

30:4-27.2

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2005 **CHAPTER:** 55

NJSA: 30:4-27.2 (Changes laws governing financial liability for patients in psychiatric facilities)

BILL NO: A779 (Substituted for S880)

SPONSOR(S): Gusciora and others

DATE INTRODUCED: January 13, 2004

COMMITTEE: **ASSEMBLY:** Family, Women and Children's Services; Appropriations
SENATE:

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** December 13, 2004

SENATE: February 14, 2005

DATE OF APPROVAL: March 24, 2005

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) Assembly Committee Substitute for ACS for A779

A779

[SPONSOR'S STATEMENT:](#) (Begins on page 11 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** Yes [9-13-2004 \(FW\)](#)
[12-2-2004 \(Approp\)](#)

SENATE: No

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL NOTE: No

S880

[SPONSOR'S STATEMENT:](#) (Begins on page 11 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes [11-8-2004 \(HHS\)](#)
[12-6-2004 \(Bud & App\)](#)

FLOOR AMENDMENT STATEMENT: No

[LEGISLATIVE FISCAL NOTE:](#) [Yes](#)

VETO MESSAGE: No

[GOVERNOR'S PRESS RELEASE ON SIGNING:](#) [Yes](#)

FOLLOWING WERE PRINTED:

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REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: Yes

"New law drops liens for NJ psych patients," 3-25-2005 Home News Tribune p.A3

§8
C.30:4-80.6a
§10
C.30:4-60a
§11
Note to §§1-10

P.L. 2005, CHAPTER 55, *approved March 24, 2005*
Assembly Committee Substitute for
Assembly Committee Substitute for Assembly, No. 779

1 **AN ACT** concerning payment for patients in psychiatric facilities and
2 revising parts of statutory law.

3

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

6

7 1. Section 2 of P.L.1987, c.116 (C.30:4-27.2) is amended to read
8 as follows:

9 2. As used in this act:

10 a. "Chief executive officer" means the person who is the chief
11 administrative officer of an institution or psychiatric facility.

12 b. "Clinical certificate" means a form prepared by the division and
13 approved by the Administrative Office of the Courts, that is completed
14 by the psychiatrist or other physician who has examined the person
15 who is subject to commitment within three days of presenting the
16 person for admission to a facility for treatment, and which states that
17 the person is in need of involuntary commitment. The form shall also
18 state the specific facts upon which the examining physician has based
19 his conclusion and shall be certified in accordance with the Rules of
20 the Court. A clinical certificate may not be executed by a person who
21 is a relative by blood or marriage to the person who is being screened.

22 c. "Clinical director" means the person who is designated by the
23 director or chief executive officer to organize and supervise the
24 clinical services provided in a screening service, short-term care or
25 psychiatric facility. The clinical director shall be a psychiatrist,
26 however, those persons currently serving in the capacity will not be
27 affected by this provision. This provision shall not alter any current
28 civil service laws designating the qualifications of such position.

29 d. "Commissioner" means the Commissioner of **[the Department**
30 **of]** Human Services.

31 e. "County counsel" means the chief legal officer or advisor of the
32 governing body of a county.

33 f. "Court" means the Superior Court or a municipal court.

34 g. "Custody" means the right and responsibility to ensure the
35 provision of care and supervision.

36 h. "Dangerous to self" means that by reason of mental illness the

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

Matter underlined thus is new matter.

- 1 person has threatened or attempted suicide or serious bodily harm, or
2 has behaved in such a manner as to indicate that the person is unable
3 to satisfy his need for nourishment, essential medical care or shelter,
4 so that it is probable that substantial bodily injury, serious physical
5 debilitation or death will result within the reasonably foreseeable
6 future; however, no person shall be deemed to be unable to satisfy his
7 need for nourishment, essential medical care or shelter if he is able to
8 satisfy such needs with the supervision and assistance of others who
9 are willing and available.
- 10 i. "Dangerous to others or property" means that by reason of
11 mental illness there is a substantial likelihood that the person will
12 inflict serious bodily harm upon another person or cause serious
13 property damage within the reasonably foreseeable future. This
14 determination shall take into account a person's history, recent
15 behavior and any recent act or threat.
- 16 j. "Department" means the Department of Human Services.
- 17 k. "Director" means the chief administrative officer of a screening
18 service, a short-term care facility or a special psychiatric hospital.
- 19 l. "Division" means the Division of Mental Health Services in the
20 Department of Human Services.
- 21 m. "In need of involuntary commitment" means that an adult [who
22 is mentally ill] with mental illness, whose mental illness causes the
23 person to be dangerous to self or dangerous to others or property and
24 who is unwilling to be admitted to a facility voluntarily for care, and
25 who needs care at a short-term care, psychiatric facility or special
26 psychiatric hospital because other services are not appropriate or
27 available to meet the person's mental health care needs.
- 28 n. "Institution" means any State or county facility providing
29 inpatient care, supervision and treatment for [the mentally retarded]
30 persons with developmental disabilities; except that with respect to the
31 maintenance provisions of Title 30 of the Revised Statutes, institution
32 also means any psychiatric facility for the treatment of [the mentally
33 ill] persons with mental illness.
- 34 o. "Mental health agency or facility" means a legal entity which
35 receives funds from the State, county or federal government to provide
36 mental health services.
- 37 p. "Mental health screener" means a psychiatrist, psychologist,
38 social worker, registered professional nurse or other individual trained
39 to do outreach only for the purposes of psychological assessment who
40 is employed by a screening service and possesses the license, academic
41 training or experience, as required by the commissioner pursuant to
42 regulation; except that a psychiatrist and a State licensed clinical
43 psychologist who meet the requirements for mental health screener
44 shall not have to comply with any additional requirements adopted by
45 the commissioner.
- 46 q. "Mental hospital" means, for the purposes of the payment and

1 maintenance provisions of Title 30 of the Revised Statutes, a
2 psychiatric facility.

3 r. "Mental illness" means a current, substantial disturbance of
4 thought, mood, perception or orientation which significantly impairs
5 judgment, capacity to control behavior or capacity to recognize reality,
6 but does not include simple alcohol intoxication, transitory reaction to
7 drug ingestion, organic brain syndrome or developmental disability
8 unless it results in the severity of impairment described herein. The
9 term mental illness is not limited to "psychosis" or "active psychosis,"
10 but shall include all conditions that result in the severity of impairment
11 described herein.

12 s. "Patient" means a person over the age of 18 who has been
13 admitted to, but not discharged from a short-term care or psychiatric
14 facility.

15 t. "Physician" means a person who is licensed to practice medicine
16 in any one of the United States or its territories, or the District of
17 Columbia.

18 u. "Psychiatric facility" means a State psychiatric hospital listed in
19 R.S.30:1-7, a county psychiatric hospital, or a psychiatric unit of a
20 county hospital.

21 v. "Psychiatrist" means a physician who has completed the training
22 requirements of the American Board of Psychiatry and Neurology.

23 w. "Psychiatric unit of a general hospital" means an inpatient unit
24 of a general hospital that restricts its services to the care and treatment
25 of [the mentally ill] persons with mental illness who are admitted on
26 a voluntary basis.

27 x. "Psychologist" means a person who is licensed as a psychologist
28 by the New Jersey Board of Psychological Examiners.

29 y. "Screening certificate" means a clinical certificate executed by
30 a psychiatrist or other physician affiliated with a screening service.

31 z. "Screening service" means a public or private ambulatory care
32 service designated by the commissioner, which provides mental health
33 services including assessment, emergency and referral services to
34 [mentally ill] persons with mental illness in a specified geographic
35 area.

36 aa. "Screening outreach visit" means an evaluation provided by a
37 mental health screener wherever the person may be when clinically
38 relevant information indicates the person may need involuntary
39 commitment and is unable or unwilling to come to a screening service.

40 bb. "Short-term care facility" means an inpatient, community
41 based mental health treatment facility which provides acute care and
42 assessment services to a [mentally ill] person with mental illness
43 whose mental illness causes the person to be dangerous to self or
44 dangerous to others or property. A short-term care facility is so
45 designated by the commissioner and is authorized by the commissioner
46 to serve persons from a specified geographic area. A short-term care

1 facility may be a part of a general hospital or other appropriate health
2 care facility and shall meet certificate of need requirements and shall
3 be licensed and inspected by the Department of Health and Senior
4 Services pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.) and in
5 accordance with standards developed jointly with the Commissioner
6 of Human Services.

7 cc. "Special psychiatric hospital" means a public or private
8 hospital licensed by the Department of Health and Senior Services to
9 provide voluntary and involuntary mental health services, including
10 assessment, care, supervision, treatment and rehabilitation services to
11 persons **[who are mentally ill]** with mental illness.

12 dd. "Treatment team" means one or more persons, including at
13 least one psychiatrist or physician, and may include a psychologist,
14 social worker, nurse and other appropriate services providers. A
15 treatment team provides mental health services to a patient of a
16 screening service, short-term care or psychiatric facility.

17 ee. "Voluntary admission" means that adult **[who is mentally ill]**
18 with mental illness, whose mental illness causes the person to be
19 dangerous to self or dangerous to others or property and is willing to
20 be admitted to a facility voluntarily for care, needs care at a short-term
21 care or psychiatric facility because other facilities or services are not
22 appropriate or available to meet the person's mental health needs. A
23 person may also be voluntarily admitted to a psychiatric facility if his
24 mental illness presents a substantial likelihood of rapid deterioration
25 in functioning in the near future, there are no appropriate community
26 alternatives available and the psychiatric facility can admit the person
27 and remain within its rated capacity.

28 ff. "County adjuster" means the person appointed pursuant to
29 R.S.30:4-34.

30 (cf: P.L.1995, c.4, s.2)

31

32 2. R.S.30:4-34 is amended to read as follows:

33 30:4-34. In each county where county counsel, county solicitor,
34 county clerk, county physician or county probation officer, or any of
35 their assistants is in charge and supervision of the preparation of
36 papers relating to the commitment of **[the mentally ill]** persons with
37 mental illness, such person shall be known as "county adjuster" and
38 such duties shall, except as otherwise provided in section 2 of
39 P.L.1981, c.403 (C.30:4-34.1), continue to pertain to the office of
40 such county counsel, county solicitor, county clerk, county physician
41 or county probation officer or their successors in office, but,
42 notwithstanding the foregoing, in case any other county official or
43 employee shall be at the time of the adoption of this act, in charge and
44 supervision of the preparation of papers relating to the commitment of
45 **[the mentally ill]** persons with mental illness, the governing body of
46 the county may designate that county official or employee as county

1 adjuster. In all other counties the county governing body shall
2 designate some county official or employee as county adjuster.

3 The county adjuster shall have charge and supervision of the
4 preparation of papers relating to the commitment of [the mentally ill]
5 persons with mental illness in such county, and in cases arising in
6 other counties in which the legal settlement appears to be in his
7 county. Classification under civil service rules shall not be affected by
8 reason of such designation or additional duties, and additional
9 compensation, if any, for such services may be fixed by the county
10 governing body and paid in the same manner as other county
11 employees are paid. Each county governing body shall notify the
12 various institutions for [the mentally ill] persons with mental illness
13 of the name and address of the county adjuster.

14 The judge of the Superior Court within the county may appoint the
15 county adjuster to act as referee for the purpose of taking testimony
16 bearing solely on the question of legal settlement and the financial
17 ability of the [mentally ill patient or his legally responsible relatives]
18 person with mental illness or the parent of the person with mental
19 illness, if the person is under the age of 18, to pay the cost of
20 maintenance, in accordance with the provisions of R.S.30:4-60, and
21 shall make return to the court of his findings, conclusions and
22 recommendations. Such findings, conclusions and recommendations
23 shall be subject to the approval of the court and shall not be effective
24 until incorporated in an appropriate order or judgment of the court.
25 The county adjuster, acting as such referee, may subpoena witnesses
26 and compel their attendance on forms approved by the court.

27 (cf: P.L.1998, c.92, s.1)

28

29 3. R.S.30:4-56 is amended to read as follows:

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

40 [Any person made responsible for the payment of all or a part of
41 the cost of maintenance of a mentally ill patient shall, forthwith upon
42 the entry of the order of the court, receive from the county adjuster
43 notice of the amount required to be paid by the terms of said order and
44 shall further receive notice that in the event that there is any change in
45 his financial ability which would permit him to pay a greater portion
46 of the cost of maintenance then such person shall report these facts to

1 the county adjuster for consideration. Failure to do so shall oblige such
2 person or his estate to pay any greater sum found to be due and owing
3 by the court from the date of improved financial ability of such
4 person] In the case of a person with mental illness against whom a
5 final judgment of commitment has been entered, the county adjuster
6 shall, within a reasonable period of time after the person is discharged
7 from a psychiatric facility, provide the person or the person's parent,
8 if the person is under the age of 18, with notice of the amount required
9 to be paid by the terms of the court order.

10 At the time of making the final judgment, the court shall further tax
11 a filing fee of \$1.00 to be paid to the clerk for the use of the county in
12 each case, which fee shall be paid in all nonindigent cases by the
13 person made chargeable in the judgment, and in all indigent cases by
14 the county in which the action is had unless the indigent person is
15 chargeable to another county in which case such other county shall be
16 liable for the fee.

17 (cf: P.L.1995, c.155, s.13)

18
19 4. R.S.30:4-60 is amended to read as follows:

20 30:4-60. a. If the court shall determine that the [patient is
21 mentally ill and, basing its determination upon a formula of financial
22 ability to pay as promulgated annually by the Department of the
23 Treasury, that the patient has sufficient estate to pay for his
24 maintenance as fixed by the State Board of Human Services or board
25 of chosen freeholders, as the case may be, or is able to pay a sum in
26 excess of that chargeable to the county of legal settlement, if any, or
27 if the person or persons legally liable for his support, as herein
28 provided, using the same formula, are able to pay such amount of
29 maintenance, fixed as aforesaid, the court, after determining the legal
30 settlement of such patient may, in its discretion, commit or] person
31 has a mental illness and is in need of treatment at a psychiatric facility,
32 it may determine the legal settlement of the person and, consistent
33 with the laws governing civil commitment and the Rules of Court,
34 direct the admission or hospitalization of [such patient to any State,
35 county, or private mental hospital] the person to the care of the
36 Commissioner of Human Services for treatment in a psychiatric
37 facility, short-term care facility or special psychiatric hospital in this
38 State. [In the final judgment of commitment or order directing
39 admission or hospitalization it shall direct that the cost of the care and
40 maintenance of such patient in the institution designated in the
41 judgment, determined by utilizing the aforesaid formula, shall be paid
42 out of the estate of the patient or by the person chargeable by law with
43 his support, or by contract, as the case may be, and the judgment shall
44 specify the amount of maintenance as fixed from time to time for such
45 institution, which shall be paid thereunder, and shall, in the discretion
46 of the court, contain such direction as may seem proper concerning

1 security to be given for such payment. As long as the amount
2 contributed by the patient's estate or his legally responsible relatives
3 for the maintenance of the patient exceeds the amount chargeable as
4 fixed pursuant to R.S.30:4-78, no order shall be entered against the
5 county of legal settlement for any part of such maintenance.

6 If on final hearing a patient and his chargeable relatives are found
7 unable to pay an amount for maintenance in excess of the amount
8 chargeable to the county of legal settlement, the court shall direct that
9 such patient be committed to the institution as a patient chargeable to
10 the county of legal settlement, if any, or to the State, as provided in
11 this article, and on reasonable notice to the persons to be charged, may
12 further direct that such patient or his or her chargeable relatives, or
13 any of them, pay monthly in advance to the institution in which such
14 patient is confined in the case of State patients, or to the county
15 treasurer of the county chargeable in the case of county patients, such
16 part of the cost of the maintenance of such patient as the court may
17 direct in the manner provided herein.]

18 b. If the [department] Department of Human Services determines
19 that the person [is developmentally disabled] has a developmental
20 disability and is eligible for functional services from the Division of
21 Developmental Disabilities, the department, using a formula of
22 financial ability to pay as promulgated annually by the Department of
23 the Treasury, shall determine if the [developmentally disabled] person
24 with a developmental disability has sufficient income, assets, resources
25 or estate to pay for his maintenance as fixed by the State Board of
26 Human Services, or is able to make any payment towards his
27 maintenance, or if the person's chargeable relatives or other persons
28 chargeable by contract are able to pay the person's maintenance or
29 make any payment [towards] toward the person's maintenance on the
30 person's behalf. The department shall determine the legal settlement of
31 the developmentally disabled person pursuant to section 86 of
32 P.L.1965, c.59 (C.30:4-165.3).

33 The department shall send written notice of the periodic payment
34 amount to the person or his parent or guardian, chargeable relative or
35 other person chargeable by contract for the person's support. All
36 required payments shall be made directly to the department unless
37 otherwise specified in the notice. The notice may, in the discretion of
38 the department, contain such direction as may seem proper concerning
39 security to be given for the payment. The payment notice shall be
40 separate and independent of any order of commitment to the care and
41 custody of the commissioner or any order of guardianship.

42 The department shall annually review and revise, as appropriate,
43 its payment calculations. If the financial circumstances of the person
44 or persons chargeable by law or contract for the [developmentally
45 disabled person's] support of the developmentally disabled person
46 change prior to the annual review, the chargeable person or persons

1 shall immediately notify the department in writing.

2 c. (1) A person with mental illness who is 18 years of age or older
3 and is being treated in a psychiatric facility as defined in section 2 of
4 P.L.1987, c.116 (C.30:40-27.2) shall be liable for the full cost of his
5 treatment, maintenance and all necessary and related expenses of the
6 person's hospitalization until he is determined to be ineligible for or
7 has exhausted any third party insurance benefits or medical assistance
8 program that will pay an amount toward the facility's bill. The
9 obligation by the person with mental illness for the remainder of the
10 facility's bill, after the credit for all available third party insurance
11 payments or medical assistance program payment, will be in an amount
12 based upon the sliding scale fee schedule established for charity care
13 pursuant to subsection b. of section 10 of P.L.1992, c.160 (C.26:2H-
14 18.60).

15 (2) The obligation of the parent of a person with mental illness
16 under the age of 18 for the remainder of the facility's bill shall be based
17 upon the lesser of the sliding scale fee schedule established for charity
18 care pursuant to subsection b. of section 10 of P.L.1992, c.160
19 (C.26:2H-18.60), or the formula of financial ability to pay as
20 promulgated annually by the Department of the Treasury pursuant to
21 subsection b. of this section.

22 (3) A person with mental illness or a person responsible under a
23 court order for the cost of care and maintenance of a person with
24 mental illness who, without good cause, (a) refuses to submit
25 information and authorizations sufficient to enable the facility to
26 access any available third-party payer, or (b) refuses to apply for
27 public medical assistance for which the person with mental illness may
28 be eligible, shall be responsible for the full cost of the person's care
29 and maintenance at the facility without the application of the criteria
30 set forth in paragraphs (1) and (2) of this subsection.

31 (4) Based upon the criteria set forth in paragraphs (1) and (2) of
32 this subsection, the Department of Human Services or county adjuster
33 in the county of settlement, as applicable, shall make a determination
34 of the amount the person with mental illness who is 18 years of age or
35 older, or the parent of a person with mental illness under the age of
36 18, shall be liable to contribute toward the cost of the person's
37 treatment, maintenance and all necessary and related expenses of the
38 person's hospitalization. The liability may be enforced by the
39 Commissioner of Human Services in the manner set forth in section 1
40 of P.L.1962, c.207 (C.30:4-75.1).

41 (5) In the case of a person with mental illness who is married, the
42 department shall establish a spousal share of the combined assets of
43 the couple that shall be preserved for the noninstitutionalized spouse
44 and immune from execution to satisfy the person's liability to
45 contribute toward the cost of treatment, maintenance and all necessary
46 and related expenses of the person's hospitalization. In order to

1 determine the spousal share of the combined assets to be preserved,
2 the Commissioner of Human Services shall employ the same
3 methodology used by the State Medicaid program to determine the
4 resources that are preserved for the needs of the community spouse of
5 an institutionalized individual in accordance with N.J.A.C.10:71-4.8.

6 (6) The Commissioner of Human Services shall act on any request
7 by a person with mental illness who is 18 years of age or older, or the
8 parent of a person with mental illness under the age of 18, to
9 compromise for settlement of the obligation established pursuant to
10 this section. With respect to the request, the commissioner shall allow
11 the person or parent to retain adequate funds to:

12 (a) maintain the person's or parent's housing and usual standard of
13 living in the community;

14 (b) provide for any necessary medical expenses or special needs;

15 (c) support any minor, disabled, elderly or other dependent;

16 (d) establish a trust to ensure future self-sufficiency; or

17 (e) provide for any other genuine financial needs.

18 Requests to compromise for settlement of the obligation shall be
19 liberally granted by the commissioner and shall promote the person's
20 or his parent's opportunity to obtain and maintain employment,
21 purchase property, both real and personal, and achieve full
22 reintegration into the community, as applicable. The commissioner
23 shall ensure that all persons and parents are notified of their right to
24 request a compromise and the procedure for doing so.

25 (cf: P.L.1995, c.155, s.14)

26

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

28 30:4-63. a. The court may, after final hearing, commit any
29 **[patient]** person with mental illness to any State or county psychiatric
30 institution irrespective of the **[patient's]** person's legal settlement
31 where provision is made for his care and maintenance, in an amount
32 approved by the State Board of Human Services or by the board of
33 chosen freeholders, as the case may be. The **[patient]** person may
34 remain as a full paying patient in such institution as long as such sum
35 shall be regularly paid out of the estate of **[such patient]** the person,
36 or by the person or persons chargeable by law with his care and
37 maintenance, or under contract. In the event that such sum cannot be
38 paid because of a change in the financial circumstances of the
39 **[patient]** person with mental illness or his legally responsible relatives
40 then the court may make such order as may be necessary with regard
41 to the manner and the amount of maintenance which shall be paid on
42 behalf of the **[patient]** person with mental illness and by whom.

43 b. The **[department]** Department of Human Services may admit
44 a person found eligible for functional services from the Division of
45 Developmental Disabilities to a residential functional services
46 placement irrespective of the person's legal settlement if provision is

1 made for the payment of the full cost of the person's care and
2 maintenance, in an amount approved by the State Board of Human
3 Services. The person may remain as a full paying person in the
4 residential functional services placement, or in another residential
5 functional services placement deemed appropriate by the department,
6 as long as the full per capita amount for the placement is regularly paid
7 from the person's income, benefits, assets, resources or estate, or by
8 the person chargeable by law or under contract with his care and
9 maintenance.

10 (cf: P.L.1995, c.155, s.17)

11

12 6. R.S.30:4-66 is amended to read as follows:

13 30:4-66. Every **[patient]** person supported in a State or county
14 charitable institution or other residential functional service pursuant to
15 section 13 of P.L.1965, c.59 (C.30:4-25.1) shall be personally liable
16 for his maintenance and for all necessary expenses incurred by the
17 institution or other residential functional service in his behalf and the
18 **[husband, wife and]** father or mother of a child under 18 years of age,
19 severally and respectively, being of sufficient ability, of every
20 **[patient]** person so confined, whose estate is not sufficient for his
21 support, shall support, and maintain the patient in the institution or
22 other residential functional service, as the case may be, in such manner
23 and to such an amount as the court shall direct pursuant to subsection
24 **[a.] c.** of R.S.30:4-60 in the case of mentally ill patients, and in the
25 case of developmentally disabled persons, as required pursuant to
26 subsection b. of R.S.30:4-60. **[All spouses living separate and apart**
27 **from their spouses so confined, and all parents of illegitimate children**
28 **so confined shall also be personally liable for such expense.]** But no
29 payment shall be ordered to be made by a chargeable relative 55 years
30 of age or over except with respect to the maintenance of **[his or her**
31 **spouse or]** his or her natural or adopted child under the age of 18
32 years.

33 (cf: P.L.2001, c.208, s.1)

34

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

37 1. Every **[charitable]** institution or other residential service
38 maintained in whole or in part by State or county funds, **[to which**
39 **persons have been or may be committed or admitted by virtue of Title**
40 **30 of the Revised Statutes]** which provides inpatient care, supervision
41 and treatment for persons with developmental disabilities, shall have
42 a lien against the property of **[persons confined or who had been**
43 **confined therein,]** a person receiving functional services from that
44 institution or service for the total cost of the care and maintenance of
45 the **[patient]** person in **[such]** the institution at the per capita cost

1 rate of maintenance fixed in accordance with law. [Such a] The lien
2 shall also attach to the real and personal property of any person
3 chargeable by law with the support and maintenance of [such patient]
4 the person and against whom a court of competent jurisdiction has
5 entered an order directing [such] the person to pay all or a part of the
6 cost of maintaining [such patient] the person in [a State or county
7 hospital] an institution, provided that the amount of the lien shall not
8 exceed the amount of maintenance required to be paid by [such] the
9 order of court. The lien shall also attach to the real and personal
10 property of any person chargeable by law with the support and
11 maintenance of the [patient] person pursuant to subsection b. of
12 R.S.30:4-60, but the amount of the lien shall not exceed the amount
13 of maintenance to be paid. [Such lien] Liens under this section, when
14 properly filed as set forth herein, shall have priority over all
15 unrecorded encumbrances and shall be at the rate to be determined as
16 provided in Title 30 of the Revised Statutes.
17 (cf: P.L.1995, c.155, s.23)

18

19 8. (New section) All liens filed against a person treated at a
20 psychiatric facility as defined in section 2 of P.L.1987, c.116 (C.30:4-
21 27.2), prior to the effective date of P.L. , c. (pending before the
22 Legislature as this bill), are hereby extinguished and shall have no legal
23 effect. No new liens shall be filed by a psychiatric facility on or after
24 the effective date of P.L. , c. (pending before the Legislature as this
25 bill), against a person treated at the facility.

26

27 9. Section 6 of P.L.1938, c. 239 (C. 30:4-80.6) is amended to read
28 as follows:

29 6. a. Upon the request of a person treated at a psychiatric facility
30 as defined in section 2 of P.L.1987, c.116 (C.30:4-27.2), or that
31 person's legally responsible relative, against whom a lien was recorded
32 prior to the effective date of P.L. , c. (pending before the
33 Legislature as this bill), the Department of Human Services shall
34 arrange for the discharge of the lien by the clerk of the county, register
35 of deeds and mortgages or clerk of the Superior Court, as the case
36 may be. No fee shall be charged by the clerk of the county, register of
37 deeds and mortgages or clerk of the Superior Court for the removal of
38 a lien pursuant to this section.

39 b. To discharge any lien or liens filed hereunder, the chief
40 executive officer of the institution claiming the lien or his duly
41 constituted agent shall file with the clerk of the county, register of
42 deeds and mortgages or [Clerk] clerk of the Superior Court, as the
43 case may be, a duly acknowledged certificate setting forth the fact that
44 the institution desires to discharge the lien of record.

45 c. [The commissioner, with regard to State institutions, or board

1 of freeholders, or a proper committee thereof, as the case may be, with
2 regard to county institutions,] In the case of any lien not covered by
3 the provisions of subsection a. of this section, the Commissioner of
4 Human Services is hereby authorized to compromise for settlement
5 any lien filed under the provisions of this act for the maintenance of
6 any patient. A memorandum of the compromise and settlement shall
7 be entered in the records of the [State] institution affected thereby
8 [or in the official minutes of the board of freeholders or committee]
9 and shall be sufficient authorization for a complete discharge of the
10 lien.

11 (cf: P.L.1965, c.59, s.65)

12

13 10. (New section) The Department of Human Services shall adopt
14 regulations pursuant to the "Administrative Procedure Act," P.L.1968,
15 c.410 (C.52:14B-1 et seq.) concerning the establishment of a sliding
16 scale fee schedule and determination of patient liability to contribute
17 to the cost of care and maintenance pursuant to R.S.30:4-60.

18

19 11. This act shall take effect on the 180th day after enactment;
20 except that the provisions of section 8 of this act shall take effect
21 immediately. The Commissioner of Human Services may take such
22 anticipatory administrative action in advance of the effective date as
23 shall be necessary for the implementation of the act.

24

25

26

27

28 _____
28 Changes laws governing financial liability for patients in psychiatric
29 facilities and eliminates institutional liens for persons treated at State
30 and county psychiatric facilities.

ASSEMBLY, No. 779

STATE OF NEW JERSEY 211th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2004 SESSION

Sponsored by:

Assemblyman REED GUSCIORA

District 15 (Mercer)

Assemblywoman LORETTA WEINBERG

District 37 (Bergen)

Co-Sponsored by:

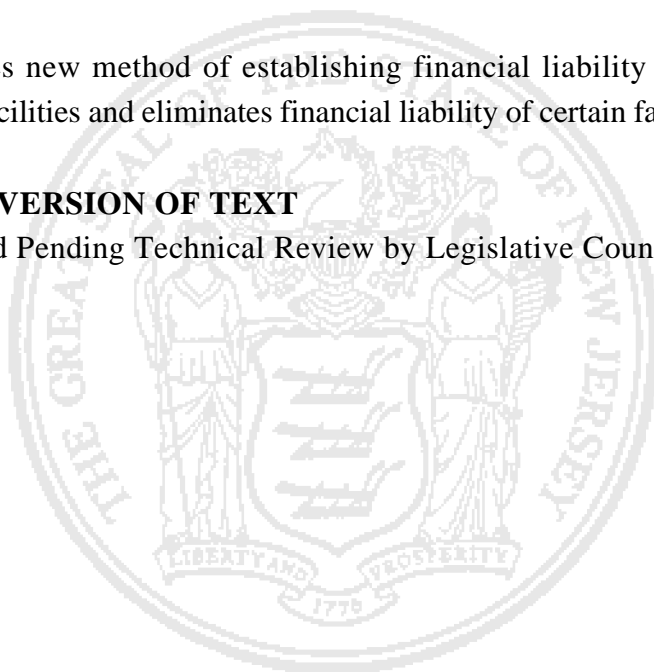
Assemblywomen Previte, Pou, Quigley, Assemblymen Biondi, Conaway, Conners, Green, Payne, Pennacchio, Russo, Roberts, Assemblywomen Vandervalk, Cruz-Perez, Assemblymen Merkt, Van Drew, R.Smith, Carroll, DeCroce, Dancer, Wolfe, McKeon, Munoz, Assemblywoman Watson Coleman, Assemblymen Fisher and O'Toole

SYNOPSIS

Establishes new method of establishing financial liability for patients in psychiatric facilities and eliminates financial liability of certain family members.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning payment for patients in psychiatric facilities and
2 revising parts of statutory law.

3

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

6

7 1. Section 2 of P.L.1987, c.116 (C.30:4-27.2) is amended to read
8 as follows:

9 2. As used in this act:

10 a. "Chief executive officer" means the person who is the chief
11 administrative officer of an institution or psychiatric facility.

12 b. "Clinical certificate" means a form prepared by the division and
13 approved by the Administrative Office of the Courts, that is completed
14 by the psychiatrist or other physician who has examined the person
15 who is subject to commitment within three days of presenting the
16 person for admission to a facility for treatment, and which states that
17 the person is in need of involuntary commitment. The form shall also
18 state the specific facts upon which the examining physician has based
19 his conclusion and shall be certified in accordance with the Rules of
20 the Court. A clinical certificate may not be executed by a person who
21 is a relative by blood or marriage to the person who is being screened.

22 c. "Clinical director" means the person who is designated by the
23 director or chief executive officer to organize and supervise the
24 clinical services provided in a screening service, short-term care or
25 psychiatric facility. The clinical director shall be a psychiatrist,
26 however, those persons currently serving in the capacity will not be
27 affected by this provision. This provision shall not alter any current
28 civil service laws designating the qualifications of such position.

29 d. "Commissioner" means the Commissioner of [the Department
30 of] Human Services.

31 e. "County counsel" means the chief legal officer or advisor of the
32 governing body of a county.

33 f. "Court" means the Superior Court or a municipal court.

34 g. "Custody" means the right and responsibility to ensure the
35 provision of care and supervision.

36 h. "Dangerous to self" means that by reason of mental illness the
37 person has threatened or attempted suicide or serious bodily harm, or
38 has behaved in such a manner as to indicate that the person is unable
39 to satisfy his need for nourishment, essential medical care or shelter,
40 so that it is probable that substantial bodily injury, serious physical
41 debilitation or death will result within the reasonably foreseeable
42 future; however, no person shall be deemed to be unable to satisfy his
43 need for nourishment, essential medical care or shelter if he is able to

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

Matter underlined thus is new matter.

1 satisfy such needs with the supervision and assistance of others who
2 are willing and available.

3 i. "Dangerous to others or property" means that by reason of
4 mental illness there is a substantial likelihood that the person will
5 inflict serious bodily harm upon another person or cause serious
6 property damage within the reasonably foreseeable future. This
7 determination shall take into account a person's history, recent
8 behavior and any recent act or threat.

9 j. "Department" means the Department of Human Services.

10 k. "Director" means the chief administrative officer of a screening
11 service, a short-term care facility or a special psychiatric hospital.

12 l. "Division" means the Division of Mental Health Services in the
13 Department of Human Services.

14 m. "In need of involuntary commitment" means that an adult who
15 is mentally ill, whose mental illness causes the person to be dangerous
16 to self or dangerous to others or property and who is unwilling to be
17 admitted to a facility voluntarily for care, and who needs care at a
18 short-term care, psychiatric facility or special psychiatric hospital
19 because other services are not appropriate or available to meet the
20 person's mental health care needs.

21 n. "Institution" means any State or county facility providing
22 inpatient care, supervision and treatment for the mentally retarded [;
23 except that with respect to the maintenance provisions of Title 30 of
24 the Revised Statutes, institution also means any psychiatric facility for
25 the treatment of the mentally ill].

26 o. "Mental health agency or facility" means a legal entity which
27 receives funds from the State, county or federal government to provide
28 mental health services.

29 p. "Mental health screener" means a psychiatrist, psychologist,
30 social worker, registered professional nurse or other individual trained
31 to do outreach only for the purposes of psychological assessment who
32 is employed by a screening service and possesses the license, academic
33 training or experience, as required by the commissioner pursuant to
34 regulation; except that a psychiatrist and a State licensed clinical
35 psychologist who meet the requirements for mental health screener
36 shall not have to comply with any additional requirements adopted by
37 the commissioner.

38 q. "Mental hospital" means, for the purposes of the payment and
39 maintenance provisions of Title 30 of the Revised Statutes, a
40 psychiatric facility.

41 r. "Mental illness" means a current, substantial disturbance of
42 thought, mood, perception or orientation which significantly impairs
43 judgment, capacity to control behavior or capacity to recognize reality,
44 but does not include simple alcohol intoxication, transitory reaction to
45 drug ingestion, organic brain syndrome or developmental disability
46 unless it results in the severity of impairment described herein. The

1 term mental illness is not limited to "psychosis" or "active psychosis,"
2 but shall include all conditions that result in the severity of impairment
3 described herein.

4 s. "Patient" means a person over the age of 18 who has been
5 admitted to, but not discharged from a short-term care or psychiatric
6 facility.

7 t. "Physician" means a person who is licensed to practice medicine
8 in any one of the United States or its territories, or the District of
9 Columbia.

10 u. "Psychiatric facility" means a State psychiatric hospital listed in
11 R.S.30:1-7, a county psychiatric hospital, or a psychiatric unit of a
12 county hospital.

13 v. "Psychiatrist" means a physician who has completed the training
14 requirements of the American Board of Psychiatry and Neurology.

15 w. "Psychiatric unit of a general hospital" means an inpatient unit
16 of a general hospital that restricts its services to the care and treatment
17 of the mentally ill who are admitted on a voluntary basis.

18 x. "Psychologist" means a person who is licensed as a psychologist
19 by the New Jersey Board of Psychological Examiners.

20 y. "Screening certificate" means a clinical certificate executed by
21 a psychiatrist or other physician affiliated with a screening service.

22 z. "Screening service" means a public or private ambulatory care
23 service designated by the commissioner, which provides mental health
24 services including assessment, emergency and referral services to
25 mentally ill persons in a specified geographic area.

26 aa. "Screening outreach visit" means an evaluation provided by a
27 mental health screener wherever the person may be when clinically
28 relevant information indicates the person may need involuntary
29 commitment and is unable or unwilling to come to a screening service.

30 bb. "Short-term care facility" means an inpatient, community based
31 mental health treatment facility which provides acute care and
32 assessment services to a mentally ill person whose mental illness
33 causes the person to be dangerous to self or dangerous to others or
34 property. A short-term care facility is so designated by the
35 commissioner and is authorized by the commissioner to serve persons
36 from a specified geographic area. A short-term care facility may be a
37 part of a general hospital or other appropriate health care facility and
38 shall meet certificate of need requirements and shall be licensed and
39 inspected by the Department of Health pursuant to P.L.1971, c.136
40 (C.26:2H-1 et seq.) and in accordance with standards developed
41 jointly with the Commissioner of Human Services.

42 cc. "Special psychiatric hospital" means a public or private hospital
43 licensed by the Department of Health to provide voluntary and
44 involuntary mental health services, including assessment, care,
45 supervision, treatment and rehabilitation services to persons who are
46 mentally ill.

1 dd. "Treatment team" means one or more persons, including at
2 least one psychiatrist or physician, and may include a psychologist,
3 social worker, nurse and other appropriate services providers. A
4 treatment team provides mental health services to a patient of a
5 screening service, short-term care or psychiatric facility.

6 ee. "Voluntary admission" means that adult who is mentally ill,
7 whose mental illness causes the person to be dangerous to self or
8 dangerous to others or property and is willing to be admitted to a
9 facility voluntarily for care, needs care at a short-term care or
10 psychiatric facility because other facilities or services are not
11 appropriate or available to meet the person's mental health needs. A
12 person may also be voluntarily admitted to a psychiatric facility if his
13 mental illness presents a substantial likelihood of rapid deterioration
14 in functioning in the near future, there are no appropriate community
15 alternatives available and the psychiatric facility can admit the person
16 and remain within its rated capacity.

17 ff. "County adjuster" means the person appointed pursuant to
18 R.S.30:4-34.
19 (cf: P.L.1995, c.4, s.2)

20

21 2. R.S.30:4-34 is amended to read as follows:

22 30:4-34. In each county where county counsel, county solicitor,
23 county clerk, county physician or county probation officer, or any of
24 their assistants is in charge and supervision of the preparation of
25 papers relating to the commitment of the mentally ill, such person shall
26 be known as "county adjuster" and such duties shall, except as
27 otherwise provided in section 2 of P.L.1981, c.403 (C.30:4-34.1),
28 continue to pertain to the office of such county counsel, county
29 solicitor, county clerk, county physician or county probation officer or
30 their successors in office, but, notwithstanding the foregoing, in case
31 any other county official or employee shall be at the time of the
32 adoption of this act, in charge and supervision of the preparation of
33 papers relating to the commitment of the mentally ill, the governing
34 body of the county may designate that county official or employee as
35 county adjuster. In all other counties the county governing body shall
36 designate some county official or employee as county adjuster.

37 The county adjuster shall have charge and supervision of the
38 preparation of papers relating to the commitment of the mentally ill in
39 such county, and in cases arising in other counties in which the legal
40 settlement appears to be in his county. Classification under civil
41 service rules shall not be affected by reason of such designation or
42 additional duties, and additional compensation, if any, for such
43 services may be fixed by the county governing body and paid in the
44 same manner as other county employees are paid. Each county
45 governing body shall notify the various institutions for the mentally ill
46 of the name and address of the county adjuster.

1 The judge of the Superior Court within the county may appoint the
2 county adjuster to act as referee for the purpose of taking testimony
3 bearing solely on the question of legal settlement and the financial
4 ability of the mentally ill patient or [his legally responsible relatives]
5 the parent of the mentally ill patient, if the patient is under the age of
6 18, to pay the cost of maintenance, in accordance with the provisions
7 of P.L. _____, c. _____ (C. _____) (pending before the Legislature as
8 this bill) and shall make return to the court of his findings, conclusions
9 and recommendations. Such findings, conclusions and
10 recommendations shall be subject to the approval of the court and shall
11 not be effective until incorporated in an appropriate order or judgment
12 of the court. The county adjuster, acting as such referee, may subpoena
13 witnesses and compel their attendance on forms approved by the
14 court.

15 (cf: P.L.1998, c.92)

16

17 3. R.S.30:4-56 is amended to read as follows:

18 30:4-56. The final judgment of commitment shall contain a
19 determination of the mentally ill patient's legal settlement and shall
20 provide for the payment of the expense of the care and treatment of
21 the patient. The judgment, together with the complaint or a certified
22 copy thereof, shall be filed in the office of the clerk of the county, who
23 shall forward within 10 days after receipt of same a certified copy of
24 the judgment, and in all cases a certified copy of the complaint on
25 which the judgment is founded, to the chief executive officer of the
26 institution to which the patient is committed.

27 [Any person made responsible for the payment of all or a part of
28 the cost of maintenance of a mentally ill patient shall, forthwith upon
29 the entry of the order of the court, receive from the county adjuster
30 notice of the amount required to be paid by the terms of said order and
31 shall further receive notice that in the event that there is any change in
32 his financial ability which would permit him to pay a greater portion
33 of the cost of maintenance then such person shall report these facts to
34 the county adjuster for consideration. Failure to do so shall oblige such
35 person or his estate to pay any greater sum found to be due and owing
36 by the court from the date of improved financial ability of such
37 person] In the case of a mentally ill patient against whom a final
38 judgment of commitment has been entered, the county adjuster shall,
39 within a reasonable period of time after the patient is discharged from
40 a psychiatric facility, provide the patient or the patient's parent if the
41 patient is under the age of 18 with notice of the amount required to be
42 paid by the terms of the court order.

43 At the time of making the final judgment, the court shall further tax
44 a filing fee of \$1.00 to be paid to the clerk for the use of the county in
45 each case, which fee shall be paid in all nonindigent cases by the
46 person made chargeable in the judgment, and in all indigent cases by

1 the county in which the action is had unless the indigent person is
2 chargeable to another county in which case such other county shall be
3 liable for the fee.

4 (cf: P.L.1995, c.155, s.13)

5

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

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

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

1 b. If the [department] Department of Human Services determines
2 that the person is developmentally disabled and eligible for functional
3 services from the Division of Developmental Disabilities, the
4 department, using a formula of financial ability to pay as promulgated
5 annually by the Department of the Treasury, shall determine if the
6 developmentally disabled person has sufficient income, assets,
7 resources or estate to pay for his maintenance as fixed by the State
8 Board of Human Services, or is able to make any payment towards his
9 maintenance, or if the person's chargeable relatives or other persons
10 chargeable by contract are able to pay the person's maintenance or
11 make any payment towards the person's maintenance on the person's
12 behalf. The department shall determine the legal settlement of the
13 developmentally disabled person pursuant to section 86 of P.L.1965,
14 c.59 (C.30:4-165.3).The department shall send written notice of the
15 periodic payment amount to the person or his parent or guardian,
16 chargeable relative or other person chargeable by contract for the
17 person's support. All required payments shall be made directly to the
18 department unless otherwise specified in the notice. The notice may,
19 in the discretion of the department, contain such direction as may seem
20 proper concerning security to be given for the payment. The payment
21 notice shall be separate and independent of any order of commitment
22 to the care and custody of the commissioner or any order of
23 guardianship.

24 The department shall annually review and revise, as appropriate, its
25 payment calculations. If the financial circumstances of the person or
26 persons chargeable by law or contract for the developmentally disabled
27 person's support change prior to the annual review, the chargeable
28 person or persons shall immediately notify the department in writing.

29 c. (1) A mentally ill patient who is being treated in a psychiatric
30 facility as defined in section 2 of P.L.1987, c.116 (C.30:40-27.2), or
31 the parent of the patient if the patient is under the age of 18, shall be
32 liable to contribute toward the cost of the patient's treatment,
33 maintenance and all necessary and related expenses incurred by the
34 facility on behalf of the patient based on the sliding scale fee schedule
35 established for charity care pursuant to subsection b. of section 10 of
36 P.L.1992, c.160 (C.26:2H-18.60).

37 (2) Based upon the financial circumstances of the mentally ill
38 patient or the parent of a patient under the age of 18 at the time of the
39 patient's admission to the facility, the department or county adjuster,
40 as applicable, shall make a determination of the amount the patient or
41 parent shall be liable to contribute toward the cost of the patient's
42 treatment, maintenance and all necessary and related expenses incurred
43 by the facility. The patient or parent's liability may be enforced by the
44 Commissioner of Human Services, with legal assistance provided by
45 the Attorney General, in the manner set forth in section 1 of P.L.1962,
46 c.207 (C.30:4-75.1).

1 (3) In the case of a mentally ill patient who is married, the
2 department shall establish a spousal share of the combined assets of
3 the couple that shall be preserved for the noninstitutionalized spouse
4 and immune from execution to satisfy the patient's liability to
5 contribute toward the cost of treatment, maintenance and all necessary
6 and related expenses incurred by the facility. In order to determine the
7 spousal share of the combined assets to be preserved, the
8 Commissioner of Human Services shall employ the same methodology
9 used by the State Medicaid program to determine the resources that
10 are preserved for the needs of the community spouse of an
11 institutionalized individual in accordance with N.J.A.C. 10:71-4.8.

12 (4) The maximum contribution that shall be required of a mentally
13 ill patient or the parent of a mentally ill patient under the age of 18
14 toward the cost of treatment, maintenance and all necessary and
15 related expenses incurred by the facility is limited to \$5,000 during any
16 12-month period in which an admission occurred and a total of
17 \$10,000 during the lifetime of the patient. A patient or parent shall
18 not be required to contribute toward the cost of treatment,
19 maintenance and all necessary and related expenses incurred by the
20 facility during any period that the patient is on "Conditional Extension
21 Pending Placement" status as defined in N.J.A.C.10:38A-1.2.

22 (cf: P.L.1995, c.155, s.14)

23

24 5. Section 15 of P.L.1995, c.155 (C.30:4-60.2) is amended to read
25 as follows:

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

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

45 (cf: P.L.1995, c.155, s.15)

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

2 30:4-63. a. [The court may, after final hearing, commit any patient
3 to any State or county psychiatric institution irrespective of the
4 patient's legal settlement where provision is made for his care and
5 maintenance, in an amount approved by the State Board of Human
6 Services or by the board of chosen freeholders, as the case may be.
7 The patient may remain as a full paying patient in such institution as
8 long as such sum shall be regularly paid out of the estate of such
9 patient, or by the person or persons chargeable by law with his care
10 and maintenance, or under contract. In the event that such sum cannot
11 be paid because of a change in the financial circumstances of the
12 patient or his legally responsible relatives then the court may make
13 such order as may be necessary with regard to the manner and the
14 amount of maintenance which shall be paid on behalf of the patient and
15 by whom.] (Deleted by amendment, P.L. _____, c. _____ (C. _____)
16 (pending before the Legislature as this bill)).

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

30 (cf: P.L.1995, c.155, s.17)

31

32 7. R.S.30:4-66 is amended to read as follows:

33 30:4-66. Every patient supported in a State [or county charitable]
34 institution or other residential functional service for the
35 developmentally disabled shall be personally liable for his maintenance
36 and for all necessary expenses incurred by the institution or other
37 residential functional service in his behalf and the husband, wife and
38 father or mother of a child under 18 years of age, severally and
39 respectively, being of sufficient ability, of every patient so confined,
40 whose estate is not sufficient for his support, shall support, and
41 maintain the patient in the institution or other residential functional
42 service, as the case may be, in such manner and to such an amount as
43 the court shall direct pursuant to [subsection a. of R.S.30:4-60 in the
44 case of mentally ill patients, and in the case of developmentally
45 disabled persons, as required pursuant to] subsection b. of
46 R.S.30:4-60. All spouses living separate and apart from their spouses

1 so confined, and all parents of illegitimate children so confined shall
2 also be personally liable for such expense.

3 But no payment shall be ordered to be made by a chargeable
4 relative 55 years of age or over except with respect to the maintenance
5 of his or her spouse or his or her natural or adopted child under the
6 age of 18 years.

7 (cf: P.L.2001, c.208, s.1)

8

9 8. (New section) a. The Department of Human Services shall
10 discharge all institutional liens previously filed pursuant to P.L.1938,
11 c.239 (C.30:4-80.1 et seq.) for the cost of treatment, maintenance and
12 all necessary and related expenses incurred by a psychiatric facility on
13 behalf of a mentally ill patient of the facility. The liens shall be
14 discharged in the manner set forth in section 6 of P.L.1938, c.239
15 (C.30:4-80.6).

16 b. In accordance with the provisions of section 4 of P.L. , c.
17 (C.) (pending before the Legislature as this bill), the
18 Commissioner of Human Services is authorized to determine the
19 liability of a person whose lien is discharged pursuant to subsection a.
20 of this section.

21 c. The county clerk, register of deeds or mortgages or the Clerk of
22 the Superior Court, as applicable, shall file any papers related to the
23 discharge of the liens pursuant to subsection a. of this section without
24 the payment of fees by the facility.

25

26 9. (New section) The Department of Human Services shall adopt
27 regulations pursuant to the "Administrative Procedure Act," P.L.1968,
28 c.410 (C.52:14B-1 et seq.) concerning the establishment of a sliding
29 scale fee schedule pursuant to section 4 of P.L. , c. (C.)
30 (pending before the Legislature as this bill).

31

32 10. (New section) Sections 1 through 5 of P.L. 1938, c.239
33 (C.30:4-80.1 through C.30:4-80.5) are repealed.

34

35 11. This act shall take effect 90 days after enactment, but the
36 Commissioner of Human Services shall take such anticipatory
37 administrative action in advance as shall be necessary for the
38 implementation of the act.

39

40

41

STATEMENT

42

43 This bill amends R.S.30:4-60 to provide that a mentally ill patient
44 or a parent of a mentally ill patient under the age of 18 shall be liable
45 to contribute toward the cost of the patient's treatment, maintenance
46 and all necessary and related expenses incurred by a psychiatric facility

1 on behalf of the patient based on the sliding scale fee schedule
2 established for charity care pursuant to N.J.S.A.26:2H-18.60.

3 The Department of Human Services or a county adjuster, as
4 applicable, shall make a determination on the amount the patient or
5 parent shall be liable to contribute based upon their financial
6 circumstances at the time of the patient's admission to the facility. The
7 patient or parent's liability may be enforced by the Commissioner of
8 Human Services with legal assistance provided by the Attorney
9 General.

10 In the case of a mentally ill patient who is married, the bill
11 authorizes the department to establish a spousal share of the combined
12 assets of the couple that shall be preserved for the noninstitutionalized
13 spouse and immune from execution to satisfy the patient's liability to
14 contribute toward the cost of treatment, maintenance and all necessary
15 and related expenses incurred by the facility. In order to determine the
16 spousal share of the combined assets to be preserved, the substitute
17 directs the Commissioner of Human Services to employ the same
18 methodology used by the State Medicaid program to determine the
19 resources that are preserved for the need of the community spouse of
20 an institutionalized individual.

21 The bill provides that the patient or parent's obligation to contribute
22 toward the cost of the patient's treatment, maintenance and expenses
23 shall be limited to \$5,000 during any 12-month period in which an
24 admission occurred and a total of \$10,000 during the lifetime of the
25 patient. A patient or parent shall not be required to contribute toward
26 the cost of the patient's treatment, maintenance and expenses at a
27 facility during any period in which the patient is on "Conditional
28 Extension Pending Placement" status.

29 Under current law, once a court has determined that a patient is
30 mentally ill and is able to pay for the cost of his maintenance at a
31 mental hospital, or if a relative who is legally responsible for the
32 patient's support is able to pay the patient's maintenance, the court
33 shall commit the patient to any State, county or private mental hospital
34 and direct that the cost and care of the patient be paid by the patient's
35 estate or by his legally responsible relatives.

36 The bill also amends:

- 37 * N.J.S.A.30:4-27.2 to clarify that "institution" shall not mean a
38 psychiatric facility for the treatment of the mentally ill;
- 39 * R.S.30:4-34 to replace a reference to "his legally responsible
40 relatives" with "the parent of the mentally ill patient, if the
41 patient is under the age of 18;"
- 42 * R.S.30:4-56 to provide that a mentally ill patient or the parent
43 of a mentally ill patient under the age of 18 against whom a
44 final judgment of commitment has been entered shall, within a
45 reasonable period of time after discharge from a psychiatric
46 facility, receive notice from the county adjuster of the amount

- 1 required to be paid in terms of the order;
- 2 * N.J.S.A.30:4-60.2 to provide that the term "patient" shall not
3 include a person over the age of 18 who has been admitted to,
4 but not discharged from, a short-term psychiatric facility;
- 5 * R.S.30:4-63 to eliminate the provisions of law that permit a
6 court to commit a patient to a State or county psychiatric
7 facility regardless of the patient's legal settlement where
8 provision is made for his care and maintenance and allow the
9 patient to remain at the facility as long as the patient's care and
10 maintenance is paid by the patient's estate or a legally
11 responsible relative; and
- 12 * R.S.30:4-66 to clarify that every patient supported in a State
13 institution or other residential functional service for the
14 developmentally disabled and his legally responsible relatives
15 are liable for his maintenance and for all necessary expenses
16 incurred by the residential function service in his behalf; and to
17 delete a reference to "county charitable institution."

18 The bill also authorizes:

- 19 * the Department of Human Services to discharge all previous
20 institutional liens filed pursuant to N.J.S.A.30:4-80.1 et seq.
21 for the cost of treatment, maintenance and all necessary and
22 related expenses incurred by a psychiatric facility on behalf of
23 a mentally ill patient. The liens shall be discharged in the
24 manner set forth in N.J.S.A.30:4-80.6;
- 25 * the Commissioner of Human Services to review and establish
26 the liability of any person whose lien is discharged in
27 accordance with the provisions of section 4 of the bill; and
- 28 * the county clerk, register of deeds or mortgages or the Clerk
29 of the Superior Court, as applicable, to file any papers related
30 to the discharge of liens without the payment of fees by the
31 facility.

32 Finally, the bill repeals N.J.S.A.30:4-80.1 through N.J.S.A.30:4-
33 80.5 concerning the filing of institutional liens for the cost of treatment
34 in a psychiatric facility, since the statutes are obviated by the
35 provisions of the bill.

ASSEMBLY FAMILY, WOMEN AND CHILDREN'S SERVICES
COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 779

STATE OF NEW JERSEY

DATED: SEPTEMBER 13, 2004

The Assembly Family, Women and Children's Services reports favorably a committee substitute for Assembly Bill No. 779.

This committee substitute amends R.S.30:4-60 to provide that a patient with mental illness over the age of 18 shall be liable to contribute toward the cost of the patient's treatment, maintenance and all necessary and related expenses incurred by a psychiatric facility on behalf of the patient, based on the sliding scale fee schedule established for charity care pursuant to N.J.S.A.26:2H-18.60. The parent of a patient with mental illness who is under the age of 18 shall be liable for the cost of the patient's treatment, maintenance and all necessary and related expenses incurred by the facility in an amount based on the sliding scale fee schedule established for charity care or the formula of financial ability to pay as promulgated annually by the Department of the Treasury, whichever amount is less.

The substitute also provides that if the patient, without good cause, refuses to apply for Medicaid, the patient shall be responsible for the full cost of his care and maintenance at the facility.

The substitute stipulates that based on criteria established pursuant to R.S.30:4-60, the Department of Human Services or a county adjuster, as applicable, shall make a determination on the amount the patient or parent shall be liable to contribute toward the cost of the patient's treatment, maintenance and all expenses incurred by the facility. The patient or parent's liability may be enforced by the Commissioner of Human Services with legal assistance provided by the Attorney General.

In the case of a patient with mental illness who is married, the substitute authorizes the department to establish a spousal share of the combined assets of the couple that shall be preserved for the noninstitutionalized spouse and immune from execution to satisfy the patient's liability to contribute toward the cost of treatment, maintenance and all necessary and related expenses incurred by the facility. In order to determine the spousal share of the combined assets to be preserved, the substitute directs the Commissioner of

Human Services to employ the same methodology used by the State Medicaid program to determine the resources that are preserved for the need of the community spouse of an institutionalized individual.

The substitute provides that the Commissioner of Human Services shall act on any request by a patient over the age of 18 or a parent of a patient under the age of 18 to compromise for settlement of a debt established pursuant to the bill. In considering the request, the commissioner shall allow the patient or parent to retain adequate funds to:

- maintain the patient's or parent's housing and usual standard of living in the community;
- provide for any necessary medical expenses or special needs;
- support any minor, disabled, elderly or other dependents;
- establish a trust to ensure future self-sufficiency, if considerable assets are available; or
- provide for any other genuine financial needs.

Under the provisions of the substitute, requests for compromise for settlement of a debt shall be liberally granted by the commissioner and shall promote the patient's or parent's opportunity to obtain and maintain employment, purchase property, both real and personal, and achieve full reintegration into the community, as applicable; and the commissioner shall ensure that all patients and parents are notified of their right to request a compromise and the procedure for doing so.

The substitute also amends R.S.30:4-60 to provide that if a court determines that a patient is mentally ill and is in need treatment at a psychiatric facility, the court may determine the legal settlement of the patient and commit or admit the patient to a State, county or private mental hospital (according to civil commitment laws and the Rules of Court). Under current law, once a court has determined that a patient is mentally ill and able to pay for the cost of his maintenance at a mental hospital, or if a relative who is legally responsible for the patient's support is able to pay the patient's maintenance, the court shall commit the patient to any State, county or private mental hospital and direct that the cost and care of the patient be paid by the patient's estate or by his legally responsible relatives.

The substitute amends N.J.S.A.30:4-80.6 to provide that all existing liens for State or county psychiatric facility care are extinguished as of the effective date of the substitute and shall have no further legal effect. In the case of a lien not subject to the provisions of N.J.S.A.30:4-80.6, the provisions of the substitute authorize the Commissioner of Human Services to compromise for settlement of the lien for the maintenance of the patient.

The substitute also amends:

- N.J.S.A.30:4-27.2 to replace a reference to "the mentally retarded" with "persons with developmental disabilities" and references to "who is mentally ill," "the mentally ill," "mentally ill persons," "mentally ill person" and "who are mentally ill" with "with a mental illness" and "persons with mental illness;"

-- R.S.30:4-34 to replace a reference to "his legally responsible relatives" with "the parent of the patient with mental illness, if the patient is under the age of 18";

-- R.S.30:4-56 to provide that the county adjuster shall, within a reasonable period of time after discharge from a psychiatric facility, provide a patient with mental illness, or the parent of a patient with mental illness under the age of 18, against whom a final judgment of commitment has been entered, with notice of the amount required to be paid in terms of the order;

-- N.J.S.A.30:4-60.2 to replace references to the term "patient" with "person";

-- R.S.30:4-63 to eliminate the provisions of law that permit a court to commit a patient to a State or county psychiatric facility regardless of the patient's legal settlement where provision is made for his care and maintenance, and allow the patient to remain at the facility as long as the patient's care and maintenance is paid by the patient's estate or a legally responsible relative; and

-- R.S.30:4-66 to clarify that the provisions of this section only apply to people receiving functional services supported in a State institution or other residential functional service from the Division of Developmental Disabilities, and their legally responsible relatives; and to delete a reference to "county charitable institution."

--N.J.S.A.30:4-80.1 to clarify that the provisions of this section only apply to people receiving functional services supported in an State institution or other residential functional service from the Division of Developmental Disabilities, every person receiving functional services from the Division of Developmental Disabilities, and any person chargeable by law with the support and maintenance of the person receiving functional services; to delete a reference to "county charitable institution;" and to replace references to "patient" with "person."

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY COMMITTEE SUBSTITUTE FOR

ASSEMBLY, No. 779

STATE OF NEW JERSEY

DATED: DECEMBER 2, 2004

The Assembly Appropriations Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 779 (ACS).

This Assembly Committee Substitute for Assembly Bill No. 779 ACS revises the financial obligations of persons with mental illness who receive treatment at State or county psychiatric facilities and eliminates liens filed against these persons by the facilities.

The substitute amends N.J.S.A.30:4-60 to provide that a person with mental illness over the age of 18 shall be liable to contribute toward the cost of that person's treatment, maintenance and all necessary and related expenses of the person's hospitalization until the person is determined to be ineligible for or has exhausted any third party insurance benefits or medical assistance program that will pay an amount toward the facility's bill. The obligation by the person for the remainder of the facility's bill will be in an amount based on the sliding scale fee schedule established for charity care pursuant to N.J.S.A.26:2H-18.60. The obligation of a parent of a person with mental illness who is under the age of 18 shall be based on the lesser of the sliding scale fee schedule established for charity care or the formula of financial ability to pay as promulgated annually by the Department of the Treasury.

The substitute also provides that a person with mental illness or a person responsible under a court order for the cost of care and maintenance of a person with mental illness who, without good cause, (a) refuses to submit information and authorizations sufficient to enable the facility to access any available third-party payer, or (b) refuses to apply for public medical assistance for which the person with mental illness may be eligible, shall be responsible for the full cost of the person's care and maintenance at the facility without the application of the criteria set forth above.

The substitute stipulates that, based on criteria established pursuant to N.J.S.A.30:4-60, the Department of Human Services or the county adjuster, as applicable, shall make a determination on the amount the person with mental illness or parent shall be liable to

contribute toward the cost of the person's treatment, maintenance and all necessary and related expenses of the hospitalization. The person or parent's liability may be enforced by the Commissioner of Human Services.

In the case of a person with mental illness who is married, the department shall establish a spousal share of the combined assets of the couple that shall be preserved for the noninstitutionalized spouse and immune from execution to satisfy the person's liability to contribute toward the cost of treatment, maintenance and all necessary and related expenses of the person's hospitalization. In order to determine the spousal share of the combined assets to be preserved, the commissioner shall employ the same methodology used by the State Medicaid program to determine the resources that are preserved for the needs of the community spouse of an institutionalized individual in accordance with N.J.A.C.10:71-4.8.

The substitute also provides that the commissioner shall act on any request by a person with mental illness who is 18 years of age or older, or the parent of a person with mental illness under the age of 18, to compromise for settlement of the obligation. With respect to the request, the commissioner shall allow the person or parent to retain adequate funds to:

- maintain the person's or parent's housing and usual standard of living in the community;
- provide for any necessary medical expenses or special needs;
- support any minor, disabled, elderly or other dependent;
- establish a trust to ensure future self-sufficiency; or
- provide for any other genuine financial needs.

Requests to compromise for settlement of the obligation shall be liberally granted by the commissioner and shall promote the person's or his parent's opportunity to obtain and maintain employment, purchase property, both real and personal, and achieve full reintegration into the community, as applicable. The commissioner shall ensure that all persons and parents are notified of their right to request a compromise and the procedure for doing so.

The substitute also amends N.J.S.A.30:4-60 to provide that if a court determines that a person has a mental illness and is in need of treatment at a psychiatric facility, the court may determine the legal settlement of the person and, consistent with the laws governing civil commitment and the Rules of Court, direct the admission or hospitalization of the person to the care of the commissioner for treatment in a psychiatric facility, short-term care facility or special psychiatric hospital in the State. Under current law, once a court has determined that a patient is mentally ill and able to pay for the cost of his maintenance at a mental hospital, or if a relative who is legally responsible for the patient's support is able to pay the patient's maintenance, the court shall commit the patient to any State, county or private mental hospital and direct that the cost and care of the patient be paid by the patient's estate or by his legally responsible

relatives.

The substitute provides that all existing liens for State or county psychiatric facility care are extinguished as of the date of enactment of the substitute and shall have no further legal effect. The substitute also provides that no new liens shall be filed by a psychiatric facility after the date of enactment. The substitute amends N.J.S.A.30:4-80.6 to provide a procedure for the discharge of a lien, upon the request of a person with mental illness or his legally responsible relative, and to provide that in the case of a lien not subject to the provisions of this section, the commissioner is authorized to compromise the lien for settlement.

The substitute also amends:

-- various sections of Title 30 to replace references to "the mentally retarded" and "mentally ill" with persons-first language;

-- N.J.S.A.30:4-34 to delete a reference to "his legally responsible relatives" and replace it with "the parent of the person with mental illness, if the person is under the age of 18";

-- N.J.S.A.30:4-56 to provide that the county adjuster shall, within a reasonable period of time after discharge from a psychiatric facility, provide a person with mental illness, or the parent of a person with mental illness under the age of 18, against whom a final judgment of commitment has been entered, with notice of the amount required to be paid in terms of the order;

-- N.J.S.A.30:4-66 to delete references to husband and wife, as legally responsible relatives, and also to provide that legally responsible relatives shall not include spouses living separate from their confined spouses and parents of confined illegitimate children; and

--N.J.S.A.30:4-80.1 to clarify that the provisions of this section only apply to people receiving functional services supported in an State institution or other residential functional service from the Division of Developmental Disabilities.

The substitute takes effect 180 days after the date of enactment, but the amendments to N.J.S.A.30:4-80.6 (eliminating liens filed against persons treated at psychiatric facilities) take effect immediately.

FISCAL IMPACT:

The Office of Management and Budget has estimated that the State will lose \$2.2 million in revenues in the first fiscal year after enactment, \$4.4 million in the second year and \$6.6 million in the third year. The Office of Legislative Services (OLS) accepts the estimate that State revenues will be reduced by \$2.2 million in the first year after enactment as reasonable, as the State has collected between \$2.0 million and \$3.4 million in recoveries primarily from patient liens over the past few years. OLS notes however, that as the State has only collected between \$2.0 million and \$3.4 million in recoveries in recent years, the estimate that the State would lose \$4.4 million and \$6.6

million in revenues in the second and third years, respectively, appears excessive.

The OLS notes further that:

- C Counties will be liable for a portion of any reduction in State revenues; and
- C The six counties that operate psychiatric hospitals (Bergen, Burlington, Camden, Essex, Hudson and Union) may experience a reduction in patient recoveries from liens, which will increase State and county expenditures.

As counties pay 10% of the cost for patients at State psychiatric hospitals, the loss of \$2.0 million to \$3.4 million in revenues may increase county expenditures by about \$0.2 million - \$0.34 million annually.

The amount of patient recoveries the six county psychiatric hospitals will lose is not readily available; however, because county psychiatric hospital costs are shared between the State and county on a 90%/10% basis, an annual reduction of \$1.0 million in county revenues will require an additional \$0.9 million in State funds to reimburse the six county hospitals. Also, County expenditures would increase by \$0.1 million.

SENATE, No. 880

STATE OF NEW JERSEY
211th LEGISLATURE

INTRODUCED FEBRUARY 9, 2004

Sponsored by:

Senator SHIRLEY K. TURNER

District 15 (Mercer)

Co-Sponsored by:

Senator Inverso

SYNOPSIS

Establishes new method of establishing financial liability for patients in psychiatric facilities and eliminates financial liability of certain family members.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/8/2004)

1 AN ACT concerning payment for patients in psychiatric facilities and
2 revising parts of statutory law.

3

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

6

7 1. Section 2 of P.L.1987, c.116 (C.30:4-27.2) is amended to read
8 as follows:

9 2. As used in this act:

10 a. "Chief executive officer" means the person who is the chief
11 administrative officer of an institution or psychiatric facility.

12 b. "Clinical certificate" means a form prepared by the division and
13 approved by the Administrative Office of the Courts, that is completed
14 by the psychiatrist or other physician who has examined the person
15 who is subject to commitment within three days of presenting the
16 person for admission to a facility for treatment, and which states that
17 the person is in need of involuntary commitment. The form shall also
18 state the specific facts upon which the examining physician has based
19 his conclusion and shall be certified in accordance with the Rules of
20 the Court. A clinical certificate may not be executed by a person who
21 is a relative by blood or marriage to the person who is being screened.

22 c. "Clinical director" means the person who is designated by the
23 director or chief executive officer to organize and supervise the
24 clinical services provided in a screening service, short-term care or
25 psychiatric facility. The clinical director shall be a psychiatrist,
26 however, those persons currently serving in the capacity will not be
27 affected by this provision. This provision shall not alter any current
28 civil service laws designating the qualifications of such position.

29 d. "Commissioner" means the Commissioner of [the Department
30 of] Human Services.

31 e. "County counsel" means the chief legal officer or advisor of the
32 governing body of a county.

33 f. "Court" means the Superior Court or a municipal court.

34 g. "Custody" means the right and responsibility to ensure the
35 provision of care and supervision.

36 h. "Dangerous to self" means that by reason of mental illness the
37 person has threatened or attempted suicide or serious bodily harm, or
38 has behaved in such a manner as to indicate that the person is unable
39 to satisfy his need for nourishment, essential medical care or shelter,
40 so that it is probable that substantial bodily injury, serious physical
41 debilitation or death will result within the reasonably foreseeable
42 future; however, no person shall be deemed to be unable to satisfy his
43 need for nourishment, essential medical care or shelter if he is able to

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

Matter underlined thus is new matter.

1 satisfy such needs with the supervision and assistance of others who
2 are willing and available.

3 i. "Dangerous to others or property" means that by reason of
4 mental illness there is a substantial likelihood that the person will
5 inflict serious bodily harm upon another person or cause serious
6 property damage within the reasonably foreseeable future. This
7 determination shall take into account a person's history, recent
8 behavior and any recent act or threat.

9 j. "Department" means the Department of Human Services.

10 k. "Director" means the chief administrative officer of a screening
11 service, a short-term care facility or a special psychiatric hospital.

12 l. "Division" means the Division of Mental Health Services in the
13 Department of Human Services.

14 m. "In need of involuntary commitment" means that an adult who
15 is mentally ill, whose mental illness causes the person to be dangerous
16 to self or dangerous to others or property and who is unwilling to be
17 admitted to a facility voluntarily for care, and who needs care at a
18 short-term care, psychiatric facility or special psychiatric hospital
19 because other services are not appropriate or available to meet the
20 person's mental health care needs.

21 n. "Institution" means any State or county facility providing
22 inpatient care, supervision and treatment for the mentally retarded [;
23 except that with respect to the maintenance provisions of Title 30 of
24 the Revised Statutes, institution also means any psychiatric facility for
25 the treatment of the mentally ill].

26 o. "Mental health agency or facility" means a legal entity which
27 receives funds from the State, county or federal government to provide
28 mental health services.

29 p. "Mental health screener" means a psychiatrist, psychologist,
30 social worker, registered professional nurse or other individual trained
31 to do outreach only for the purposes of psychological assessment who
32 is employed by a screening service and possesses the license, academic
33 training or experience, as required by the commissioner pursuant to
34 regulation; except that a psychiatrist and a State licensed clinical
35 psychologist who meet the requirements for mental health screener
36 shall not have to comply with any additional requirements adopted by
37 the commissioner.

38 q. "Mental hospital" means, for the purposes of the payment and
39 maintenance provisions of Title 30 of the Revised Statutes, a
40 psychiatric facility.

41 r. "Mental illness" means a current, substantial disturbance of
42 thought, mood, perception or orientation which significantly impairs
43 judgment, capacity to control behavior or capacity to recognize reality,
44 but does not include simple alcohol intoxication, transitory reaction to
45 drug ingestion, organic brain syndrome or developmental disability
46 unless it results in the severity of impairment described herein. The

1 term mental illness is not limited to "psychosis" or "active psychosis,"
2 but shall include all conditions that result in the severity of impairment
3 described herein.

4 s. "Patient" means a person over the age of 18 who has been
5 admitted to, but not discharged from a short-term care or psychiatric
6 facility.

7 t. "Physician" means a person who is licensed to practice medicine
8 in any one of the United States or its territories, or the District of
9 Columbia.

10 u. "Psychiatric facility" means a State psychiatric hospital listed in
11 R.S.30:1-7, a county psychiatric hospital, or a psychiatric unit of a
12 county hospital.

13 v. "Psychiatrist" means a physician who has completed the training
14 requirements of the American Board of Psychiatry and Neurology.

15 w. "Psychiatric unit of a general hospital" means an inpatient unit
16 of a general hospital that restricts its services to the care and treatment
17 of the mentally ill who are admitted on a voluntary basis.

18 x. "Psychologist" means a person who is licensed as a psychologist
19 by the New Jersey Board of Psychological Examiners.

20 y. "Screening certificate" means a clinical certificate executed by
21 a psychiatrist or other physician affiliated with a screening service.

22 z. "Screening service" means a public or private ambulatory care
23 service designated by the commissioner, which provides mental health
24 services including assessment, emergency and referral services to
25 mentally ill persons in a specified geographic area.

26 aa. "Screening outreach visit" means an evaluation provided by a
27 mental health screener wherever the person may be when clinically
28 relevant information indicates the person may need involuntary
29 commitment and is unable or unwilling to come to a screening service.

30 bb. "Short-term care facility" means an inpatient, community based
31 mental health treatment facility which provides acute care and
32 assessment services to a mentally ill person whose mental illness
33 causes the person to be dangerous to self or dangerous to others or
34 property. A short-term care facility is so designated by the
35 commissioner and is authorized by the commissioner to serve persons
36 from a specified geographic area. A short-term care facility may be a
37 part of a general hospital or other appropriate health care facility and
38 shall meet certificate of need requirements and shall be licensed and
39 inspected by the Department of Health pursuant to P.L.1971, c.136
40 (C.26:2H-1 et seq.) and in accordance with standards developed
41 jointly with the Commissioner of Human Services.

42 cc. "Special psychiatric hospital" means a public or private hospital
43 licensed by the Department of Health to provide voluntary and
44 involuntary mental health services, including assessment, care,
45 supervision, treatment and rehabilitation services to persons who are
46 mentally ill.

1 dd. "Treatment team" means one or more persons, including at
2 least one psychiatrist or physician, and may include a psychologist,
3 social worker, nurse and other appropriate services providers. A
4 treatment team provides mental health services to a patient of a
5 screening service, short-term care or psychiatric facility.

6 ee. "Voluntary admission" means that adult who is mentally ill,
7 whose mental illness causes the person to be dangerous to self or
8 dangerous to others or property and is willing to be admitted to a
9 facility voluntarily for care, needs care at a short-term care or
10 psychiatric facility because other facilities or services are not
11 appropriate or available to meet the person's mental health needs. A
12 person may also be voluntarily admitted to a psychiatric facility if his
13 mental illness presents a substantial likelihood of rapid deterioration
14 in functioning in the near future, there are no appropriate community
15 alternatives available and the psychiatric facility can admit the person
16 and remain within its rated capacity.

17 ff. "County adjuster" means the person appointed pursuant to
18 R.S.30:4-34.
19 (cf: P.L.1995, c.4, s.2)

20

21 2. R.S.30:4-34 is amended to read as follows:

22 30:4-34. In each county where county counsel, county solicitor,
23 county clerk, county physician or county probation officer, or any of
24 their assistants is in charge and supervision of the preparation of
25 papers relating to the commitment of the mentally ill, such person shall
26 be known as "county adjuster" and such duties shall, except as
27 otherwise provided in section 2 of P.L.1981, c.403 (C.30:4-34.1),
28 continue to pertain to the office of such county counsel, county
29 solicitor, county clerk, county physician or county probation officer or
30 their successors in office, but, notwithstanding the foregoing, in case
31 any other county official or employee shall be at the time of the
32 adoption of this act, in charge and supervision of the preparation of
33 papers relating to the commitment of the mentally ill, the governing
34 body of the county may designate that county official or employee as
35 county adjuster. In all other counties the county governing body shall
36 designate some county official or employee as county adjuster.

37 The county adjuster shall have charge and supervision of the
38 preparation of papers relating to the commitment of the mentally ill in
39 such county, and in cases arising in other counties in which the legal
40 settlement appears to be in his county. Classification under civil
41 service rules shall not be affected by reason of such designation or
42 additional duties, and additional compensation, if any, for such
43 services may be fixed by the county governing body and paid in the
44 same manner as other county employees are paid. Each county
45 governing body shall notify the various institutions for the mentally ill
46 of the name and address of the county adjuster.

1 The judge of the Superior Court within the county may appoint the
2 county adjuster to act as referee for the purpose of taking testimony
3 bearing solely on the question of legal settlement and the financial
4 ability of the mentally ill patient or [his legally responsible relatives]
5 the parent of the mentally ill patient, if the patient is under the age of
6 18, to pay the cost of maintenance, in accordance with the provisions
7 of R.S.30:4-60 and shall make return to the court of his findings,
8 conclusions and recommendations. Such findings, conclusions and
9 recommendations shall be subject to the approval of the court and shall
10 not be effective until incorporated in an appropriate order or judgment
11 of the court. The county adjuster, acting as such referee, may subpoena
12 witnesses and compel their attendance on forms approved by the
13 court.

14 (cf: P.L.1998, c.92)

15

16 3. R.S.30:4-56 is amended to read as follows:

17 30:4-56. The final judgment of commitment shall contain a
18 determination of the mentally ill patient's legal settlement and shall
19 provide for the payment of the expense of the care and treatment of
20 the patient. The judgment, together with the complaint or a certified
21 copy thereof, shall be filed in the office of the clerk of the county, who
22 shall forward within 10 days after receipt of same a certified copy of
23 the judgment, and in all cases a certified copy of the complaint on
24 which the judgment is founded, to the chief executive officer of the
25 institution to which the patient is committed.

26 [Any person made responsible for the payment of all or a part of
27 the cost of maintenance of a mentally ill patient shall, forthwith upon
28 the entry of the order of the court, receive from the county adjuster
29 notice of the amount required to be paid by the terms of said order and
30 shall further receive notice that in the event that there is any change in
31 his financial ability which would permit him to pay a greater portion
32 of the cost of maintenance then such person shall report these facts to
33 the county adjuster for consideration. Failure to do so shall oblige such
34 person or his estate to pay any greater sum found to be due and owing
35 by the court from the date of improved financial ability of such
36 person] In the case of a mentally ill patient against whom a final
37 judgment of commitment has been entered, the county adjuster shall,
38 within a reasonable period of time after the patient is discharged from
39 a psychiatric facility, provide the patient or the patient's parent, if the
40 patient is under the age of 18, with notice of the amount required to
41 be paid by the terms of the court order.

42 At the time of making the final judgment, the court shall further tax
43 a filing fee of \$1.00 to be paid to the clerk for the use of the county in
44 each case, which fee shall be paid in all nonindigent cases by the
45 person made chargeable in the judgment, and in all indigent cases by
46 the county in which the action is had unless the indigent person is

1 chargeable to another county in which case such other county shall be
2 liable for the fee.

3 (cf: P.L.1995, c.155, s.13)

4

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

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

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

46 b. If the [department] Department of Human Services determines

1 that the person is developmentally disabled and eligible for functional
2 services from the Division of Developmental Disabilities, the
3 department, using a formula of financial ability to pay as promulgated
4 annually by the Department of the Treasury, shall determine if the
5 developmentally disabled person has sufficient income, assets,
6 resources or estate to pay for his maintenance as fixed by the State
7 Board of Human Services, or is able to make any payment towards his
8 maintenance, or if the person's chargeable relatives or other persons
9 chargeable by contract are able to pay the person's maintenance or
10 make any payment towards the person's maintenance on the person's
11 behalf. The department shall determine the legal settlement of the
12 developmentally disabled person pursuant to section 86 of P.L.1965,
13 c.59 (C.30:4-165.3).The department shall send written notice of the
14 periodic payment amount to the person or his parent or guardian,
15 chargeable relative or other person chargeable by contract for the
16 person's support. All required payments shall be made directly to the
17 department unless otherwise specified in the notice. The notice may,
18 in the discretion of the department, contain such direction as may seem
19 proper concerning security to be given for the payment. The payment
20 notice shall be separate and independent of any order of commitment
21 to the care and custody of the commissioner or any order of
22 guardianship.

23 The department shall annually review and revise, as appropriate, its
24 payment calculations. If the financial circumstances of the person or
25 persons chargeable by law or contract for the developmentally disabled
26 person's support change prior to the annual review, the chargeable
27 person or persons shall immediately notify the department in writing.

28 c. (1) A mentally ill patient who is being treated in a psychiatric
29 facility as defined in section 2 of P.L.1987, c.116 (C.30:40-27.2), or
30 the parent of the patient, if the patient is under the age of 18, shall be
31 liable to contribute toward the cost of the patient's treatment,
32 maintenance and all necessary and related expenses incurred by the
33 facility on behalf of the patient based on the sliding scale fee schedule
34 established for charity care pursuant to subsection b. of section 10 of
35 P.L.1992, c.160 (C.26:2H-18.60).

36 (2) Based upon the financial circumstances of the mentally ill
37 patient or the parent of a patient under the age of 18 at the time of the
38 patient's admission to the facility, the department or county adjuster,
39 as applicable, shall make a determination of the amount the patient or
40 parent shall be liable to contribute toward the cost of the patient's
41 treatment, maintenance and all necessary and related expenses incurred
42 by the facility. The patient or parent's liability may be enforced by the
43 Commissioner of Human Services, with legal assistance provided by
44 the Attorney General, in the manner set forth in section 1 of P.L.1962,
45 c.207 (C.30:4-75.1).

46 (3) In the case of a mentally ill patient who is married, the

1 department shall establish a spousal share of the combined assets of
2 the couple that shall be preserved for the noninstitutionalized spouse
3 and immune from execution to satisfy the patient's liability to
4 contribute toward the cost of treatment, maintenance and all necessary
5 and related expenses incurred by the facility. In order to determine the
6 spousal share of the combined assets to be preserved, the
7 Commissioner of Human Services shall employ the same methodology
8 used by the State Medicaid program to determine the resources that
9 are preserved for the needs of the community spouse of an
10 institutionalized individual in accordance with N.J.A.C.10:71-4.8.

11 (4) The maximum contribution that shall be required of a mentally
12 ill patient or the parent of a mentally ill patient under the age of 18
13 toward the cost of treatment, maintenance and all necessary and
14 related expenses incurred by the facility is limited to \$5,000 during any
15 12-month period in which an admission occurred and a total of
16 \$10,000 during the lifetime of the patient. A patient or parent shall
17 not be required to contribute toward the cost of treatment,
18 maintenance and all necessary and related expenses incurred by the
19 facility during any period that the patient is on "Conditional Extension
20 Pending Placement" status as defined in N.J.A.C.10:38A-1.2.
21 (cf: P.L.1995, c.155, s.14)

22
23 5. Section 15 of P.L.1995, c.155 (C.30:4-60.2) is amended to read
24 as follows:

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

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

44 (cf: P.L.1995, c.155, s.15)

45

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

1 30:4-63. a. [The court may, after final hearing, commit any patient
2 to any State or county psychiatric institution irrespective of the
3 patient's legal settlement where provision is made for his care and
4 maintenance, in an amount approved by the State Board of Human
5 Services or by the board of chosen freeholders, as the case may be.
6 The patient may remain as a full paying patient in such institution as
7 long as such sum shall be regularly paid out of the estate of such
8 patient, or by the person or persons chargeable by law with his care
9 and maintenance, or under contract. In the event that such sum cannot
10 be paid because of a change in the financial circumstances of the
11 patient or his legally responsible relatives then the court may make
12 such order as may be necessary with regard to the manner and the
13 amount of maintenance which shall be paid on behalf of the patient and
14 by whom.] (Deleted by amendment, P.L. , c. (pending before the
15 Legislature as this bill)).

16 b. The [department] Department of Human Services may admit a
17 person found eligible for functional services from the Division of
18 Developmental Disabilities to a residential functional services
19 placement irrespective of the person's legal settlement if provision is
20 made for the payment of the full cost of the person's care and
21 maintenance, in an amount approved by the State Board of Human
22 Services. The person may remain as a full paying person in the
23 residential functional services placement, or in another residential
24 functional services placement deemed appropriate by the department,
25 as long as the full per capita amount for the placement is regularly paid
26 from the person's income, benefits, assets, resources or estate, or by
27 the person chargeable by law or under contract with his care and
28 maintenance.
29 (cf: P.L.1995, c.155, s.17)

30

31 7. R.S.30:4-66 is amended to read as follows:

32 30:4-66. Every patient supported in a State [or county charitable]
33 institution or other residential functional service for the
34 developmentally disabled shall be personally liable for his maintenance
35 and for all necessary expenses incurred by the institution or other
36 residential functional service in his behalf and the husband, wife and
37 father or mother of a child under 18 years of age, severally and
38 respectively, being of sufficient ability, of every patient so confined,
39 whose estate is not sufficient for his support, shall support, and
40 maintain the patient in the institution or other residential functional
41 service, as the case may be, in such manner and to such an amount as
42 the court shall direct pursuant to [subsection a. of R.S.30:4-60 in the
43 case of mentally ill patients, and in the case of developmentally
44 disabled persons, as required pursuant to] subsection b. of
45 R.S.30:4-60. All spouses living separate and apart from their spouses
46 so confined, and all parents of illegitimate children so confined shall

1 also be personally liable for such expense.

2 But no payment shall be ordered to be made by a chargeable
3 relative 55 years of age or over except with respect to the maintenance
4 of his or her spouse or his or her natural or adopted child under the
5 age of 18 years.

6 (cf: P.L.2001, c.208, s.1)

7

8 8. (New section) a. The Department of Human Services shall
9 discharge all institutional liens previously filed pursuant to P.L.1938,
10 c.239 (C.30:4-80.1 et seq.) for the cost of treatment, maintenance and
11 all necessary and related expenses incurred by a psychiatric facility on
12 behalf of a mentally ill patient of the facility. The liens shall be
13 discharged in the manner set forth in section 6 of P.L.1938, c.239
14 (C.30:4-80.6).

15 b. In accordance with the provisions of R.S.30:4-60, the
16 Commissioner of Human Services is authorized to determine the
17 liability of a person whose lien is discharged pursuant to subsection a.
18 of this section.

19 c. The county clerk, register of deeds or mortgages or the Clerk of
20 the Superior Court, as applicable, shall file any papers related to the
21 discharge of the liens pursuant to subsection a. of this section without
22 the payment of fees by the facility.

23

24 9. (New section) The Department of Human Services shall adopt
25 regulations pursuant to the "Administrative Procedure Act," P.L.1968,
26 c.410 (C.52:14B-1 et seq.) concerning the establishment of a sliding
27 scale fee schedule pursuant to R.S.30:4-60.

28

29 10. (New section) Sections 1 through 5 of P.L.1938, c.239
30 (C.30:4-80.1 through C.30:4-80.5) are repealed.

31

32 11. This act shall take effect 90 days after enactment, but the
33 Commissioner of Human Services shall take such anticipatory
34 administrative action in advance as shall be necessary for the
35 implementation of the act.

36

37

38

STATEMENT

39

40 This bill amends R.S.30:4-60 to provide that a mentally ill patient
41 or a parent of a mentally ill patient under the age of 18 would be liable
42 to contribute toward the cost of the patient's treatment, maintenance
43 and all necessary and related expenses incurred by a psychiatric facility
44 on behalf of the patient based on the sliding scale fee schedule
45 established for charity care under N.J.S.A.26:2H-18.60.

46 The Department of Human Services or a county adjuster, as

1 applicable, would make a determination on the amount the patient or
2 parent would be liable to contribute based upon their financial
3 circumstances at the time of the patient's admission to the facility. The
4 patient or parent's liability may be enforced by the Commissioner of
5 Human Services with legal assistance provided by the Attorney
6 General.

7 In the case of a mentally ill patient who is married, the bill
8 authorizes the department to establish a spousal share of the combined
9 assets of the couple that would be preserved for the
10 noninstitutionalized spouse and immune from execution to satisfy the
11 patient's liability to contribute toward the cost of treatment,
12 maintenance and all necessary and related expenses incurred by the
13 facility. In order to determine the spousal share of the combined
14 assets to be preserved, the bill directs the commissioner to employ the
15 same methodology used by the State Medicaid program to determine
16 the resources that are preserved for the need of the community spouse
17 of an institutionalized individual.

18 The bill provides that the patient or parent's obligation to contribute
19 toward the cost of the patient's treatment, maintenance and expenses
20 would be limited to \$5,000 during any 12-month period in which an
21 admission occurred and a total of \$10,000 during the lifetime of the
22 patient. A patient or parent would not be required to contribute
23 toward the cost during any period in which the patient is on
24 "Conditional Extension Pending Placement" status.

25 Under current law, once a court has determined that a patient is
26 mentally ill and is able to pay for the cost of his maintenance at a
27 mental hospital, or if a relative who is legally responsible for the
28 patient's support is able to pay the patient's maintenance, the court
29 would commit the patient to any State, county or private mental
30 hospital and direct that the cost and care of the patient be paid by the
31 patient's estate or by his legally responsible relatives.

32 The bill authorizes the department to discharge all previous
33 institutional liens filed pursuant to N.J.S.A.30:4-80.1 et seq. for the
34 cost of treatment, maintenance and all necessary and related expenses
35 incurred by a psychiatric facility on behalf of a mentally ill patient.
36 The liens would be discharged in the manner set forth in N.J.S.A.30:4-
37 80.6. The bill also authorizes the commissioner to determine the
38 liability of any person whose lien is discharged under N.J.S.A.30:4-60.
39 Also, the county clerk, register of deeds or mortgages or the Clerk of
40 the Superior Court, as applicable, are authorized to file any papers
41 related to the discharge of liens without the payment of fees by the
42 facility.

43 The bill also amends the following sections of law:

44 -- N.J.S.A.30:4-27.2 to exclude a psychiatric facility for the
45 treatment of the mentally ill from the definition of
46 "institution";

- 1 -- N.J.S.A.30:4-34 to replace a reference to "his legally
- 2 responsible relatives" with "the parent of the mentally ill
- 3 patient, if the patient is under the age of 18";
- 4 -- N.J.S.A.30:4-56 to provide that a mentally ill patient or the
- 5 parent of a mentally ill patient under the age of 18 against
- 6 whom a final judgment of commitment has been entered shall,
- 7 within a reasonable period of time after discharge from a
- 8 psychiatric facility, receive notice from the county adjuster of
- 9 the amount required to be paid by the terms of the court order;
- 10 -- N.J.S.A.30:4-60.2 to exclude from the definition of "patient"
- 11 a person over the age of 18 who has been admitted to, but not
- 12 discharged from, a short-term psychiatric facility;
- 13 -- N.J.S.A.30:4-63 to eliminate the provisions of law that permit
- 14 a court to commit a patient to a State or county psychiatric
- 15 facility regardless of the patient's legal settlement where
- 16 provision is made for his care and maintenance and allow the
- 17 patient to remain at the facility as long as the patient's care and
- 18 maintenance is paid by the patient's estate or a legally
- 19 responsible relative; and
- 20 -- N.J.S.A.30:4-66 to exclude psychiatric patients from its
- 21 provisions by referring only to expenses incurred for a person
- 22 with developmental disabilities who is supported in a State
- 23 institution or other residential functional service; and to delete
- 24 a reference to "county charitable institution."

25 Finally, the bill repeals N.J.S.A.30:4-80.1 through N.J.S.A.30:4-
26 80.5 concerning the filing of institutional liens for the cost of treatment
27 in a psychiatric facility, since the statutes are obviated by the
28 provisions of the bill.

SENATE HEALTH, HUMAN SERVICES AND SENIOR
CITIZENS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 880

STATE OF NEW JERSEY

DATED: NOVEMBER 8, 2004

The Senate Health, Human Services and Senior Citizens Committee reports favorably a Senate Committee Substitute for Senate Bill No. 880.

This committee substitute revises the financial obligations of persons with mental illness who receive treatment at State or county psychiatric facilities and eliminates liens filed against these persons by the facilities.

Specifically, the substitute amends N.J.S.A.30:4-60 to provide that a person with mental illness over the age of 18 shall be liable to contribute toward the cost of his treatment, maintenance and all necessary and related expenses of the person's hospitalization until he is determined to be ineligible for or has exhausted any third party insurance benefits or medical assistance program that will pay an amount toward the facility's bill. The obligation by the person for the remainder of the facility's bill will be in an amount based on the sliding scale fee schedule established for charity care pursuant to N.J.S.A.26:2H-18.60. The obligation of a parent of a person with mental illness who is under the age of 18 shall be based on the lesser of the sliding scale fee schedule established for charity care or the formula of financial ability to pay as promulgated annually by the Department of the Treasury.

The substitute also provides that a person with mental illness or a person responsible under a court order for the cost of care and maintenance of a person with mental illness who, without good cause, (a) refuses to submit information and authorizations sufficient to enable the facility to access any available third-party payer, or (b) refuses to apply for public medical assistance for which the person with mental illness may be eligible, shall be responsible for the full cost of the person's care and maintenance at the facility without the application of the criteria set forth above.

The substitute stipulates that, based on criteria established pursuant to N.J.S.A.30:4-60, the Department of Human Services or the county adjuster, as applicable, shall make a determination on the

amount the person with mental illness or parent shall be liable to contribute toward the cost of the person's treatment, maintenance and all necessary and related expenses of the hospitalization. The person or parent's liability may be enforced by the Commissioner of Human Services.

In the case of a person with mental illness who is married, the department shall establish a spousal share of the combined assets of the couple that shall be preserved for the noninstitutionalized spouse and immune from execution to satisfy the person's liability to contribute toward the cost of treatment, maintenance and all necessary and related expenses of the person's hospitalization. In order to determine the spousal share of the combined assets to be preserved, the commissioner shall employ the same methodology used by the State Medicaid program to determine the resources that are preserved for the needs of the community spouse of an institutionalized individual in accordance with N.J.A.C. 10:71-4.8.

The substitute also provides that the commissioner shall act on any request by a person with mental illness who is 18 years of age or older, or the parent of a person with mental illness under the age of 18, to compromise for settlement of the obligation. With respect to the request, the commissioner shall allow the person or parent to retain adequate funds to:

- maintain the person's or parent's housing and usual standard of living in the community;
- provide for any necessary medical expenses or special needs;
- support any minor, disabled, elderly or other dependent;
- establish a trust to ensure future self-sufficiency; or
- provide for any other genuine financial needs.

Requests to compromise for settlement of the obligation shall be liberally granted by the commissioner and shall promote the person's or his parent's opportunity to obtain and maintain employment, purchase property, both real and personal, and achieve full reintegration into the community, as applicable. The commissioner shall ensure that all persons and parents are notified of their right to request a compromise and the procedure for doing so.

The substitute also amends N.J.S.A.30:4-60 to provide that if a court determines that a person has a mental illness and is in need of treatment at a psychiatric facility, the court may determine the legal settlement of the person and, consistent with the laws governing civil commitment and the Rules of Court, direct the admission or hospitalization of the person to the care of the commissioner for treatment in a psychiatric facility, short-term care facility or special psychiatric hospital in the State. Under current law, once a court has determined that a patient is mentally ill and able to pay for the cost of his maintenance at a mental hospital, or if a relative who is legally responsible for the patient's support is able to pay the patient's maintenance, the court shall commit the patient to any State, county or private mental hospital and direct that the cost and care of the

patient be paid by the patient's estate or by his legally responsible relatives.

The substitute provides that all existing liens for State or county psychiatric facility care are extinguished as of the date of enactment of the substitute and shall have no further legal effect. The substitute also provides that no new liens shall be filed by a psychiatric facility after the date of enactment. The substitute amends N.J.S.A.30:4-80.6 to provide a procedure for the discharge of a lien, upon the request of a person with mental illness or his legally responsible relative, and to provide that in the case of a lien not subject to the provisions of this section, the commissioner is authorized to compromise the lien for settlement.

The substitute also amends:

-- various sections of Title 30 to replace references to "the mentally retarded" and "mentally ill" with persons-first language;

-- N.J.S.A.30:4-34 to delete a reference to "his legally responsible relatives" and replace it with "the parent of the person with mental illness, if the person is under the age of 18";

-- N.J.S.A.30:4-56 to provide that the county adjuster shall, within a reasonable period of time after discharge from a psychiatric facility, provide a person with mental illness, or the parent of a person with mental illness under the age of 18, against whom a final judgment of commitment has been entered, with notice of the amount required to be paid in terms of the order;

-- N.J.S.A.30:4-66 to delete references to husband and wife, as legally responsible relatives, and also to provide that legally responsible relatives shall not include spouses living separate from their confined spouses and parents of confined illegitimate children; and

--N.J.S.A.30:4-80.1 to clarify that the provisions of this section only apply to people receiving functional services supported in an State institution or other residential functional service from the Division of Developmental Disabilities.

The substitute takes effect 180 days after the date of enactment, but the amendments to N.J.S.A.30:4-80.6 (eliminating liens filed against persons treated at psychiatric facilities) take effect immediately.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR **SENATE, No. 880**

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 6, 2004

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 880 SCS.

This bill revises the financial obligations of persons with mental illness (or their families) for the cost of treatment those persons receive at State or county psychiatric facilities. In addition, the bill eliminates the facilities' liens against these persons to recover the costs.

Specifically, the bill amends N.J.S.A.30:4-60 to provide that a person with mental illness over the age of 18 shall be liable to contribute toward the cost of treatment, maintenance and all necessary and related expenses of hospitalization until the person is determined to be ineligible for or has exhausted any third party insurance benefits or medical assistance program that will pay an amount toward the facility's bill. The person's obligation for the remainder of the facility's bill will be in an amount based on the sliding scale fee schedule established for charity care pursuant to N.J.S.A.26:2H-18.60. The obligation of a parent of a person with mental illness who is under the age of 18 shall be based on the lesser of the sliding scale fee schedule established for charity care or the formula of financial ability to pay as promulgated annually by the Department of the Treasury.

The substitute also provides that a person with mental illness or a person responsible under a court order for the cost of care and maintenance of a person with mental illness who, without good cause, (a) refuses to submit information and authorizations sufficient to enable the facility to access any available third-party payer, or (b) refuses to apply for public medical assistance for which the person with mental illness may be eligible, shall be responsible for the full cost of the person's care and maintenance at the facility without the application of the criteria set forth above.

The bill stipulates that, based on criteria established pursuant to N.J.S.A.30:4-60, the Department of Human Services or the county adjuster, as applicable, shall make a determination on the amount the person with mental illness or parent shall be liable to contribute toward

the cost of treatment, maintenance and all necessary and related expenses of the hospitalization. The person or parent's liability may be enforced by the Commissioner of Human Services.

In the case of a person with mental illness who is married, the department shall establish a spousal share of the combined assets of the couple that shall be preserved for the noninstitutionalized spouse and immune from execution to satisfy the person's liability to contribute toward the cost of treatment, maintenance and all necessary and related expenses of the person's hospitalization. In order to determine the spousal share of the combined assets to be preserved, the commissioner shall employ the same methodology used by the State Medicaid program to determine the resources that are preserved for the needs of the community spouse of an institutionalized individual in accordance with N.J.A.C. 10:71-4.8.

The bill also provides that the commissioner shall act on any request by a person with mental illness who is 18 years of age or older, or the parent of a person with mental illness under the age of 18, to compromise for settlement of the obligation. With respect to the request, the commissioner shall allow the person or parent to retain adequate funds to:

- maintain the person's or parent's housing and usual standard of living in the community;
- provide for any necessary medical expenses or special needs;
- support any minor, disabled, elderly or other dependent;
- establish a trust to ensure future self-sufficiency; or
- provide for any other genuine financial needs.

Requests to compromise for settlement of the obligation shall be liberally granted by the commissioner and shall promote the person's or his parent's opportunity to obtain and maintain employment, purchase property, both real and personal, and achieve full reintegration into the community, as applicable. The commissioner shall ensure that all persons and parents are notified of their right to request a compromise and the procedure for doing so.

The bill also amends N.J.S.A.30:4-60 to provide that if a court determines that a person has a mental illness and is in need of treatment at a psychiatric facility, the court may determine the legal settlement of the person and, consistent with the laws governing civil commitment and the Rules of Court, direct the admission or hospitalization of the person to the care of the commissioner for treatment in a psychiatric facility, short-term care facility or special psychiatric hospital in the State. Under current law, once a court has determined that a patient is mentally ill and able to pay for the cost of his maintenance at a mental hospital, or if a relative who is legally responsible for the patient's support is able to pay the patient's maintenance, the court shall commit the patient to any State, county or private mental hospital and direct that the cost and care of the patient be paid by the patient's estate or by his legally responsible relatives.

The bill provides that all existing liens for State or county

psychiatric facility care are extinguished as of the date of enactment of the substitute and shall have no further legal effect. The substitute also provides that no new liens shall be filed by a psychiatric facility after the date of enactment. The substitute amends N.J.S.A.30:4-80.6 to provide a procedure for the discharge of a lien, upon the request of a person with mental illness or his legally responsible relative, and to provide that in the case of a lien not subject to the provisions of this section, the commissioner is authorized to compromise the lien for settlement.

The bill also amends:

-- various sections of Title 30 to replace references to "the mentally retarded" and "mentally ill" with persons-first language;

-- N.J.S.A.30:4-34 to delete a reference to "his legally responsible relatives" and replace it with "the parent of the person with mental illness, if the person is under the age of 18";

-- N.J.S.A.30:4-56 to provide that the county adjuster shall, within a reasonable period of time after discharge from a psychiatric facility, provide a person with mental illness, or the parent of a person with mental illness under the age of 18, against whom a final judgment of commitment has been entered, with notice of the amount required to be paid in terms of the order;

-- N.J.S.A.30:4-66 to delete references to husband and wife, as legally responsible relatives, and also to provide that legally responsible relatives shall not include spouses living separate from their confined spouses and parents of confined illegitimate children; and

--N.J.S.A.30:4-80.1 to clarify that the provisions of this section only apply to people receiving functional services supported in an State institution or other residential functional service from the Division of Developmental Disabilities.

The bill takes effect 180 days after the date of enactment, but the amendments to N.J.S.A.30:4-80.6 (eliminating liens filed against persons treated at psychiatric facilities) take effect immediately.

The provisions of this bill, as amended, are identical to those of Assembly Bill No. 779 ACS ACS.

COMMITTEE AMENDMENTS

Committee amendments to this bill (i) clarify the language in the bill providing for the discharge of liens recorded prior to the legislation's enactment, and (ii) correct a reference.

FISCAL IMPACT

Based upon the past few years' history of cost recovery for the treatment of patients at State psychiatric hospitals, the Office of Legislative Services (OLS) estimates that the elimination of liens under the bill will result in an annual reduction in State collections of between \$2.0 and \$3.4 million. The reduction in recoveries for treatment of patients at the six county psychiatric hospitals is not available. For both State and county hospitals, counties pay 10% of

unreimbursed patient costs, so that counties will bear 10% of the total losses attributable to the elimination of liens.

FISCAL NOTE
SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 880
STATE OF NEW JERSEY
211th LEGISLATURE

DATED: DECEMBER 16, 2004

SUMMARY

- Synopsis:** Changes laws governing financial liability for patients in psychiatric facilities and eliminates institutional liens for persons treated in State and county psychiatric facilities.
- Type of Impact:** A reduction in revenues received by State and county psychiatric hospitals. An increase in expenditures incurred by the State for patients at county psychiatric hospitals; and an increase in expenditures incurred by counties for patients at State psychiatric hospitals.
- Agencies Affected:** Department of Human Services; certain county governments.

Executive Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	\$0	\$0	\$0
State Revenue	(\$2.2 million)	(\$4.4 million)	(\$6.6 million)
Local Cost	\$0	\$0	\$0
Local Revenue	\$0	\$0	\$0

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Unable to determine.	Unable to determine.	Unable to determine.
State Revenue	(\$2.0 million - \$3.4 million)	(\$2.0 million - \$3.4 million)	(\$2.0 million - \$3.4 million)
Local Cost	\$0.2 million - \$0.34 million (minimum).	\$0.2 million - \$0.34 million (minimum).	\$0.2 million - \$0.34 million (minimum).
Local Revenue	Unable to determine.	Unable to determine.	Unable to determine.

! The amount of revenue the State has recovered from patients (through liens) has ranged from \$2.0 million - \$3.4 million in recent years and has not reached the \$4.4 million - \$6.6 million

figure cited by the Office of Management and Budget (OMB) for the second and third years.

- ! As counties are responsible for 10 percent of the cost of patients at State psychiatric hospitals in most instances, the loss of between \$2.0 million - \$3.4 million in State revenues may increase county expenditures by between \$0.2 million - \$0.34 million (minimum). In addition, the six counties that operate psychiatric hospitals will have to assume 10 percent of any lost revenues from liens for care of patients at county psychiatric hospitals.
- ! State reimbursement to the six county psychiatric hospitals will increase as a result of any reduction in revenues collected by the county hospitals through liens because the State pays 90 percent of such costs. Though the amount collected by the counties may not be significant, no information is readily available as to the amount counties collect.

BILL DESCRIPTION

Senate Committee Substitute for Senate Bill No. 880 of 2004 revises the financial obligations of persons with mental illness who receive treatment at State or county psychiatric facilities and eliminates liens filed against these persons by the facilities. Among the bill's main provisions are:

- C A person with mental illness over the age of 18 shall be liable to contribute toward the cost of his treatment, maintenance and all necessary and related expenses of the person's hospitalization until he is determined to be ineligible for or has exhausted any third party insurance benefits or medical assistance program that will pay an amount toward the facility's bill. The obligation by the person for the remainder of the facility's bill will be in an amount based on the sliding scale fee schedule established for charity care pursuant to N.J.S.A.26:2H-18.60. The obligation of a parent of a person with mental illness who is under the age of 18 shall be based on the lesser of the charity care amount or the formula of financial ability to pay as promulgated annually by the Department of the Treasury.
- C A person with mental illness or a person responsible under a court order for the cost of care and maintenance of a person with mental illness who, without good cause, (a) refuses to submit information and authorizations sufficient to enable the facility to access any available third-party payer, or (b) refuses to apply for public medical assistance for which the person with mental illness may be eligible, shall be responsible for the full cost of the person's care and maintenance at the facility.
- C Pursuant to N.J.S.A.30:4-60, the Department of Human Services (DHS) or the county adjuster, as applicable, is authorized to make a determination on the amount the person with mental illness or parent shall be liable to contribute toward the cost of the person's treatment, maintenance and all necessary and related expenses of the hospitalization. The person or parent's liability may be enforced by the DHS.
- C In the case of a person with mental illness who is married, DHS shall establish a spousal share of the combined assets of the couple that shall be preserved for the noninstitutionalized spouse and immune from execution to satisfy the person's liability to contribute toward the cost of treatment, maintenance and all necessary and related expenses of the person's hospitalization, utilizing the methodology used by the State Medicaid program to determine the resources that are preserved for the needs of the community spouse of an institutionalized individual in accordance with N.J.A.C. 10:71-4.8.
- C The DHS is authorized to act on any request by a person with mental illness who is 18 years of age or older, or the parent of a person with mental illness under the age of 18, to compromise for settlement of the obligation. With respect to the request, the commissioner shall allow the person or parent to retain adequate funds for certain dependent care, medical

expenses or other financial needs.

- C All existing liens for State or county psychiatric facility care are extinguished as of the date of enactment of the substitute and shall have no further legal effect. The substitute also provides that no new liens shall be filed by a psychiatric facility after the date of enactment.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The OMB has estimated that the State will lose \$2.2 million in revenues in the first fiscal year after enactment, \$4.4 million in the second year and \$6.6 million in the third year.

OFFICE OF LEGISLATIVE SERVICES

The OMB's estimate that State revenues will be reduced by \$2.2 million in the first year after enactment is reasonable, as the State has collected between \$2.0 million - \$3.4 million in recoveries primarily from patient liens over the past few years.

However, as the State has only collected between \$2.0 million - \$3.4 million in recoveries in recent years, the estimate that the State would lose \$4.4 million and \$6.6 million in revenues in the second and third years, respectively, appears excessive.

The OMB estimate, however, does not consider that:

- C Counties would be liable for a portion of any reduction in State revenues; and
- C The six counties that operate psychiatric hospitals (Bergen, Burlington, Camden, Essex, Hudson and Union) may experience a reduction in patient recoveries from liens, which will increase State and county expenditures.

As counties pay 10 percent of the cost for patients at State psychiatric hospitals, the loss of \$2.0 million - \$3.4 million in revenues may increase county expenditures by about \$0.2 million - \$0.34 million annually.

The amount of patient recoveries the six county psychiatric hospitals will lose is not readily available; however, because county psychiatric hospital costs are shared between the State and county on a 90 percent/10 percent basis, an annual reduction of \$1.0 million in county revenues will require an additional \$0.9 million in State funds to reimburse the six county hospitals. Also, County expenditures would increase by \$0.1 million.

Section: *Human Services*

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

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Codey Removes Road Block to Recovery

Acting Governor Signs “Lien Law” at Mental Health Summit

(SOUTH ORANGE) – Acting Governor Richard J. Codey today signed legislation that wipes out existing liens for individuals who have been hospitalized at a state or county psychiatric hospital and prohibits future liens.

“As of today, people who cannot afford their stay at a state or county hospital, will no longer have liens hanging over their heads when they are released,” said Codey. “We are wiping out a draconian law that penalized our most vulnerable citizens and made their recovery that much harder.”

The Acting Governor signed A779 during a statewide mental health summit focusing on living successfully with mental illness. He was joined by First Lady Mary Jo Codey and Mental Health Task Force Chairman Robert N. Davison.

“We are in the midst of a period of unprecedented progress in the way New Jersey citizens approach the subject of mental health and mental illness,” the First Lady said. “Governor Codey is deeply committed to promoting legislative reform that brings about meaningful change for all individuals and families whose lives are affected by mental illness.”

The new law prohibits state and county facilities from placing liens on the assets of individuals who cannot afford to pay for care after being involuntarily committed to a state or county psychiatric hospital. The law also extinguishes any existing liens.

“In signing this bill into law, Governor Codey is relieving individuals with mental illness of a grossly unfair financial burden,” said Davison. “Repealing the unjust lien law allows consumers to continue their journey to recovery. This is yet another example of Governor Codey's compassionate leadership.”

The bill's sponsors include: Assemblymen Reed Gusciora and John Wisniewski, Assemblywomen Loretta Weinberg and Bonnie Watson Coleman, and Senators Shirley K. Turner and Walter J. Kavanaugh.

“Many patients are released from such institutions only to face a burdensome lien placed against their assets,” said Gusciora (D-Mercer). “Recovering patients and their families are then left with overwhelming financial burdens running into the tens of thousands of dollars.”

Under the former law, a psychiatric hospital could impose an automatic lien on a spouse or family members for the cost of care. The law was instituted in 1918 when mental patients were warehoused, not treated.

“It is about time we removed this stigma. Mental health treatment for people with limited means should be handled like other medical services that are covered by the state's charity care program,” said Weinberg (D-Bergen).

Patients still may be required to pay for mental health care services, but establishing a sliding-scale payment plan would be more appropriate than automatic liens.

“It is unconscionable that we penalize discharged patients, despite their inability to pay off these liens,” said Watson Coleman (D-Mercer). “The liens not only stigmatize them for life, but often prevent recovering patients from purchasing a home or applying for jobs that require background checks.”

Wisniewski (D-Middlesex) agreed.

“Patients should have the opportunity to pay for their treatment within a reasonable time frame, as is the case with physical ailments under charity care,” Wisniewski said.

Turner (D-Mercer) expanded on Wisniewski’s remarks.

“The state's charity care programs must provide equal coverage for both the mentally ill and non-mentally ill,” said Turner. “This measure is designed to renew our commitment to ensuring that all New Jerseyans have access to the health care they need without putting their family's financial well-being at risk.”

Kavanaugh (R-Morris, Somerset) said: “For too long the mentally ill have been shunned as if they were second-class citizens. I am glad to be part of this effort to change that, so those in need of treatment don't have to sacrifice their dignity to get the help they deserve.”

Codey was also joined by summit panelists Nora Bell, of Essex County, Angel Sanchez, of Passaic County, and Peggy Swarbick, of Monmouth County. All three panelists shared their personal experiences with mental illness.

“I am especially happy to show support for Governor Codey’s initiatives for assisting people with mental illness,” said Sanchez. “When someone is struggling, the availability of treatment, access to safe housing and support in regaining employment can truly be the difference between life and death.”

The summit was held at Seton Hall University and hosted by the Governor’s Task Force on Mental Health, which Codey established by executive order on Nov. 16, his first day as Acting Governor. The task force is charged with recommending way to provide better community-based services, improve access to care and offer better quality care. A report is

due March 31.