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2011-2012 Regular Sessions

I N S E N A T E

February 7, 2011

Introduced by Sen. HUNTLEY -- read twice and ordered printed, and when printed to be committed to the Committee on Mental Health and Developmental Disabilities

AN ACT to amend the mental hygiene law, in relation to establishing a program of tiered eligibility for services offered by the office for people with developmental disabilities for persons with learning disabilities and other complex neurological impairments

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The mental hygiene law is amended by adding a new section  
2 41.59 to read as follows:  
3 S 41.59 TIERED SERVICES ELIGIBILITY.  
4 1. LEGISLATIVE FINDINGS AND PURPOSE. THE LEGISLATURE HEREBY FINDS THAT  
5 INDIVIDUALS WITH LEARNING DISABILITIES AND OTHER COMPLEX NEUROLOGICAL  
6 IMPAIRMENTS ARE OFTEN NOT PROVIDED ESSENTIAL SUPPORT AND HABILITATIVE  
7 SERVICES DUE TO THE LACK OF ESTABLISHED OFFICE FOR PEOPLE WITH DEVELOP-  
8 MENTAL DISABILITIES' ELIGIBILITY PROTOCOLS. THIS INCLUDES INDIVIDUALS  
9 WITH LEARNING DISABILITIES, HIGH FUNCTIONING AUTISM SPECTRUM DISORDERS,  
10 SUCH AS ASPERGER'S SYNDROME, AND A NUMBER OF OTHER COMPLEX NEUROLOGICAL-  
11 LY BASED COGNITIVE DISABILITIES. UNFORTUNATELY, THESE INDIVIDUALS ARE  
12 THEN LEFT TO NAVIGATE THEIR LIVES AND THE CHALLENGES OF THEIR DISABILI-  
13 TIES WITH MINIMAL OR NO ASSISTANCE. AS A RESULT, SUCH INDIVIDUALS OFTEN  
14 LEAD LIVES OF GREAT DIFFICULTY AND VULNERABILITY THAT MAY INCLUDE, BUT  
15 ARE NOT LIMITED TO, EXTENDED PERIODS OF INCARCERATION, LIFELONG DEPEND-  
16 ENCE ON PUBLIC ASSISTANCE, SUBSTANCE ABUSE, AND VICTIMIZATION, COUPLED  
17 WITH MANY OTHER NEGATIVE AND COSTLY OUTCOMES. IN RESPONSE TO THIS GROW-  
18 ING PROBLEM, THE LEGISLATURE HEREBY DIRECTS THE COMMISSIONER OF DEVELOP-  
19 MENTAL DISABILITIES TO DEVELOP AND IMPLEMENT A PROGRAM OF TIERED ELIGI-  
20 BILITY FOR OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES' SERVICES  
21 FOR PERSONS WITH LEARNING DISABILITIES AND OTHER COMPLEX NEUROLOGICAL  
22 IMPAIRMENTS. THIS TIERED SERVICE-DELIVERY MODEL WOULD ALLOW SERVICES TO

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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1 BE TARGETED AND BASED ON AN INDIVIDUAL'S SPECIFIC NEEDS, WHICH FOR SOME  
2 MAY BE MORE INTENSIVE AND FOR OTHERS RELATIVELY MINIMAL. THIS MODEL WILL  
3 ALSO FACILITATE RAPID RESPONSE TO ADDRESSING PROBLEMS ENCOUNTERED BY  
4 INDIVIDUALS IN CRISIS. PROVIDING SERVICES THAT ARE TRULY NEEDED WILL BE  
5 MORE COST EFFECTIVE AND A MORE SENSIBLE OPTION THAN THE CURRENT ELIGI-  
6 BILITY PROCESS UTILIZED BY THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL  
7 DISABILITIES.

8 2. WHEN USED IN THIS ARTICLE, UNLESS OTHERWISE EXPRESSLY STATED OR  
9 UNLESS THE CONTEXT OTHERWISE REQUIRES:

10 (A) "LEARNING DISABILITY" MEANS A DISORDER IN ONE OR MORE OF THE BASIC  
11 PSYCHOLOGICAL PROCESSES INVOLVED IN UNDERSTANDING OR IN USING SPOKEN OR  
12 WRITTEN LANGUAGE, WHICH MAY MANIFEST ITSELF IN AN IMPERFECT ABILITY TO  
13 LISTEN, THINK, SPEAK, READ, WRITE, SPELL OR TO DO MATHEMATICAL CALCU-  
14 LATIONS. THIS INCLUDES SUCH CONDITIONS AS PERCEPTUAL DISABILITIES, MINI-  
15 MAL BRAIN DYSFUNCTION, DYSLEXIA, DYSGRAPHIA, DYSCALCULIA, DYSPRAXIA, AND  
16 DEVELOPMENTAL APHASIA;

17 (B) "COMPLEX NEUROLOGICAL IMPAIRMENT" MEANS AUTISM SPECTRUM DISORDER,  
18 SUCH AS ASPERGER'S SYNDROME, OR OTHER COGNITIVE DISABILITIES OF A SIMI-  
19 LAR NATURE AND RESULTING IN SIMILAR NEEDS BY AFFECTED INDIVIDUALS;

20 (C) "INTENSIVE SERVICE NAVIGATION" MEANS A SERVICE WHOSE PRIMARY FUNC-  
21 TION IS TO CONNECT PERSONS WITH LEARNING DISABILITIES AND/OR OTHER  
22 COMPLEX NEUROLOGICAL IMPAIRMENTS TO APPROPRIATE SERVICES AND SUPPORTS.  
23 INTENSIVE SERVICE NAVIGATION COORDINATES ALL SERVICES FOR A PERSON WITH  
24 A LEARNING DISABILITY OR OTHER COMPLEX NEUROLOGICAL IMPAIRMENT INCLUD-  
25 ING, BUT NOT LIMITED TO, MENTAL HEALTH SERVICES, PARENTING CLASSES,  
26 SUPPORT GROUPS, RECREATIONAL ACTIVITIES, VOCATIONAL SERVICES, AND EDUCA-  
27 TIONAL TRANSITIONAL PLANNING AND ALL BASIC NEEDS OF THE INDIVIDUAL. THE  
28 SERVICES OF THE INTENSIVE SERVICE NAVIGATOR ARE TIME LIMITED AND  
29 ORIENTED TO SHORT TERM CRISIS INTERVENTION.

30 3. NOTWITHSTANDING ANY INCONSISTENT PROVISIONS OF THIS CHAPTER OR ANY  
31 OTHER STATE LAW, THE COMMISSIONER OF DEVELOPMENTAL DISABILITIES SHALL  
32 ESTABLISH A PROGRAM OF TIERED ELIGIBILITY FOR SERVICES OFFERED BY THE  
33 OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES FOR PERSONS WITH  
34 LEARNING DISABILITIES AND OTHER COMPLEX NEUROLOGICAL IMPAIRMENTS. SUCH  
35 PROGRAM SHALL CONTAIN THE FOLLOWING ELEMENTS:

36 (A) WHEN AN INDIVIDUAL PRESENTS TO A SERVICE PROVIDER SEEKING SUPPORT  
37 SERVICES, THE SERVICE PROVIDER SHALL DETERMINE IF THE INDIVIDUAL IS  
38 PRESENTING WITH A LEARNING DISABILITY OR OTHER COMPLEX NEUROLOGICAL  
39 IMPAIRMENT. IF THE SERVICE PROVIDER DETERMINES THAT THE INDIVIDUAL IS A  
40 PERSON WITH AN APPARENT LEARNING DISABILITY OR OTHER COMPLEX NEUROLOGI-  
41 CAL IMPAIRMENT, AND THAT SUCH INDIVIDUAL REQUIRES IMMEDIATE SERVICE IN  
42 ORDER TO PROTECT AND PROMOTE THE INDIVIDUAL'S HEALTH AND SAFETY, OR THAT  
43 THE INDIVIDUAL OTHERWISE FACES A CRISIS SITUATION THAT CAN BE HELPED BY  
44 SERVICE AND ASSISTANCE, THE SERVICE PROVIDER MAY IMPLEMENT THE TIERED  
45 SERVICES ELIGIBILITY PROGRAM;

46 (B) TIER ONE OF THE TIERED SERVICES ELIGIBILITY PROGRAM WILL CONSIST  
47 OF THE IMMEDIATE PROVISION OF INTENSIVE SERVICE NAVIGATION. THIS  
48 PROVISION OF SERVICES WILL BE PROVIDED FOR UP TO SIX MONTHS IN DURATION.  
49 THE SERVICE MAY END ANYTIME PRIOR TO THE END OF THE SIX-MONTH PERIOD IF  
50 THE INDIVIDUAL AND SERVICE PROVIDER AGREE THAT NO FURTHER SERVICE OR  
51 INTERVENTION IS REQUIRED. IF THE INDIVIDUAL AND SERVICE PROVIDER AGREE  
52 AT THE END OF THE SIX MONTH PERIOD THAT THE NEED FOR SERVICES PERSISTS  
53 AND MORE INTERVENTION IS REQUIRED, THE INDIVIDUAL WILL MOVE INTO TIER  
54 TWO;

55 (C) TIER TWO OF THE TIERED SERVICES ELIGIBILITY PROGRAM WILL BE  
56 PROVIDED FOR UP TO AN ADDITIONAL SIX-MONTH PERIOD AND PROVIDE:

1 (1) CONTINUATION AND INTENSIFICATION OF THE INTENSIVE SERVICE  
2 NAVIGATOR'S EFFORTS TO STABILIZE THE INDIVIDUAL'S CRISIS SITUATION;

3 (2) A PROCESS POTENTIALLY LEADING TO FULL ELIGIBILITY FOR OFFICE FOR  
4 PEOPLE WITH DEVELOPMENTAL DISABILITIES' SERVICES. AS PART OF THIS PROC-  
5 ESS, THE INTENSIVE SERVICE NAVIGATOR WILL CONDUCT AN ASSESSMENT OF THE  
6 INDIVIDUAL'S ADAPTIVE BEHAVIOR LEVELS, CONDUCT AN ASSESSMENT OF AN INDI-  
7 VIDUAL'S ABILITY TO EFFECTIVELY LEARN AND PUT INTO PRACTICE NEW ADAPTIVE  
8 SKILLS, AND GENERALLY PREPARE THE INDIVIDUAL FOR THE ELIGIBILITY PROC-  
9 ESS;

10 (D) IF DURING TIER TWO, THE INDIVIDUAL LEARNS NEW SKILLS AND THE  
11 CRISIS SUBSIDIES, THE INDIVIDUAL AND SERVICE PROVIDER CAN AGREE THAT  
12 SERVICES BE TERMINATED PRIOR TO THE CONCLUSION OF THIS TIER; AND

13 (E) IF THE INTENSIVE SERVICE NAVIGATOR AND INDIVIDUAL AGREE THAT THE  
14 INDIVIDUAL WOULD BENEFIT FROM ON-GOING SERVICE AND SUPPORT, THE INTEN-  
15 SIVE SERVICE NAVIGATOR WILL ASSIST THE INDIVIDUAL IN APPLYING TO THE  
16 OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES FOR A FULL ELIGIBILITY  
17 DETERMINATION.

18 4. THE COMMISSIONER OF DEVELOPMENTAL DISABILITIES SHALL, IN CONSULTA-  
19 TION WITH EXPERIENCED SERVICE PROVIDERS, DEVELOP A REIMBURSEMENT METHOD-  
20 OLOGY FOR INTENSIVE SERVICE NAVIGATION AS DESCRIBED IN THIS SECTION.  
21 SUCH REIMBURSEMENT SHALL COVER THE SERVICE PROVIDER'S REASONABLE COSTS  
22 FOR PROVIDING THIS SERVICE AND BE PAID TO THE SERVICE PROVIDERS AS PART  
23 OF THE USUAL AND CUSTOMARY COST REIMBURSEMENT PROCESS.

24 5. IN DEVELOPING THIS PROGRAM, THE COMMISSIONER OF DEVELOPMENTAL DISA-  
25 BILITIES SHALL CONSULT WITH A STATEWIDE ASSOCIATION SPECIFICALLY REPRES-  
26 ENTING INDIVIDUALS WITH LEARNING DISABILITIES AND RELATED SERVICES  
27 PROVIDERS.

28 S 2. This act shall take effect on the one hundred eightieth day after  
29 it shall have become a law; provided however, that the commissioner of  
30 developmental disabilities is authorized to promulgate any and all rules  
31 and regulations and take any other measures necessary to implement this  
32 act on its effective date on or before such effective date.