

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 779

STATE OF NEW JERSEY
211th LEGISLATURE

ADOPTED DECEMBER 2, 2004

Sponsored by:

Assemblyman REED GUSCIORA

District 15 (Mercer)

Assemblywoman LORETTA WEINBERG

District 37 (Bergen)

Assemblywoman BONNIE WATSON COLEMAN

District 15 (Mercer)

Assemblyman JOHN S. WISNIEWSKI

District 19 (Middlesex)

Co-Sponsored by:

Assemblyman Munoz, Assemblywomen Previte, Pou, Quigley, Assemblymen Biondi, Conaway, Connors, Green, Payne, Pennacchio, Russo, Roberts, Assemblywomen Vandervalk, Cruz-Perez, Assemblymen Merkt, Van Drew, R.Smith, Carroll, DeCroce, Dancer, Wolfe, McKeon, Fisher, O'Toole, Assemblywomen McHose, Greenstein, Assemblymen Mayer, Eagler, Senators Turner, Kavanaugh, Inverso, Vitale, B.Smith and Allen

SYNOPSIS

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

CURRENT VERSION OF TEXT

Substitute as adopted by the Assembly Appropriations Committee.

(Sponsorship Updated As Of: 2/15/2005)

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 is 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] with mental illness, whose mental illness causes the
16 person to be dangerous to self or dangerous to others or property and
17 who is unwilling to be admitted to a facility voluntarily for care, and
18 who needs care at a short-term care, psychiatric facility or special
19 psychiatric hospital because other services are not appropriate or
20 available to meet the 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 persons with developmental disabilities; except that with respect to the
24 maintenance provisions of Title 30 of the Revised Statutes, institution
25 also means any psychiatric facility for the treatment of [the mentally
26 ill] persons with mental illness.
- 27 o. "Mental health agency or facility" means a legal entity which
28 receives funds from the State, county or federal government to provide
29 mental health services.
- 30 p. "Mental health screener" means a psychiatrist, psychologist,
31 social worker, registered professional nurse or other individual trained
32 to do outreach only for the purposes of psychological assessment who
33 is employed by a screening service and possesses the license, academic
34 training or experience, as required by the commissioner pursuant to
35 regulation; except that a psychiatrist and a State licensed clinical
36 psychologist who meet the requirements for mental health screener
37 shall not have to comply with any additional requirements adopted by
38 the commissioner.
- 39 q. "Mental hospital" means, for the purposes of the payment and
40 maintenance provisions of Title 30 of the Revised Statutes, a
41 psychiatric facility.
- 42 r. "Mental illness" means a current, substantial disturbance of
43 thought, mood, perception or orientation which significantly impairs
44 judgment, capacity to control behavior or capacity to recognize reality,
45 but does not include simple alcohol intoxication, transitory reaction to
46 drug ingestion, organic brain syndrome or developmental disability

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

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

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

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

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

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

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

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

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

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

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

46 cc. "Special psychiatric hospital" means a public or private

1 hospital licensed by the Department of Health and Senior Services to
2 provide voluntary and involuntary mental health services, including
3 assessment, care, supervision, treatment and rehabilitation services to
4 persons [who are mentally ill] with mental illness.

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

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

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

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

24
25 2. R.S.30:4-34 is amended to read as follows:

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

42 The county adjuster shall have charge and supervision of the
43 preparation of papers relating to the commitment of [the mentally ill]
44 persons with mental illness in such county, and in cases arising in
45 other counties in which the legal settlement appears to be in his
46 county. Classification under civil service rules shall not be affected by

1 reason of such designation or additional duties, and additional
2 compensation, if any, for such services may be fixed by the county
3 governing body and paid in the same manner as other county
4 employees are paid. Each county governing body shall notify the
5 various institutions for [the mentally ill] persons with mental illness
6 of the name and address of the county adjuster.

7 The judge of the Superior Court within the county may appoint the
8 county adjuster to act as referee for the purpose of taking testimony
9 bearing solely on the question of legal settlement and the financial
10 ability of the [mentally ill patient or his legally responsible relatives]
11 person with mental illness or the parent of the person with mental
12 illness, if the person is under the age of 18, to pay the cost of
13 maintenance, in accordance with the provisions of R.S.30:4-60, and
14 shall make return to the court of his findings, conclusions and
15 recommendations. Such findings, conclusions and recommendations
16 shall be subject to the approval of the court and shall not be effective
17 until incorporated in an appropriate order or judgment of the court.
18 The county adjuster, acting as such referee, may subpoena witnesses
19 and compel their attendance on forms approved by the court.
20 (cf: P.L.1998, c.92, s.1)

21

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

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

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

1 if the person is under the age of 18, with notice of the amount required
2 to be paid by the terms of the court order.

3 At the time of making the final judgment, the court shall further tax
4 a filing fee of \$1.00 to be paid to the clerk for the use of the county in
5 each case, which fee shall be paid in all nonindigent cases by the
6 person made chargeable in the judgment, and in all indigent cases by
7 the county in which the action is had unless the indigent person is
8 chargeable to another county in which case such other county shall be
9 liable for the fee.

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

11

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

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

45 If on final hearing a patient and his chargeable relatives are found
46 unable to pay an amount for maintenance in excess of the amount

1 chargeable to the county of legal settlement, the court shall direct that
2 such patient be committed to the institution as a patient chargeable to
3 the county of legal settlement, if any, or to the State, as provided in
4 this article, and on reasonable notice to the persons to be charged, may
5 further direct that such patient or his or her chargeable relatives, or
6 any of them, pay monthly in advance to the institution in which such
7 patient is confined in the case of State patients, or to the county
8 treasurer of the county chargeable in the case of county patients, such
9 part of the cost of the maintenance of such patient as the court may
10 direct in the manner provided herein.]

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

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

35 The department shall annually review and revise, as appropriate,
36 its payment calculations. If the financial circumstances of the person
37 or persons chargeable by law or contract for the [developmentally
38 disabled person's] support of the developmentally disabled person
39 change prior to the annual review, the chargeable person or persons
40 shall immediately notify the department in writing.

41 c. (1) A person with mental illness who is 18 years of age or older
42 and is being treated in a psychiatric facility as defined in section 2 of
43 P.L.1987, c.116 (C.30:40-27.2) shall be liable for the full cost of his
44 treatment, maintenance and all necessary and related expenses of the
45 person's hospitalization until he is determined to be ineligible for or
46 has exhausted any third party insurance benefits or medical assistance

1 program that will pay an amount toward the facility's bill. The
2 obligation by the person with mental illness for the remainder of the
3 facility's bill, after the credit for all available third party insurance
4 payments or medical assistance program payment, will be in an amount
5 based upon the sliding scale fee schedule established for charity care
6 pursuant to subsection b. of section 10 of P.L.1992, c.160 (C.26:2H-
7 18.60).

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

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

24 (4) Based upon the criteria set forth in paragraphs (1) and (2) of
25 this subsection, the Department of Human Services or county adjuster
26 in the county of settlement, as applicable, shall make a determination
27 of the amount the person with mental illness who is 18 years of age or
28 older, or the parent of a person with mental illness under the age of
29 18, shall be liable to contribute toward the cost of the person's
30 treatment, maintenance and all necessary and related expenses of the
31 person's hospitalization. The liability may be enforced by the
32 Commissioner of Human Services in the manner set forth in section 1
33 of P.L.1962, c.207 (C.30:4-75.1).

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

45 (6) The Commissioner of Human Services shall act on any request
46 by a person with mental illness who is 18 years of age or older, or the

1 parent of a person with mental illness under the age of 18, to
2 compromise for settlement of the obligation established pursuant to
3 this section. With respect to the request, the commissioner shall allow
4 the person or parent to retain adequate funds to:

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

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

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

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

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

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

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

19

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

21 30:4-63. a. The court may, after final hearing, commit any
22 **[patient]** person with mental illness to any State or county psychiatric
23 institution irrespective of the **[patient's]** person's legal settlement
24 where provision is made for his care and maintenance, in an amount
25 approved by the State Board of Human Services or by the board of
26 chosen freeholders, as the case may be. The **[patient]** person may
27 remain as a full paying patient in such institution as long as such sum
28 shall be regularly paid out of the estate of **[such patient]** the person,
29 or by the person or persons chargeable by law with his care and
30 maintenance, or under contract. In the event that such sum cannot be
31 paid because of a change in the financial circumstances of the
32 **[patient]** person with mental illness or his legally responsible relatives
33 then the court may make such order as may be necessary with regard
34 to the manner and the amount of maintenance which shall be paid on
35 behalf of the **[patient]** person with mental illness and by whom.

36 b. The **[department]** Department of Human Services may admit
37 a person found eligible for functional services from the Division of
38 Developmental Disabilities to a residential functional services
39 placement irrespective of the person's legal settlement if provision is
40 made for the payment of the full cost of the person's care and
41 maintenance, in an amount approved by the State Board of Human
42 Services. The person may remain as a full paying person in the
43 residential functional services placement, or in another residential
44 functional services placement deemed appropriate by the department,
45 as long as the full per capita amount for the placement is regularly paid
46 from the person's income, benefits, assets, resources or estate, or by

1 the person chargeable by law or under contract with his care and
2 maintenance.

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

4

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

6 30:4-66. Every [patient] person supported in a State or county
7 charitable institution or other residential functional service pursuant to
8 section 13 of P.L.1965, c.59 (C.30:4-25.1) shall be personally liable
9 for his maintenance and for all necessary expenses incurred by the
10 institution or other residential functional service in his behalf and the
11 [husband, wife and] father or mother of a child under 18 years of age,
12 severally and respectively, being of sufficient ability, of every
13 [patient] person so confined, whose estate is not sufficient for his
14 support, shall support, and maintain the patient in the institution or
15 other residential functional service, as the case may be, in such manner
16 and to such an amount as the court shall direct pursuant to subsection
17 [a.] c. of R.S.30:4-60 in the case of mentally ill patients, and in the
18 case of developmentally disabled persons, as required pursuant to
19 subsection b. of R.S.30:4-60. [All spouses living separate and apart
20 from their spouses so confined, and all parents of illegitimate children
21 so confined shall also be personally liable for such expense.] But no
22 payment shall be ordered to be made by a chargeable relative 55 years
23 of age or over except with respect to the maintenance of [his or her
24 spouse or] his or her natural or adopted child under the age of 18
25 years.

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

27

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

30 1. Every [charitable] institution or other residential service
31 maintained in whole or in part by State or county funds, [to which
32 persons have been or may be committed or admitted by virtue of Title
33 30 of the Revised Statutes] which provides inpatient care, supervision
34 and treatment for persons with developmental disabilities, shall have
35 a lien against the property of [persons confined or who had been
36 confined therein,] a person receiving functional services from that
37 institution or service for the total cost of the care and maintenance of
38 the [patient] person in [such] the institution at the per capita cost
39 rate of maintenance fixed in accordance with law. [Such a] The lien
40 shall also attach to the real and personal property of any person
41 chargeable by law with the support and maintenance of [such patient]
42 the person and against whom a court of competent jurisdiction has
43 entered an order directing [such] the person to pay all or a part of the
44 cost of maintaining [such patient] the person in [a State or county
45 hospital] an institution, provided that the amount of the lien shall not

1 exceed the amount of maintenance required to be paid by [such] the
2 order of court. The lien shall also attach to the real and personal
3 property of any person chargeable by law with the support and
4 maintenance of the [patient] person pursuant to subsection b. of
5 R.S.30:4-60, but the amount of the lien shall not exceed the amount
6 of maintenance to be paid. [Such lien] Liens under this section, when
7 properly filed as set forth herein, shall have priority over all
8 unrecorded encumbrances and shall be at the rate to be determined as
9 provided in Title 30 of the Revised Statutes.

10 (cf: P.L.1995, c.155, s.23)

11
12 8. (New section) All liens filed against a person treated at a
13 psychiatric facility as defined in section 2 of P.L.1987, c.116 (C.30:4-
14 27.2), prior to the effective date of P.L. , c. (pending before the
15 Legislature as this bill), are hereby extinguished and shall have no legal
16 effect. No new liens shall be filed by a psychiatric facility on or after
17 the effective date of P.L. , c. (pending before the Legislature as this
18 bill), against a person treated at the facility.

19
20 9. Section 6 of P.L.1938, c. 239 (C. 30:4-80.6) is amended to read
21 as follows:

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

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

38 c. [The commissioner, with regard to State institutions, or board
39 of freeholders, or a proper committee thereof, as the case may be, with
40 regard to county institutions,] In the case of any lien not covered by
41 the provisions of subsection a. of this section, the Commissioner of
42 Human Services is hereby authorized to compromise for settlement
43 any lien filed under the provisions of this act for the maintenance of
44 any patient. A memorandum of the compromise and settlement shall
45 be entered in the records of the [State] institution affected thereby
46 [or in the official minutes of the board of freeholders or committee]

1 and shall be sufficient authorization for a complete discharge of the
2 lien.

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

4

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

10

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