

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

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 21, 2007

CHAPTER _____

1 AN ACT concerning

2 ~~State Residential Centers – Money Follows the Individual Act~~
3 Department of Health and Mental Hygiene – Money Follows the Person
4 Grant – Report

5 FOR the purpose of ~~prohibiting the Department of Health and Mental Hygiene from~~
6 ~~denying an individual home and community based waiver services when the~~
7 ~~individual resides in a State residential center and certain criteria are met;~~
8 ~~providing that nothing in this Act is intended to result in a certain reduction of~~
9 ~~federal funds; requiring the Department to notify certain residents of State~~
10 ~~residential centers about certain opportunities to participate in a certain~~
11 ~~waiver; requiring the Department to submit a certain annual report; defining a~~
12 ~~certain term; and generally relating to individuals living in State residential~~
13 ~~centers and access to home and community based waivers~~ requiring the
14 Department of Health and Mental Hygiene to make a certain report to certain
15 committees of the General Assembly on or before a certain date each year;
16 providing for the termination of this Act; and generally relating to the
17 Department of Health and Mental Hygiene and the Money Follows the Person
18 grant.

19 BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Article – Health – General
 2 Section ~~15-135.1~~ 15-144
 3 Annotated Code of Maryland
 4 (2005 Replacement Volume and 2006 Supplement)

5 **Preamble**

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

11 ~~WHEREAS, Ninety percent of the individuals reviewed to date have a finding~~
 12 ~~from the independent resource coordinator that community residential services are the~~
 13 ~~most integrated setting; and~~

14 ~~WHEREAS, The Department of Health and Mental Hygiene’s report on the~~
 15 ~~Written Plan of Habilitation for Individuals in State Residential Centers to the~~
 16 ~~General Assembly states that “capacity is not a significant barrier for most individuals~~
 17 ~~if funding is available”; and~~

18 ~~WHEREAS, No funding has been provided in the Department’s budget to~~
 19 ~~transition individuals from State residential centers to appropriate community~~
 20 ~~services; now, therefore,~~

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

23 **Article – Health – General**

24 ~~15-135.1.~~

25 ~~(A) IN THIS SECTION, “STATE RESIDENTIAL CENTER” HAS THE~~
 26 ~~MEANING STATED IN § 7-101 OF THIS ARTICLE.~~

27 ~~(B) THE DEPARTMENT MAY NOT DENY AN INDIVIDUAL ACCESS TO A~~
 28 ~~HOME AND COMMUNITY-BASED SERVICES WAIVER DUE TO A LACK OF FUNDING~~
 29 ~~FOR WAIVER SERVICES IF:~~

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

1 ~~(2) THE INDIVIDUAL MEETS THE ELIGIBILITY CRITERIA FOR~~
2 ~~PARTICIPATION IN THE HOME AND COMMUNITY-BASED SERVICES WAIVER;~~
3 ~~AND~~

4 ~~(3) THE HOME AND COMMUNITY-BASED SERVICES PROVIDED TO~~
5 ~~THE INDIVIDUAL QUALIFY FOR FEDERAL MATCHING FUNDS.~~

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

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

13 ~~(2) THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS~~
14 ~~SUBSECTION SHALL BE PROVIDED TO EACH RESIDENT ANNUALLY AS PART OF~~
15 ~~THE WRITTEN PLAN OF HABILITATION DISCUSSION ON THE MOST INTEGRATED~~
16 ~~SETTING REQUIRED UNDER § 7-1006 OF THIS ARTICLE.~~

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

20 ~~(1) THE DEPARTMENT'S EFFORTS TO PROMOTE HOME AND~~
21 ~~COMMUNITY-BASED SERVICES; AND~~

22 ~~(2) THE NUMBER OF INDIVIDUALS WHO HAVE TRANSITIONED~~
23 ~~FROM STATE RESIDENTIAL CENTERS TO HOME AND COMMUNITY-BASED~~
24 ~~WAIVER SERVICES.~~

25 15-144.

26 (A) ON OR BEFORE JANUARY 1 OF EACH YEAR, THE DEPARTMENT
27 SHALL REPORT TO THE SENATE BUDGET AND TAXATION COMMITTEE, THE
28 SENATE FINANCE COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE,
29 AND THE HOUSE HEALTH AND GOVERNMENT OPERATIONS COMMITTEE, IN
30 ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE
31 STATUS OF THE STATE'S MONEY FOLLOWS THE PERSON GRANT.

1 **(B) THE REPORT REQUIRED UNDER SUBSECTION (A) OF THIS SECTION**
2 **SHALL INCLUDE:**

3 **(1) AN UPDATE ON COMMUNICATIONS BETWEEN THE**
4 **DEPARTMENT AND THE CENTERS FOR MEDICARE AND MEDICAID SERVICES**
5 **RELATED TO THE GRANT;**

6 **(2) INFORMATION ON FUNDING RECEIVED FROM THE CENTERS**
7 **FOR MEDICARE AND MEDICAID SERVICES UNDER THE GRANT;**

8 **(3) THE NUMBER OF INDIVIDUALS MOVED OUT OF**
9 **INSTITUTIONAL SETTINGS UNDER THE GRANT, BY TYPE OF INSTITUTION; AND**

10 **(4) ANY PLANS OR POLICIES DEVELOPED BY THE DEPARTMENT**
11 **TO MOVE INDIVIDUALS OUT OF INSTITUTIONAL SETTINGS.**

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 July 1, 2007. It shall remain effective for a period of 6 years and, at the end of June
14 30, 2013, with no further action required by the General Assembly, this Act shall be
15 abrogated and of no further force and effect.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.