

SENATE BILL 302

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71r1203
CF HB 325

By: **Senators Kelley, Astle, Conway, Currie, Della, Forehand, Garagiola,
Hogan, Klausmeier, Middleton, Pinsky, and Pugh**

Introduced and read first time: January 31, 2007

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **State Residential Centers – Money Follows the Individual Act**

3 FOR the purpose of prohibiting the Department of Health and Mental Hygiene from
4 denying an individual home– and community–based waiver services when the
5 individual resides in a State residential center and certain criteria are met;
6 providing that nothing in this Act is intended to result in a certain reduction of
7 federal funds; requiring the Department to notify certain residents of State
8 residential centers about certain opportunities to participate in a certain
9 waiver; requiring the Department to submit a certain annual report; defining a
10 certain term; and generally relating to individuals living in State residential
11 centers and access to home– and community–based waivers.

12 BY adding to

13 Article – Health – General

14 Section 15–135.1

15 Annotated Code of Maryland

16 (2005 Replacement Volume and 2006 Supplement)

17 Preamble

18 WHEREAS, The Written Plan of Habilitation (§ 7–904 of the Health – General
19 Article) requires that the individual written plan for each individual residing at a
20 State residential center include a recommendation regarding the most integrated
21 setting to meet the individual’s needs and barriers to providing services in the most
22 integrated setting; and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 WHEREAS, Ninety percent of the individuals reviewed to date have a finding
2 from the independent resource coordinator that community residential services are the
3 most integrated setting; and

4 WHEREAS, The Department of Health and Mental Hygiene's report on the
5 Written Plan of Habilitation for Individuals in State Residential Centers to the
6 General Assembly states that "capacity is not a significant barrier for most individuals
7 if funding is available"; and

8 WHEREAS, No funding has been provided in the Department's budget to
9 transition individuals from State residential centers to appropriate community
10 services; now, therefore,

11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
12 MARYLAND, That the Laws of Maryland read as follows:

13 **Article - Health - General**

14 **15-135.1.**

15 (A) IN THIS SECTION, "STATE RESIDENTIAL CENTER" HAS THE
16 MEANING STATED IN § 7-101 OF THIS ARTICLE.

17 (B) THE DEPARTMENT MAY NOT DENY AN INDIVIDUAL ACCESS TO A
18 HOME- AND COMMUNITY-BASED SERVICES WAIVER DUE TO A LACK OF FUNDING
19 FOR WAIVER SERVICES IF:

20 (1) THE INDIVIDUAL IS LIVING IN A STATE RESIDENTIAL CENTER;

21 (2) THE INDIVIDUAL MEETS THE ELIGIBILITY CRITERIA FOR
22 PARTICIPATION IN THE HOME- AND COMMUNITY-BASED SERVICES WAIVER;
23 AND

24 (3) THE HOME- AND COMMUNITY-BASED SERVICES PROVIDED TO
25 THE INDIVIDUAL QUALIFY FOR FEDERAL MATCHING FUNDS.

26 (C) NOTHING IN THIS SECTION IS INTENDED TO RESULT IN A
27 REDUCTION OF FEDERAL FUNDS AVAILABLE TO THE DEPARTMENT.

1 **(D) (1) ON OR BEFORE SEPTEMBER 1, 2007, THE DEPARTMENT**
2 **SHALL NOTIFY ALL STATE RESIDENTIAL CENTER RESIDENTS WHOSE**
3 **INTERMEDIATE CARE FACILITY/MENTAL RETARDATION SERVICES ARE PAID BY**
4 **THE PROGRAM ABOUT THE OPPORTUNITY TO APPLY FOR A HOME- AND**
5 **COMMUNITY-BASED WAIVER.**

6 **(2) THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS**
7 **SUBSECTION SHALL BE PROVIDED TO EACH RESIDENT ANNUALLY AS PART OF**
8 **THE WRITTEN PLAN OF HABILITATION DISCUSSION ON THE MOST INTEGRATED**
9 **SETTING REQUIRED UNDER § 7-1006 OF THIS ARTICLE.**

10 **(E) ON OR BEFORE JANUARY 1 OF EACH YEAR, THE DEPARTMENT**
11 **SHALL REPORT TO THE GOVERNOR AND THE GENERAL ASSEMBLY, IN**
12 **ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON:**

13 **(1) THE DEPARTMENT'S EFFORTS TO PROMOTE HOME- AND**
14 **COMMUNITY-BASED SERVICES; AND**

15 **(2) THE NUMBER OF INDIVIDUALS WHO HAVE TRANSITIONED**
16 **FROM STATE RESIDENTIAL CENTERS TO HOME- AND COMMUNITY-BASED**
17 **WAIVER SERVICES.**

18 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
19 **July 1, 2007.**