentally retarded
5 is determined and those services provided by the [department]
6 Division of Developmental Disabilities for the purpose of advising
7 the court concerning the need for guardianship of individuals over
8 the age of 18 who appear to be mentally deficient.

9 (3) "Functional services" means those services and programs in
10 the [department] Division of Developmental Disabilities available
11 to provide the mentally retarded with education, training,
12 rehabilitation, adjustment, treatment, care and protection.

13 (4) "Mental deficiency" or "mentally deficient" means that
14 state of mental retardation in which the reduction of social
15 competence is so marked that persistent social dependency
16 requiring guardianship of the person shall have been demonstrated
17 or be anticipated.

18 (5) "Mental retardation" or "mentally retarded" means a
19 significant subaverage general intellectual functioning existing
20 concurrently with deficits in adaptive behavior which are
21 manifested during the development period. For the purposes of
22 Title 30 of the Revised Statutes, the term "developmentally
23 disabled" may be used interchangeably with mental retardation to
24 refer to persons who receive services from the Division of
25 Developmental Disabilities.

26 (6) "Residential services" or "residential functional services"
27 means observation, examination, care, training, treatment,
28 rehabilitation and related services, including community care,
29 provided by the [department] Division of Developmental
30 Disabilities to patients who have been admitted or transferred to,
31 but not discharged from any residential functional service for the
32 mentally retarded.

33 (7) "Income" means, but is not limited to, wages, benefits,
34 interest earned, pensions, annuity payments and support from a
35 third party pursuant to statute, rule or order or by contract.

36 (8) "Assets" or "resources" means, but is not limited to, cash,
37 trusts, bank accounts, certificates of deposit, stocks, bonds and
38 savings bonds.

39 b. Application for admission of an eligible mentally retarded
40 person to functional services of the [department] Division of
41 Developmental Disabilities may be made under any of the
42 following classes:

43 Class F. Application to the commissioner by the parent,
44 guardian or person or agency having care and custody of the
45 person of a minor or by the guardian of the person of a mentally
46 deficient adult;

47 Class G. Application to the commissioner by a mentally
48 retarded person over 18 years of age on his own behalf;

49 Class H. Application to the commissioner by a Superior Court,
50 Chancery Division, Family Part having jurisdiction over an
51 eligible mentally retarded minor;

52 Class I. Application to the commissioner with an order of
53 commitment to the custody of the commissioner issued by a court
54 of competent jurisdiction during or following criminal process

1 involving the eligible mentally deficient person.

2 Application shall be made on such forms and accompanied by
3 such relevant information as may be specified from time to time
4 by the commissioner.

5 (cf: P.L.1991, c.91, s.311)

6 5. (New section) a. An applicant for functional services from
7 the Division of Developmental Disabilities, any person acting on
8 his behalf pursuant to section 14 of P.L.1965, c.59 (C.30:4-25.2),
9 or the applicant's chargeable relatives, as appropriate, shall
10 agree, if the applicant is determined eligible for functional
11 services pursuant to section 15 of P.L.1965, c.59 (C.30:4-25.3), to
12 comply with the following conditions of eligibility and continued
13 functional services participation:

14 (1) The applicant ¹for residential services¹ or other person
15 listed in this subsection shall assign to the Commissioner of
16 Human Services any rights of the applicant to support or payment
17 from a third party under any law, regulation, court order or
18 administrative order ¹unless specifically prohibited by federal
19 law or regulation¹;

20 (2) The applicant or other person listed in this subsection shall
21 apply for and maintain all current and future benefits for which
22 the applicant may be eligible, including, but not limited to,
23 Medicare, Medicaid, any other State or federal benefits and any
24 third party support pursuant to statute, rule, court order or
25 contract; and

26 (3) The applicant or other person listed in this subsection shall
27 make payments as required pursuant to R.S.30:4-60.

28 b. The Division of Developmental Disabilities may terminate
29 any services received by, or the placement of, the eligible
30 developmentally disabled person within 60 days if the conditions
31 of eligibility set forth in this section are not complied with by the
32 eligible developmentally disabled person or other person listed in
33 subsection a. of this section. ¹During any appeals process period,
34 services to a developmentally disabled person shall not be
35 terminated.¹

36 c. Nothing in this section or Title 30 of the Revised Statutes
37 shall be construed to deny functional services to any person who
38 meets the eligibility conditions and criteria for functional
39 services, but does not have the ability to pay the full per capita
40 costs or payments required pursuant to R.S.30:4-60.

41 6. Section 15 of P.L.1965, c.59 (C.30:4-25.3) is amended to
42 read as follows:

43 15. Promptly on receipt of the application for determination
44 of eligibility for admission to functional services of the
45 [department] Division of Developmental Disabilities, the
46 commissioner shall [effect the determination of] determine the
47 state of mental retardation and [of the requirement] need for
48 functional services. Such determination shall be made under rules
49 promulgated by the commissioner. Any mentally retarded person
50 who makes such application or on whose behalf application [for
51 evaluation] is made and who is found to require functional
52 services of the [department] Division of Developmental
53 Disabilities shall be declared eligible subject to the person's and
54 his legally chargeable relatives' compliance with the provisions

1 of section 5 of P.L. , c. (C.)(pending before the Legislature
2 as this bill).

3 (cf: P.L.1965, c. 59, s.15)

4 7. Section 16 of P.L.1965, c.59 (C.30:4-25.4) is amended to
5 read as follows:

6 16. The commissioner or his designated agent shall,
7 immediately upon determination of the state of mental
8 retardation of the individual, as provided herein, report his
9 findings to the applicant, and in the event that the mentally
10 retarded person who makes such application or on whose behalf
11 the application has been made is found eligible, the commissioner
12 or his designated agent shall issue to the applicant a statement of
13 eligibility for the functional services of the [department] Division
14 of Developmental Disabilities. The statement of eligibility shall
15 advise the applicant of the particular functional service deemed
16 most appropriate for the training, habilitation, care and
17 protection of the mentally retarded individual as of the time of
18 determination and shall further advise the applicant concerning
19 the immediate availability of such services, or alternate services.

20 The statement of eligibility shall also advise the applicant of
21 the requirements of section 5 of P.L. c. (C.)(pending before
22 the Legislature as this bill), R.S.30:4-66 and R.S.30:4-74.

23 (cf: P.L.1965, c. 59, s.16)

24 8. Section 21 of P.L.1987, c.116 (C.30:4-27.21) is amended to
25 read as follows:

26 21. a. A person involuntarily committed to a State psychiatric
27 facility listed in R.S. 30:1-7 may be transferred to another State
28 psychiatric facility in accordance with rules adopted by the
29 commissioner that specify the clinical and programmatic factors
30 and the procedures related to the transfer.

31 b. A person involuntarily committed to a State psychiatric
32 facility may be transferred to a facility for psychiatric or
33 medical care pursuant to an agreement between the department
34 and that facility which specifies the clinical and programmatic
35 factors and the procedures related to the transfer.

36 c. A developmentally disabled person who resides in a State
37 developmental center or other residential functional services
38 placement for the developmentally disabled who is in need of
39 involuntary commitment shall be involuntarily committed to a
40 State or county psychiatric facility. As a result of the
41 involuntary commitment, the physical transfer of the
42 developmentally disabled person from the developmental center
43 or other residential functional services placement to a State or
44 county psychiatric facility and from the facility back to the
45 developmental center or other residential functional services
46 placement shall be on a two-way commissioner's order of
47 transfer, which order shall be in effect for as long as the person
48 is involuntarily committed. The person is not required to file a
49 new application for functional services from the Division of
50 Developmental Disabilities upon transfer back to the
51 developmental center or other residential functional services
52 placement. The person's legal settlement shall remain
53 unchanged and the person shall not gain or lose legal settlement
54 because of the transfers.

55 (cf: P.L.1987, c.116, s.21)

1 9. R.S.30:4-34 is amended to read as follows:

2 30:4-34. In each county where county counsel, county
3 solicitor, county clerk, county physician or county probation
4 officer, or any of their assistants is in charge and supervision of
5 the preparation of papers relating to the commitment of the
6 mentally ill [or mentally retarded], such person shall be known as
7 "county adjuster" and such duties shall, except as otherwise
8 provided in section 2 of [this amendatory and supplementary act]
9 P.L.1981, c.403 (C.30:4-34.1), continue to pertain to the office of
10 such county counsel, county solicitor, county clerk, county
11 physician or county probation officer or their successors in
12 office, but, notwithstanding the foregoing, in case any other
13 county official or employee shall be at the time of the adoption
14 of this act, in charge and supervision of the preparation of papers
15 relating to the commitment of the mentally ill [or mentally
16 retarded], the governing body of the county may designate that
17 county official or employee as county adjuster. In all other
18 counties the judge of the Superior Court, with the consent of the
19 county governing body, shall designate some county official or
20 employee as county adjuster.

21 The county adjuster shall have charge and supervision of the
22 preparation of papers relating to the commitment of the mentally
23 ill [or mentally retarded] in such county, and in cases arising in
24 other counties in which the legal settlement appears to be in his
25 county. Classification under civil service rules shall not be
26 affected by reason of such designation or additional duties, and
27 additional compensation, if any, for such services may be fixed by
28 the county governing body and paid in the same manner as other
29 county employees are paid. Each county governing body shall
30 notify the various institutions for the mentally ill [or mentally
31 retarded], of the name and address of the county adjuster.

32 The judge of the Superior Court within the county may appoint
33 the county adjuster to act as referee for the purpose of taking
34 testimony bearing solely on the question of legal settlement and
35 the financial ability of the mentally ill patient or his legally
36 responsible relatives to pay the cost of maintenance and shall
37 make return to the court of his findings, conclusions and
38 recommendations. Such findings, conclusions and
39 recommendations shall be subject to the approval of the court
40 and shall not be effective until incorporated in an appropriate
41 order or judgment of the court. The county adjuster, acting as
42 such referee, may subpoena witnesses and compel their attendance
43 on forms approved by the court.

44 (cf: P.L.1981, c.403, s.1)

45 10. R.S.30:4-49 is amended to read as follows:

46 30:4-49. Except as hereinafter provided, legal settlement in a
47 county within the meaning of this article shall be continuous
48 residence in such county for a period of not less than 5 years
49 immediately preceding the date of application for admission or
50 commitment, excluding the time, if any, spent by the patient in
51 any charitable, or correctional institution or public hospital. An
52 alien who has taken up his residence in any county in this State
53 immediately upon arriving in this country, having had such county
54 as his destination, and who shall have resided in such county for a

1 period of at least 3 years immediately preceding the date of
2 application for admission or commitment, shall be deemed to
3 have a legal settlement in such county.

4 (cf: P.L.1965, c.59, s.36)

5 11. R.S.30:4-51 is amended to read as follows:

6 30:4-51. Legal settlement in this [state] State, as distinguished
7 from legal settlement in any political subdivision thereof, shall be
8 continuous residence in the [state] State for a period of at least
9 one year immediately preceding the date of the application for
10 admission or commitment, excluding the time, if any, spent by
11 the patient in any charitable or correctional institution or public
12 hospital.

13 (cf: R.S.30:4-51)

14 12. R.S.30:4-52 is amended to read as follows:

15 30:4-52. Any patient not having lived in the State for at least
16 1 year prior to the application for admission or commitment to
17 any institution for the care and treatment of the mentally ill or
18 developmentally disabled in this State shall not be deemed to
19 have a legal settlement in this State but shall be admitted or
20 committed to one of the institutions owned by the State pending
21 his removal to the place where he has a legal settlement, if any,
22 and the cost and expense of care and treatment of such patient
23 during such confinement, and his removal, when the cost of his
24 removal is not otherwise provided for, shall be borne by the State.

25 (cf: P.L.1965, c.59, s.43)

26 13. R.S.30:4-56 is amended to read as follows:

27 30:4-56. The final judgment of commitment shall contain a
28 determination of the mentally ill patient's legal settlement and
29 shall provide for the payment of the expense of the care and
30 treatment of the patient. The judgment, together with the
31 complaint or a certified copy thereof, shall be filed in the office
32 of the clerk of the county, who shall forward within 10 days after
33 receipt of same a certified copy of the judgment, and in all cases
34 a certified copy of the complaint on which the judgment is
35 founded, to the chief executive officer of the institution to which
36 the patient is committed.

37 Any person made responsible for the payment of all or a part of
38 the cost of maintenance of a [mental] mentally ill patient shall,
39 forthwith upon the entry of the order of the court, receive from
40 the county adjuster notice of the amount required to be paid by
41 the terms of said order and shall further receive notice that in
42 the event that there is any change in his financial ability which
43 would permit him to pay a greater portion of the cost of
44 maintenance then such person shall report these facts to the
45 county adjuster for consideration. Failure to do so shall oblige
46 such person or his estate to pay any greater sum found to be due
47 and owing by the court from the date of improved financial
48 ability of such person.

49 At the time of making the final judgment, the court shall
50 further tax a filing fee of \$1.00 to be paid to the clerk for the use
51 of the county in each case, which fee shall be paid in all
52 nonindigent cases by the person made chargeable in the judgment,
53 and in all indigent cases by the county in which the action is had
54 unless the indigent person is chargeable to another county in

1 which case such other county shall be liable for the fee.
2 (cf: P.L.1965, c.59, s.45)

3 14. R.S.30:4-60 is amended to read as follows:

4 30:4-60. a. If the court shall determine that the patient is
5 mentally ill and, basing its determination upon a formula of
6 financial ability to pay as promulgated annually by the
7 Department of the Treasury, that the patient has sufficient
8 estate to pay for his maintenance as fixed by the State Board of
9 Human Services or board of chosen freeholders, as the case may
10 be, or is able to pay a sum in excess of that chargeable to the
11 county of legal settlement, if any, or if the person or persons
12 legally liable for his support, as herein provided, using the same
13 formula, are able to pay such amount of maintenance, fixed as
14 aforesaid, the court, after determining the legal settlement of
15 such patient may, in its discretion, commit or direct the
16 admission or hospitalization of such patient to any State, county,
17 or private mental hospital in this State. In the final judgment of
18 commitment or order directing admission or hospitalization it
19 shall direct that the cost of the care and maintenance of such
20 patient in the institution designated in the judgment, determined
21 by utilizing the aforesaid formula, shall be paid out of the estate
22 of the patient or by the person chargeable by law with his
23 support, or by contract, as the case may be, and the judgment
24 shall specify the amount of maintenance as fixed from time to
25 time for such institution, which shall be paid thereunder, and
26 shall, in the discretion of the court, contain such direction as may
27 seem proper concerning security to be given for such payment.
28 As long as the amount contributed by the patient's estate or his
29 legally responsible relatives for the maintenance of the patient
30 exceeds the amount chargeable as fixed pursuant to R.S.30:4-78,
31 no order shall be entered against the county of legal settlement
32 for any part of such maintenance.

33 If on final hearing a patient and his chargeable relatives are
34 found unable to pay an amount for maintenance in excess of the
35 amount chargeable to the county of legal settlement, the court
36 shall direct that such patient be committed to the institution as a
37 patient chargeable to the county of legal settlement, if any, or to
38 the State, as provided in this article, and on reasonable notice to
39 the persons to be charged, may further direct that such patient or
40 his or her chargeable relatives, or any of them, pay monthly in
41 advance to the institution in which such patient is confined in the
42 case of State patients, or to the county treasurer of the county
43 chargeable in the case of county patients, such part of the cost of
44 the maintenance of such patient as the court may direct in the
45 manner provided herein.

46 b. If the department determines that the person is
47 developmentally disabled and eligible for functional services from
48 the Division of Developmental Disabilities, the department, using
49 a formula of financial ability to pay as promulgated annually by
50 the Department of the Treasury, shall determine if the
51 developmentally disabled person has sufficient income, assets,
52 resources or estate to pay for his maintenance as fixed by the
53 State Board of Human Services, or is able to make any payment
54 towards his maintenance, or if the person's chargeable relatives

1 or other persons chargeable by contract are able to pay the
2 person's maintenance or make any payment towards the person's
3 maintenance on the person's behalf. The department shall
4 determine the legal settlement of the developmentally disabled
5 person pursuant to section 86 of P.L.1965, c.59 (C.30:4-165.3).

6 The department shall send written notice of the periodic
7 payment amount to the person or his parent or guardian,
8 chargeable relative or other person chargeable by contract for
9 the person's support. All required payments shall be made
10 directly to the department unless otherwise specified in the
11 notice. The notice may, in the discretion of the department,
12 contain such direction as may seem proper concerning security to
13 be given for the payment. The payment notice shall be separate
14 and independent of any order of commitment to the care and
15 custody of the commissioner or any order of guardianship.

16 The department shall annually review and revise, as
17 appropriate, its payment calculations. If the financial
18 circumstances of the person or persons chargeable by law or
19 contract for the developmentally disabled person's support
20 change prior to the annual review, the chargeable person or
21 persons shall immediately notify the department in writing.

22 (cf: P.L.1990, c.73, s.2)

23 15. (New section) Notwithstanding any other provision of law
24 to the contrary, whenever the term "estate" appears in any
25 provision of Chapter 4 of Title 30 of the Revised Statutes for the
26 purpose of describing the mechanism for satisfying or
27 contributing to the costs of maintaining a patient, the term shall
28 mean and include only those payments made directly to the State
29 or county by the patient or his legally responsible relative,
30 payments made on behalf of a deceased patient, payments made
31 on behalf of the patient to the State or county in its capacity as a
32 representative of the patient, or payments made on behalf of the
33 patient to the State or county in its capacity as a representative
34 of the patient and which would otherwise be due and payable
35 directly to the patient. No other payments to the State,
36 regardless of their source or the circumstances of their receipt,
37 shall be considered to be a part of the patient's estate.

38 As used in this section, "patient" includes a person over the
39 age of 18 who has been admitted to, but not discharged from, a
40 short-term care or psychiatric facility and a developmentally
41 disabled person of any age who is receiving functional services
42 from the Division of Developmental Disabilities.

43 16. R.S.30:4-60.1 is amended to read as follows:

44 30:4-60.1. Upon the making of any order [admitting or]
45 committing a person to a mental hospital [or institution for the
46 mentally retarded] supported in whole or in part from county,
47 municipal or State funds, the county adjuster of the county in
48 which the court making the order is located, shall forthwith
49 deliver to the chief executive officer of the institution a
50 transcript of the evidence presented to the court or a copy of the
51 testimony taken by the county adjuster on behalf of the court
52 relating to the question of indigency including a statement of the
53 kind, value and location of the patient's estate, or, in the event
54 that a relative of the patient is made chargeable with his support,

1 a detailed statement of the financial means of such chargeable
2 relative.

3 (cf: P.L.1965, c.59, s.50)

4 17. R.S.30:4-63 is amended to read as follows:

5 30:4-63. a. The court may, after final hearing, commit any
6 patient to any State or county psychiatric institution irrespective
7 of the patient's legal settlement where provision is made for his
8 care and maintenance, in an amount approved by the State Board
9 of [Control] Human Services or by the board of chosen
10 freeholders, as the case may be. The patient may remain as a
11 full paying patient in such institution as long as such sum shall be
12 regularly paid out of the estate of such patient, or by the person
13 or persons chargeable by law with his care and maintenance, or
14 under contract. In the event that such sum cannot be paid
15 because of a change in the financial circumstances of the patient
16 or his legally responsible relatives then the court may make such
17 order as may be necessary with regard to the manner and the
18 amount of maintenance which shall be paid on behalf of the
19 patient and by whom.

20 b. The department may admit a person found eligible for
21 functional services from the Division of Developmental
22 Disabilities to a residential functional services placement
23 irrespective of the person's legal settlement if provision is made
24 for the payment of the full cost of the person's care and
25 maintenance, in an amount approved by the State Board of
26 Human Services. The person may remain as a full paying person
27 in the residential functional services placement, or in another
28 residential functional services placement deemed appropriate by
29 the department, as long as the full per capita amount for the
30 placement is regularly paid from the person's income, benefits,
31 assets, resources or estate, or by the person chargeable by law or
32 under contract with his care and maintenance.

33 (cf: P.L.1965, c.59, s.51)

34 18. R.S.30:4-66 is amended to read as follows:

35 30:4-66. Every patient supported in a State or county
36 charitable institution or other residential functional service shall
37 be personally liable for his maintenance and for all necessary
38 expenses incurred by the institution or other residential
39 functional service in his behalf and the husband, wife, father or
40 mother of a child under 18 years of age, and the children,
41 severally and respectively, being of sufficient ability, of every
42 patient so confined, whose estate is not sufficient for his support,
43 shall support, and maintain the patient in the institution or other
44 residential functional service, as the case may be, in such manner
45 and to such an amount as the court shall direct [and as provided
46 in section 30:4-60 of this Title] pursuant to subsection a. of
47 R.S.30:4-60 in the case of mentally ill patients, and in the case of
48 developmentally disabled persons, as required pursuant to
49 subsection b. of R.S.30:4-60. All spouses living separate and
50 apart from their spouses so confined, and all parents of
51 illegitimate children so confined shall also be personally liable for
52 such expense.

53 But no payment shall be ordered to be made by a chargeable
54 relative 55 years of age or over except with respect to the

1 maintenance of his or her spouse or his or her natural or adopted
2 child under the age of 18 years.

3 (cf: P.L.1979, c.401, s.3)

4 19. Section 1 of P.L.1985, c.292 (C.30:4-68.2) is amended to
5 read as follows:

6 1. A [person who is a resident of an institution as defined by
7 R.S.30:4-23] patient admitted to a residential functional service
8 by the Division of Developmental Disabilities or committed to a
9 State or county psychiatric hospital who is not eligible for
10 medical assistance under the "New Jersey Medical Assistance and
11 Health Services Act," P.L.1968, c.413 (C.30:4D-1 et seq.), but
12 who is a recipient of other State assistance, shall be entitled to a
13 \$35.00 monthly personal needs allowance.

14 (cf: P.L.1985, c.292, s.1)

15 20. R.S.30:4-74 is amended to read as follows:

16 30:4-74. A patient's estate or the person chargeable for his
17 support or the State or county as provided by law, shall be liable
18 for institutional or functional services support from the time of
19 the patient's admission or commitment whether he was admitted
20 or committed as a paying or nonpaying patient and irrespective of
21 change of status after admission or commitment.

22 (cf: P.L.1965, c.59, s.59)

23 21. Section 1 of P.L.1962, c.207 (C.30:4-75.1) is amended to
24 read as follows:

25 1. The [Bureau of Maintenance Collections heretofore
26 established within the] Department of [Institutions and Agencies]
27 Human Services shall [aid, assist and co-operate with the boards,
28 officers, agencies or other bodies in the Department of
29 Institutions and Agencies charged with the duty and responsibility
30 for collecting] have the authority to collect all moneys due to the
31 State for services, assistance, relief or care provided by the State
32 through [said] the department from the recipients thereof or from
33 the persons legally responsible therefor pursuant to any
34 agreement with the State or pursuant to any obligation
35 established by law, and it shall be the duty of all such boards,
36 officers, agencies or other bodies in said department to report to
37 the bureau any defaults in the payment of moneys due to the
38 State under any such agreement or obligation within 60 days of
39 such default] or by contract.

40 The Attorney General shall provide all legal assistance
41 necessary and proper to collect [said] the moneys due to the State
42 and shall have all the remedies and may take all of the
43 proceedings for the collection thereof which may be had or taken
44 for or upon the recovery of a judgment in a civil action and may
45 institute and maintain any action or proceeding in the courts
46 necessary therefor.

47 (cf: P.L.1962, c.207, s.1)

48 22. R.S.30:4-78 is amended to read as follows:

49 30:4-78. The State House Commission shall fix the rate or
50 rates of per capita payment for the reasonable cost of
51 maintenance and clothing of patients in State psychiatric
52 facilities chargeable to the counties.

53 The State House Commission shall fix the per capita cost rate
54 or rates to be paid by the State to the several counties on behalf

1 of the reasonable cost of maintenance of State patients in any
2 county psychiatric facility, including outpatient psychiatric
3 services, which payments shall be made by the State Treasurer on
4 the warrant of the Comptroller to the board of chosen
5 freeholders, upon a statement furnished by such board to the
6 department, giving the name and number of such county or State
7 patients who may have been thus supported in such psychiatric
8 facilities. This statement shall set forth the amount, if any,
9 received by the county from any person or persons for or on
10 behalf of the maintenance of any such patients in such county
11 psychiatric facilities. [To the extent that such amount exceeds
12 the county's share for the reasonable cost of maintenance and
13 clothing for a patient, that excess amount shall be credited to the
14 amount to be paid to the county by the State.] Any amount
15 received from a person or persons for the maintenance of a
16 patient in a county psychiatric facility shall be shared between
17 the county and the State in the same ratio as the reasonable cost
18 of maintenance and clothing are the responsibility of the State
19 and county for the corresponding service period. The county shall
20 credit the amount received from the person or persons to the
21 State on the monthly State Aid reimbursement report filed by the
22 county with the department, except that the credit shall not
23 exceed the State's share of the reasonable cost of maintenance
24 and clothing costs for the patient.

25 The State House Commission shall likewise fix the per capita
26 rate or rates which each county shall pay to the treasurer for the
27 reasonable cost of maintenance and clothing of each patient
28 residing in a State psychiatric facility or a State facility for the
29 developmentally disabled or receiving other residential functional
30 services for the developmentally disabled, having a legal
31 settlement in such county. [If the State shall directly receive
32 funds, other than Medicare or Medicaid funds, in support of the
33 patient, including but not limited to federal social security
34 benefits, the State shall credit the funds to the county of
35 settlement, but no credit shall exceed the county's share of the
36 reasonable cost of maintenance and clothing costs for the
37 patient.] Any payments received from the estate of a mentally ill
38 patient as defined in section 15 of P.L. , c. (C.)(pending
39 before the Legislature as this bill), including federal Social
40 Security benefits but not including any funds received from the
41 Medicare or Medicaid programs, in support of the patient in a
42 State psychiatric hospital, shall be shared between the county and
43 State in the same ratio as the reasonable cost of maintenance and
44 clothing are the responsibility of the county and State for the
45 corresponding service period. The State shall credit the amount
46 received from the person or persons to the county of settlement,
47 except that the credit shall not exceed the county's share of the
48 reasonable cost of maintenance and clothing for that patient.

49 [If the State shall receive private insurance payments for the
50 patient, the State shall credit the county of settlement for its
51 full cost for the days for which payment was received, but the
52 credit shall not exceed the county's share of the reasonable cost
53 of maintenance and clothing cost for the patient.]

54 On the effective date of P.L. , c. (C.)(pending before the

1 Legislature as this bill), all payments received from the estate of
2 the patient, as defined in section 15 of P.L. , c. (C.)(pending
3 before the Legislature as this bill), by the county or State on
4 behalf of a patient receiving residential functional services, shall
5 be treated as payment for current services or the most recent
6 service periods and retained by the State to offset the
7 maintenance and clothing costs of the patient. If the payment is
8 received by the county, the county shall file the monthly report
9 on contributions received by the county on behalf of patients with
10 the department and process payment of the funds to the
11 department, except that, if the patient has county settlement and
12 the payment is for a specific service period, it shall be shared by
13 the State and county in the same ratio that the State and county
14 shared in the costs for the corresponding service period. A credit
15 to the county shall not exceed the county's share of the
16 reasonable cost of the maintenance and clothing for the patient.

17 The State House Commission shall likewise fix the rate or rates
18 to be paid for the reasonable cost of maintenance and clothing of
19 the convict and criminal mentally ill in any State psychiatric
20 facility, which rate or rates shall be paid by the State in the case
21 of State patients, and in the case of county patients, the same
22 rate or rates shall be paid, to be divided between the State and
23 county in the proportion of nine on the part of the State and one
24 on the part of the county.

25 Notice of any change in rate or rates to be paid by the counties
26 shall be given in writing by the State House Commission to the
27 commissioner and by him transmitted to the clerk of the
28 respective boards of chosen freeholders.

29 The State share of payments to the several county psychiatric
30 facilities on behalf of the reasonable cost of maintenance of
31 patients shall be at the rate of 130% during the period July 1
32 through December 31 of each year and at the rate of 50% during
33 the period January 1 through June 30 of each year; provided that
34 the total amount to be paid by the State in each year shall not
35 exceed 90% of the total reasonable per capita cost for the period
36 January 1 through December 31 of each year.

37 The rate to be paid by the counties to the State on behalf of
38 the maintenance of county patients in State psychiatric facilities
39 and State facilities for the developmentally disabled and county
40 patients receiving other residential functional services for the
41 developmentally disabled shall be 50% of the actual reasonable
42 per capita cost of maintenance of such patients.

43 During the period of July 1 through December 31 of each year,
44 the State shall pay to each county an amount equal to 40% of the
45 total per capita costs for the reasonable cost of maintenance and
46 clothing of county patients in State psychiatric facilities for the
47 period January 1 through December 31 of that year.

48 During the period of July 1 through December 31 of each year,
49 the State shall pay to each county an amount equal to 50% of the
50 total per capita costs for the reasonable cost of maintenance and
51 clothing of county patients residing in State facilities for the
52 developmentally disabled and receiving other residential
53 functional services for the developmentally disabled for the
54 period January 1 through December 31 of that year.

1 The per capita cost of maintenance of patients in county and
2 State psychiatric facilities and State facilities for the
3 developmentally disabled and county patients receiving other
4 residential functional services for the developmentally disabled,
5 as aforesaid, shall be reported to the State Comptroller upon
6 forms to be prescribed from time to time by the State
7 Comptroller.

8 (cf: P.L.1991, c.63, s.15)

9 23. Section 1 of P.L.1938, c.239 (C.30:4-80.1) is amended to
10 read as follows:

11 1. Every charitable institution maintained in whole or in part
12 by State or county funds, to which persons have been or may be
13 committed or admitted by virtue of Title 30 of the Revised
14 Statutes, shall have a lien against the property of persons
15 confined or who had been confined therein, for the total cost of
16 the care and maintenance of the patient in such institution at the
17 per capita cost rate of maintenance fixed in accordance with
18 law. Such a lien shall also attach to the real and personal
19 property of any person chargeable by law with the support and
20 maintenance of such patient and against whom a court of
21 competent jurisdiction has entered an order directing such person
22 to pay all or a part of the cost of maintaining such patient in a
23 State or county hospital, provided that the amount of the lien
24 shall not exceed the amount of maintenance required to be paid
25 by such order of court. The lien shall also attach to the real and
26 personal property of any person chargeable by law with the
27 support and maintenance of the patient pursuant to subsection b.
28 of R.S.30:4-60, but the amount of the lien shall not exceed the
29 amount of maintenance to be paid. Such lien when properly filed
30 as set forth herein shall have priority over all unrecorded
31 encumbrances and shall be at the rate to be determined as
32 provided in Title 30 [aforesaid] of the Revised Statutes.

33 (cf: P.L.1956, c.162, s.1)

34 24. Section 86 of P.L.1965, c.59 (C.30:4-165.3) is amended to
35 read as follows:

36 86. Whenever any developmentally disabled person is admitted
37 to residential functional services the commissioner or his
38 designated agent shall [notify the county adjuster of the county in
39 which that person is resident who shall proceed to determine
40 legal settlement in accordance with R.S.30:4-49 and 30:4-73.
41 The State, the person or his estate and his legally responsible
42 relatives shall be responsible for the costs of his care in
43 residential services, except that any order for payment shall be
44 issued independently of any order of commitment to the care and
45 custody of the commissioner or to guardianship.] investigate and
46 take statements concerning residency of the person and the
47 financial ability to pay for the cost of the residential functional
48 services. The department shall determine the financial ability to
49 pay for the cost of care and maintenance and the legal
50 settlement in accordance with applicable provisions of Title 30 of
51 the Revised Statutes and notify the county of settlement, if any,
52 that a person has been admitted.

53 The county shall maintain a record of any person receiving
54 residential functional services and make the record available for

1 examination by the department. The county shall cooperate fully
2 with the department in the department's review and
3 investigation of the person or his chargeable relative's financial
4 ability to pay for the residential functional services provided to
5 the person. A determination of indigency shall be made by the
6 department and retained in the person's record maintained by the
7 county.

8 If arrangements are made which are satisfactory to the
9 [institution] department for full payment of the cost of care and
10 treatment of the person and if the [chief executive officer]
11 commissioner or his designated agent is satisfied that the person
12 requires residential functional services and should be admitted
13 then he shall be so admitted [without reference of the matter to
14 the county adjuster for presentation to the court].

15 (cf: P.L.1990, c.66, s.2)

16 25. Section 1 of P.L.1970, c.289 (C.30:4-165.7) is amended to
17 read as follows:

18 1. The commissioner or any parent, spouse, relative, or
19 interested party, on behalf of an alleged mental incompetent who
20 is receiving functional or other services and is over 18 years of
21 age, may file a complaint upon notice to the alleged mental
22 incompetent with the Superior Court in the county furnishing the
23 services or in which such parent, spouse, relative, or interested
24 party resides, for a judgment designating a guardian. The [county
25 adjuster of the] county of settlement shall be served with a copy
26 of the moving papers [and made a party to the action; except
27 that], however, the county [adjuster] may waive service of the
28 moving papers if [he] it has no reason to oppose the action. If the
29 county [adjuster] elects to oppose the action [he] it shall do so
30 within 30 days after being served with a copy of the moving
31 papers.

32 (cf: P.L.1985, c.133, s.4)

33 26. This act shall take effect 180 days after enactment,
34 except that sections 1, 3 and 22 shall take effect immediately.

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39 Clarifies requirements for reimbursement by recipients and
40 chargeable relatives for services provided by DHS.

1 interested party, on behalf of an alleged mental incompetent who
 2 is receiving functional or other services and is over 18 years of
 3 age, may file a complaint upon notice to the alleged mental
 4 incompetent with the Superior Court in the county furnishing the
 5 services or in which such parent, spouse, relative, or interested
 6 party resides, for a judgment designating a guardian. The [county
 7 adjuster of the] county of settlement shall be served with a copy
 8 of the moving papers [and made a party to the action; except
 9 that], however, the county [adjuster] may waive service of the
 10 moving papers if [he] it has no reason to oppose the action. If the
 11 county [adjuster] elects to oppose the action [he] it shall do so
 12 within 30 days after being served with a copy of the moving
 13 papers.

14 (cf: P.L.1985, c.133, s.4)

15 26. This act shall take effect 180 days after enactment,
 16 except that sections 1, 3 and 22 shall take effect immediately.

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SPONSOR'S STATEMENT

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This bill amends various sections of Title 30 of the Revised Statutes concerning payment by recipients and their chargeable relatives for services provided by the Department of Human Services.

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The bill provides the Department of Human Services with the authority to conduct investigations into the financial ability to pay of services recipients and their chargeable relatives. The department is also authorized to contract with a public or private agency to conduct the investigations. The bill also provides that the disclosure of the identity of a person receiving services in an institution operated by the department may be necessary, notwithstanding provisions for confidentiality of the identity of such persons, in the course of conducting the investigation into the person's financial ability to pay for the services.

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The bill transfers the authority and duties of the county adjuster with respect to the determination of legal settlement and financial ability to pay for developmentally disabled persons receiving functional services from the Division of Developmental Disabilities, to the Department of Human Services. The authority and duties of the county adjuster with respect to the mentally ill remain unchanged in the bill.

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Section 5 of the bill specifies the conditions of eligibility for and continued receipt of functional services from the Division of Developmental Disabilities:

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(1) The applicant, responsible relative or guardian shall assign to the Commissioner of Human Services any rights of the applicant to support or payment from a third party under any law, regulation, court order or administrative order;

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(2) The applicant, responsible relative or guardian shall apply for and maintain all current and future benefits for which the applicant may be eligible, including, but not limited to, Medicare, Medicaid, any other State or federal benefits and any third party support pursuant to statute, rule, court order or contract; and

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(3) The applicant, responsible relative or guardian shall make payments for the applicant's maintenance as required pursuant to R.S.30:4-60.

1 The bill provides that if the above conditions of eligibility are
2 not met, the Division of Developmental Disabilities may
3 terminate any services received by, or the placement of, the
4 eligible developmentally disabled person within 60 days. The bill
5 also provides, however, that nothing in this bill or Title 30 of the
6 Revised Statutes shall be construed to deny functional services to
7 any person who meets the eligibility conditions and criteria for
8 functional services, but does not have the ability to pay the full
9 per capita costs or payments required pursuant to R.S.30:4-60.

10 The bill also amends R.S.30:4-78 to clarify how the counties
11 and the State will share the amounts received for maintenance
12 and from the estate of mentally ill patients in State and county
13 institutions. The amounts shall be shared in the same ratio as the
14 reasonable cost of maintenance and clothing are the
15 responsibility of the State and county for the service period.
16 With respect to developmentally disabled persons receiving
17 functional services, all payments received from the person's
18 estate shall be treated as payment for current services or the
19 most recent service periods and retained by the State to offset
20 the maintenance and clothing costs of the person. However, if
21 the person has county settlement and the payment is made for a
22 specific service period, the payment shall be shared by the State
23 and county in the same ratio that the State and county shared in
24 the costs for the service period. In sections 4 and 15 of the bill,
25 respectively, the terms "income," "assets" and "estate," are
26 defined.

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31 Clarifies requirements for reimbursement by recipients and
32 chargeable relatives for services provided by DHS.

STATEMENT TO

SENATE, No. 2177

with Senate committee amendments

STATE OF NEW JERSEY

DATED: JUNE 22, 1995

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2177, with amendments.

Senate Bill No. 2177, as amended, modifies various sections of Title 30 of the Revised Statutes concerning payment by recipients and their chargeable relatives for services provided by the Department of Human Services.

The bill provides the Department of Human Services (DHS) with the authority to conduct investigations into the financial ability to pay for services by recipients and their chargeable relatives. The DHS is also authorized to contract with a public or private agency to conduct the investigations. The bill also provides that the disclosure of the identity of a person receiving services may be necessary, notwithstanding provisions for confidentiality of the identity of such persons, in the course of conducting the investigation into the person's financial ability to pay for the services.

The bill transfers the authority and duties of the county adjuster with respect to the determination of legal settlement and financial ability to pay for developmentally disabled persons receiving functional services from the Division of Developmental Disabilities (DDD), to the DHS. The authority and duties of the county adjuster with respect to the mentally ill remain unchanged in the bill.

The bill specifies the conditions of eligibility for and continued receipt of functional services from the DDD. The bill provides that if the conditions of eligibility are not met, the DDD may terminate any services received by, or the placement of, the eligible developmentally disabled person within 60 days. The bill also provides, however, that nothing in this bill or Title 30 of the Revised Statutes shall be construed to deny services to any person who meets the eligibility conditions and criteria for functional services, but does not have the ability to pay the full per capita costs or payments required.

The bill also amends R.S.30:4-78 to clarify how the counties and the State will share the amounts received for maintenance and from the estate of mentally ill patients in State and county institutions. The amounts shall be shared in the same ratio as the reasonable cost of maintenance and clothing are the responsibility of the State and county for the service period. With respect to developmentally disabled persons receiving functional services, all payments received from the person's estate shall be treated as payment for current services or the most recent service periods and retained by the State to offset the maintenance and clothing costs of the person. However, if the person has county settlement and the payment is made for a specific service period, the payment shall be shared by the State and county in the same ratio that the State and county shared in the costs for the service period.

COMMITTEE AMENDMENTS

The committee amendments restrict the eligibility requirement that rights to third-party support or payments be assigned to the commissioner to cases of developmentally disabled persons receiving residential services, and then only to the extent permitted by federal or other law. Also, the amendments prohibit the division from terminating services during any appeals process period when a termination of services due to failure to comply with conditions of eligibility are contested.

FISCAL IMPACT

According to the Department of Treasury, the State should save \$2.8 million by enactment of this legislation.

SENATE SBA COMMITTEE

AMENDMENTS

to

SENATE, No. 2177
(Sponsored by Senator EWING)

ADOPTED

JUN 22 1995

REPLACE SECTION 5 TO READ:

5. (New section) a. An applicant for functional services from the Division of Developmental Disabilities, any person acting on his behalf pursuant to section 14 of P.L.1965, c.59 (C.30:4-25.2), or the applicant's chargeable relatives, as appropriate, shall agree, if the applicant is determined eligible for functional services pursuant to section 15 of P.L.1965, c.59 (C.30:4-25.3), to comply with the following conditions of eligibility and continued functional services participation:

(1) The applicant ¹for residential services¹ or other person listed in this subsection shall assign to the Commissioner of Human Services any rights of the applicant to support or payment from a third party under any law, regulation, court order or administrative order ¹unless specifically prohibited by federal law or regulation¹;

(2) The applicant or other person listed in this subsection shall apply for and maintain all current and future benefits for which the applicant may be eligible, including, but not limited to, Medicare, Medicaid, any other State or federal benefits and any third party support pursuant to statute, rule, court order or contract; and

(3) The applicant or other person listed in this subsection shall make payments as required pursuant to R.S.30:4-60.

b. The Division of Developmental Disabilities may terminate any services received by, or the placement of, the eligible developmentally disabled person within 60 days if the conditions of eligibility set forth in this section are not complied with by the eligible developmentally disabled person or other person listed in subsection a. of this section. ¹During any appeals process period, services to a developmentally disabled person shall not be terminated.¹

c. Nothing in this section or Title 30 of the Revised Statutes shall be construed to deny functional services to any person who meets the eligibility conditions and criteria for functional services, but does not have the ability to pay the full per capita costs or payments required pursuant to R.S.30:4-60.

SENATE Amendments
(Proposed by Senator KOSCO)

ADOPTED
JUN 26 1995

to

ASSEMBLY, No. 2177(1R)

(Sponsored by Assemblyman ROMA AND Assemblywoman HECK)

REPLACE TITLE TO READ:

AN ACT concerning the powers of Department of Human Services police officers. ²supplementing chapter 4 of Title 30 of the Revised Statutes,² and amending R.S.30:4-14 and N.J.S.2C:39-6.

REPLACE SECTION 1 TO READ:

1. R.S.30:4-14 is amended to read as follows:

30:4-14. a. The Commissioner of [the Department of Institutions and Agencies] Human Services²[.]² ¹[with the approval of the [Attorney-General] Attorney General.]¹ may, in writing, appoint ¹[as many [special] policemen for each State institution as [he] the commissioner may consider necessary to preserve order in and about the institution] persons to the position of police officer to serve as law enforcement officers for the Department of Human Services in accordance with applicable statutory law, rules and regulations¹. [Such appointments shall be made on written application of the president of the board of managers or trustees. A person so appointed shall serve without expense to the State. Within the territory prescribed and for the time limited he shall have the same powers as a constable of the county or police officer of a city in criminal cases. His special duty shall be to preserve order in and about the institution with power to arrest and hold any offender against the public peace within the limits of his commission.]

b. A Human ¹[Service] Services¹ police officer appointed pursuant to this section shall ²[while going to and from his place of duty and while in the actual performance of his official duties within the State.]² be empowered to act as an officer for the detection, apprehension, arrest and conviction of offenders against the law ¹, except that police officers shall be permitted to carry firearms or other weapons only when authorized to do so by the Commissioner of Human Services¹.

c. ²[In addition to the powers set forth in subsection b. of this section, any Human Services police officer who has satisfactorily completed a basic training course approved by the Police Training Commission, as provided by P.L.¹[1969] 1961¹, c.56 (C.52:17B-66 et seq.), shall have full power of arrest for any crime committed in his presence anywhere within the territorial limits of the State of New Jersey.] No person may be appointed as a Human Services police officer unless the person:

(1) Is able to read, write and speak the English language well and intelligently and has a high school diploma or its equivalent;

(2) Is sound in body and of good health;

(3) Is of good moral character;

(4) Has not been convicted of any offense involving dishonesty or which would make the person unfit to perform the duties of this office; and

(5) Has successfully undergone a program of psychological testing.

d. Every applicant for the position of Human Services police officer appointed pursuant to this section shall have fingerprints taken, which fingerprints shall be filed with the Division of State Police and the Federal Bureau of Investigation.

e. The Commissioner of Human Services, in consultation with the Attorney General and the Director of the Division of Criminal Justice in the Department of Law and Public Safety, shall promulgate rules and regulations to effectuate the purposes of this section.²

(cf: P.L.1957, c.60, s.1)

REPLACE SECTION 2 TO READ:

2. N.J.S.2C:39-6 is amended to read as follows:

2C:39-6. a. Provided a person complies with the requirements of subsection j. of this section, N.J.S.2C:39-5 does not apply to:

(1) Members of the Armed Forces of the United States or of the National Guard while actually on duty, or while traveling between places of duty and carrying authorized weapons in the manner prescribed by the appropriate military authorities;

(2) Federal law enforcement officers, and any other federal officers and employees required to carry firearms in the performance of their official duties;

(3) Members of the State Police and, under conditions prescribed by the superintendent, members of the Marine Law Enforcement Bureau of the Division of State Police;

(4) A sheriff, undersheriff, sheriff's officer, county prosecutor, assistant prosecutor, prosecutor's detective or investigator, deputy attorney general or State investigator employed by the Division of Criminal Justice of the Department of Law and Public Safety, investigator employed by the State Commission of Investigation, inspector of the Alcoholic Beverage Control Enforcement Bureau of the Division of State Police in the Department of Law and Public Safety authorized to carry such weapons by the Superintendent of State Police, State park ranger, or State conservation officer;

(5) A prison or jail warden of any penal institution in this State or his deputies, or an employee of the Department of Corrections engaged in the interstate transportation of convicted offenders, while in the performance of his duties, and when required to possess the weapon by his superior officer, or a correction officer or keeper of a penal institution in this State at all times while in the State of New Jersey, provided he annually passes an examination approved by the superintendent testing his proficiency in the handling of firearms;

(6) A civilian employee of the United States Government under the supervision of the commanding officer of any post, camp, station, base or other military or naval installation located in this State who is required, in the performance of his official duties, to carry firearms, and who is authorized to carry such firearms by said commanding officer, while in the actual performance of his official duties:

(7) (a) A regularly employed member, including a detective, of the police department of any county or municipality, or of any State, interstate, municipal or county park police force or boulevard police force, at all times while in the State of New Jersey:

(b) A special law enforcement officer authorized to carry a weapon as provided in subsection b. of section 7 of P.L.1985, c.439 (C.40A:14-146.14):

(c) An airport security officer or a special law enforcement officer appointed by the governing body of any county or municipality, except as provided in subsection b. of this section, or by the commission, board or other body having control of a county park or airport or boulevard police force, while engaged in the actual performance of his official duties and when specifically authorized by the governing body to carry weapons: or

(8) A full-time, paid member of a paid or part-paid fire department or force of any municipality who is assigned full-time or part-time to an arson investigation unit created pursuant to section 1 of P.L.1981, c.409 (C.40A:14-7.1) or to the county arson investigation unit in the county prosecutor's office, while either engaged in the actual performance of arson investigation duties or while actually on call to perform arson investigation duties and when specifically authorized by the governing body or the county prosecutor, as the case may be, to carry weapons. Prior to being permitted to carry a firearm, such a member shall take and successfully complete a firearms training course administered by the Police Training Commission pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), and shall annually qualify in the use of a revolver or similar weapon prior to being permitted to carry a firearm.

b. Subsections a., b. and c. of N.J.S.2C:39-5 do not apply to:

(1) A law enforcement officer employed by a governmental agency outside of the State of New Jersey while actually engaged in his official duties, provided, however, that he has first notified the superintendent or the chief law enforcement officer of the municipality or the prosecutor of the county in which he is engaged: or

(2) A licensed dealer in firearms and his registered employees during the course of their normal business while traveling to and from their place of business and other places for the purpose of demonstration, exhibition or delivery in connection with a sale, provided, however, that the weapon is carried in the manner specified in subsection g. of this section.

c. Provided a person complies with the requirements of subsection j. of this section, subsections b. and c. of N.J.S.2C:39-5 do not apply to:

(1) A special agent of the Division of Taxation who has passed an examination in an approved police training program testing proficiency in the handling of any firearm which he may be required to carry, while in the actual performance of his official duties and while going to or from his place of duty, or any other police officer, while in the actual performance of his official duties;

(2) A State deputy conservation officer or a full-time employee of the Division of Parks and Forestry having the power of arrest and authorized to carry weapons, while in the actual performance of his official duties;

(3) (Deleted by amendment, P.L.1986, c.150.)

(4) A court attendant serving as such under appointment by the sheriff of the county or by the judge of any municipal court or other court of this State, while in the actual performance of his official duties;

(5) A guard in the employ of any railway express company, banking or building and loan or savings and loan institution of this State, while in the actual performance of his official duties;

(6) A member of a legally recognized military organization while actually under orders or while going to or from the prescribed place of meeting and carrying the weapons prescribed for drill, exercise or parade;

(7) An officer of the Society for the Prevention of Cruelty to Animals, while in the actual performance of his duties;

(8) An employee of a public utilities corporation actually engaged in the transportation of explosives;

(9) A railway policeman, except a transit police officer of the New Jersey Transit Police Department, at all times while in the State of New Jersey, provided that he has passed an approved police academy training program consisting of at least 280 hours. The training program shall include, but need not be limited to, the handling of firearms, community relations, and juvenile relations;

(10) A campus police officer appointed under P.L.1970, c.211 (C.18A:6-4.2 et seq.) at all times. Prior to being permitted to carry a firearm, a campus police officer shall take and successfully complete a firearms training course administered by the Police Training Commission, pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), and shall annually qualify in the use of a revolver or similar weapon prior to being permitted to carry a firearm;

(11) A person who has not been convicted of a crime under the laws of this State or under the laws of another state or the United States, and who is employed as a full-time security guard for a nuclear power plant under the license of the Nuclear Regulatory Commission, while in the actual performance of his official duties;

(12) A transit police officer of the New Jersey Transit Police Department, at all times while in the State of New Jersey, provided the officer has satisfied the training requirements of the Police Training Commission, pursuant to subsection c. of section 2 of P.L.1989, c.291 (C.27:25-15.1); ¹[or]¹

(13) A parole officer employed by the Bureau of Parole in the Department of Corrections at all times. Prior to being permitted to carry a firearm, a parole officer shall take and successfully complete a basic course for regular police officer training administered by the Police Training Commission, pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), and shall annually qualify in the use of a revolver or similar weapon prior to being permitted to carry a firearm¹.;¹

(14) A Human Services police officer ²[having the powers afforded under subsection b. of R.S.30:4-14]² at all times while in the State of New Jersey, ²[provided the officer has successfully completed a firearms training course ¹[administered] approved¹ by the Police Training Commission, pursuant to P.L.1961, c.56 (C.52:17B-66 et seq.), and shall annually qualify in the use of a handgun or similar weapon prior to being permitted to carry a firearm] as authorized by the Commissioner of Human Services².

d. (1) Subsections c. and d. of N.J.S.2C:39-5 do not apply to antique firearms, provided that such antique firearms are unloaded or are being fired for the purposes of exhibition or demonstration at an authorized target range or in such other manner as has been approved in writing by the chief law enforcement officer of the municipality in which the exhibition or demonstration is held, or if not held on property under the control of a particular municipality, the superintendent.

(2) Subsection a. of N.J.S.2C:39-3 and subsection d. of N.J.S.2C:39-5 do not apply to an antique cannon that is capable of being fired but that is unloaded and immobile, provided that the antique cannon is possessed by (a) a scholastic institution, a museum, a municipality, a county or the State, or (b) a person who obtained a firearms purchaser identification card as specified in N.J.S.2C:58-3.

(3) Subsection a. of N.J.S.2C:39-3 and subsection d. of N.J.S.2C:39-5 do not apply to an unloaded antique cannon that is being transported by one eligible to possess it, in compliance with regulations the superintendent may promulgate, between its permanent location and place of purchase or repair.

(4) Subsection a. of N.J.S.2C:39-3 and subsection d. of N.J.S.2C:39-5 do not apply to antique cannons that are being loaded or fired by one eligible to possess an antique cannon, for purposes of exhibition or demonstration at an authorized target range or in the manner as has been approved in writing by the chief law enforcement officer of the municipality in which the exhibition or demonstration is held, or if not held on property under the control of a particular municipality, the superintendent, provided that performer has given at least 30 days' notice to the superintendent.

(5) Subsection a. of N.J.S.2C:39-3 and subsection d. of N.J.S.2C:39-5 do not apply to the transportation of unloaded antique cannons directly to or from exhibitions or demonstrations authorized under paragraph (4) of subsection d. of this section, provided that the transportation is in compliance with safety regulations the superintendent may promulgate. Nor do those subsections apply to transportation directly to or from exhibitions or demonstrations authorized under the law of another jurisdiction, provided that the superintendent has been given 30 days' notice and that the transportation is in compliance with safety regulations the superintendent may promulgate.

e. Nothing in subsections b., c. and d. of N.J.S.2C:39-5 shall be construed to prevent a person keeping or carrying about his place of business, residence, premises or other land owned or possessed by him, any firearm, or from carrying the same, in the manner specified in subsection g. of this section, from any place of purchase to his residence or place of business, between his dwelling and his place of business, between one place of business or residence and another when moving, or between his dwelling or place of business and place where such firearms are repaired, for the purpose of repair. For the purposes of this section, a place of business shall be deemed to be a fixed location.

f. Nothing in subsections b., c. and d. of N.J.S.2C:39-5 shall be construed to prevent:

(1) A member of any rifle or pistol club organized in accordance with the rules prescribed by the National Board for the Promotion of Rifle Practice, in going to or from a place of target practice, carrying such firearms as are necessary for said target practice, provided that the club has filed a copy of its charter with the superintendent and annually submits a list of its members to the superintendent and provided further that the firearms are carried in the manner specified in subsection g. of this section;

(2) A person carrying a firearm or knife in the woods or fields or upon the waters of this State for the purpose of hunting, target practice or fishing, provided that the firearm or knife is legal and appropriate for hunting or fishing purposes in this State and he has in his possession a valid hunting license, or, with respect to fresh water fishing, a valid fishing license;

(3) A person transporting any firearm or knife while traveling:

(a) Directly to or from any place for the purpose of hunting or fishing, provided the person has in his possession a valid hunting or fishing license; or

(b) Directly to or from any target range, or other authorized place for the purpose of practice, match, target, trap or skeet shooting exhibitions, provided in all cases that during the course of the travel all firearms are carried in the manner specified in subsection g. of this section and the person has complied with all the provisions and requirements of Title 23 of the Revised Statutes and any amendments thereto and all rules and regulations promulgated thereunder; or

(c) In the case of a firearm, directly to or from any exhibition or display of firearms which is sponsored by any law enforcement agency, any rifle or pistol club, or any firearms collectors club, for the purpose of displaying the firearms to the public or to the members of the organization or club, provided, however, that not less than 30 days prior to the exhibition or display, notice of the exhibition or display shall be given to the Superintendent of the State Police by the sponsoring organization or club, and the sponsor has complied with such reasonable safety regulations as the superintendent may promulgate. Any firearms transported pursuant to this section shall be transported in the manner specified in subsection g. of this section;

(4) A person from keeping or carrying about a private or commercial aircraft or any boat, or from transporting to or from such vessel for the purpose of installation or repair a visual distress signalling device approved by the United States Coast Guard.

g. All weapons being transported under paragraph (2) of subsection b., subsection e., or paragraph (1) or (3) of subsection f. of this section shall be carried unloaded and contained in a closed and fastened case, gunbox, securely tied package, or locked in the trunk of the automobile in which it is being transported, and in the course of travel shall include only such deviations as are reasonably necessary under the circumstances.

h. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed to prevent any employee of a public utility, as defined in R.S.49:2-13, doing business in this State or any United States Postal Service employee, while in the actual performance of duties which specifically require regular and frequent visits to private premises, from possessing, carrying or using any device which projects, releases or emits any substance specified as being noninjurious to canines or other animals by the Commissioner of Health and which immobilizes only on a temporary basis and produces only temporary physical discomfort through being vaporized or otherwise dispensed in the air for the sole purpose of repelling canine or other animal attacks.

The device shall be used solely to repel only those canine or other animal attacks when the canines or other animals are not restrained in a fashion sufficient to allow the employee to properly perform his duties.

Any device used pursuant to this act shall be selected from a list of products, which consist of active and inert ingredients, permitted by the Commissioner of Health.

i. Nothing in N.J.S.2C:39-5 shall be construed to prevent any person who is 18 years of age or older and who has not been convicted of a felony, from possession for the purpose of personal self-defense of one pocket-sized device which contains and releases not more than three-quarters of an ounce of chemical substance not ordinarily capable of lethal use or of inflicting serious bodily injury, but rather, is intended to produce temporary physical discomfort or disability through being vaporized or otherwise dispensed in the air. Any person in possession of any device in violation of this subsection shall be deemed and adjudged to be a disorderly person, and upon conviction thereof, shall be punished by a fine of not less than \$100.00.

j. A person shall qualify for an exemption from the provisions of N.J.S.2C:39-5, as specified under subsections a. and c. of this section, if the person has satisfactorily completed a firearms training course approved by the Police Training Commission.

Such exempt person shall not possess or carry a firearm until the person has satisfactorily completed a firearms training course and shall annually qualify in the use of a revolver or similar weapon. For purposes of this subsection, a "firearms training course" means a course of instruction in the safe use, maintenance and storage of firearms which is approved by the Police Training Commission. The commission shall approve a firearms training course if the requirements of the course are substantially equivalent to the requirements for firearms training provided by police training courses which are certified under section 6 of P.L.1961, c.56 (C.52:17B-71). A person who is specified in paragraph (1), (2), (3) or (6) of subsection a. of this section shall be exempt from the requirements of this subsection.

k. Nothing in subsection d. of N.J.S.2C:39-5 shall be construed to prevent any financial institution, or any duly authorized personnel of the institution, from possessing, carrying or using for the protection of money or property, any device which projects, releases or emits tear gas or other substances intended to produce temporary physical discomfort or temporary identification.

(cf: P.L.1993, c.246, s.2)

INSERT NEW SECTION 3 TO READ:

3. (New section) No Human Services police officer shall carry a firearm unless specifically authorized by the Commissioner of Human Services and provided that the officer has satisfactorily completed a basic firearms course required by the Police Training Commission.

INSERT NEW SECTION 4 TO READ:

4. (New section) Human Services police officers appointed pursuant to R.S.30:4-14 shall satisfy the training requirements established by the Police Training Commission as follows:

a. All officers appointed pursuant to this section after the effective date of this act shall successfully complete, within one year of the date of their appointment, a training course approved by the Police Training Commission;

b. All officers appointed and in employment on the effective date of this act may continue in employment if, within 18 months of the effective date of this act, they have satisfied the training requirements of the Police Training Commission; and

c. The Commissioner of Human Services may request from the Police Training Commission an exemption from all or part of the training requirements of this section on behalf of a current or prospective officer who demonstrates successful completion of a police training course conducted by any federal, state or other public or private agency, the requirements of which are substantially equivalent to the requirements of the Police Training Commission.

RENUMBER SECTION 3 AS SECTION 5

STATEMENT

Assembly Bill No. 2177 (1R) gives Department of Human Services police officers who successfully complete a Police Training Commission training program full police powers throughout the State. Currently, Human Services police officers may exercise police powers only while in the actual performance of their duties. Under these Senate amendments, these police officers could exercise these powers at all times. As introduced, the bill permitted a Human Services police officer to exercise these powers only while going to and from his place of duty and while in the actual performance of his official duties.

The amendments further provide that no person may be appointed as a Human Services police officer unless the person: (1) is able to read, write and speak the English language well and intelligently and has a high school diploma or its equivalent; (2) is sound in body and of good health; (3) is of good moral character; (4) has not been convicted of any offense involving dishonesty or which would make the person unfit to perform the duties of this office; and (5) has successfully undergone a program of psychological testing.

The amendments also provide that every applicant for the position of Human Services police officer must have fingerprints taken, which would be filed with the Division of State Police and the Federal Bureau of Investigation.

The amendments further provide that Human Services police officers appointed pursuant to R.S.30:4-14 must satisfy the training requirements established by the Police Training Commission. All officers appointed after the effective date of the bill must successfully complete, within one year of the date of their appointment, a training course approved by the Police Training Commission. All officers appointed and in employment on the effective date of the bill may continue in employment if, within 18 months of the effective date, they have satisfied the training requirements of the Police Training Commission. In addition, the Commissioner of Human Services may request from the Police Training Commission an exemption from all or part of the training requirements for a current or prospective officer who demonstrates successful completion of a police training course conducted by any federal, state or other public or private agency, which is substantially equivalent to the requirements of the Police Training Commission.

The amendments also permit these officers to carry a firearm at all times while in the State of New Jersey as authorized by the Commissioner of Human Services. As introduced, the bill authorized those officers who have Statewide police powers and are authorized to carry a firearm to carry a firearm while off-duty. The authority to carry a firearm off-duty is contingent, however, upon the officer successfully completing a firearms training course which is approved by the Police Training Commission and upon the officer annually requalifying in the use of that firearm.