

[CORRECTED COPY]
CHAPTER 5

AN ACT concerning certain Division of Developmental Disabilities facilities and supplementing Title 30 of the Revised Statutes.

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

C.30:4-25.13 Definitions relative to certain Division of Developmental Disabilities facilities.

1. As used in this act:

"Division" means the Division of Developmental Disabilities in the Department of Human Services.

"Moderate Security Unit," hereafter referred to as "MSU," means a specialized, institutional treatment facility authorized and established by the Director of the Division of Developmental Disabilities in the Department of Human Services, which is: used as an alternative to detention in a correctional facility or as a residential requirement for probation; and characterized primarily by physical security for the confinement of males, 18 years of age or older, who are adjudicated to be dangerous to self, others or property and in need of a highly structured, therapeutic treatment program.

C.30:4-25.14 Admission to MSU by court orders.

2. An individual shall not be admitted to the MSU unless the admission is ordered by a court of competent jurisdiction pursuant to this act; an individual shall not be permitted to voluntarily admit himself to the MSU.

C.30:4-25.15 Procedures prior to admission to MSU.

3. The procedures provided in this section shall be implemented prior to admission of an individual to the MSU.

a. If the division is advised by a court of competent jurisdiction that an individual who may be developmentally disabled is involved in a criminal proceeding before the court, the division shall determine whether the individual is eligible for functional services provided by the division in accordance with sections 13 through 16 of P.L.1965, c.59 (C.30:4-25.1 through 30:4-25.4) and P.L.1985, c.145 (C.30:6D-23 et seq.).

If the division determines that the individual is not eligible for services provided by the division, the individual may request a hearing to contest the decision pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

b. If the individual is determined eligible for services provided by the division, the director of the division shall request the Director of the MSU to determine whether the individual is appropriate for, and will benefit from, admission to the MSU and whether a vacancy exists at the facility.

c. (1) If the individual is appropriate for, and will benefit from, admission to the MSU, and if a vacancy exists at the facility, the Director of the MSU shall so advise the court and request an order to require the individual to be housed at and participate in the program at the MSU.

(2) If the Director of the MSU is not certain about the appropriateness of the admission of the individual, the director may recommend that the court order that the individual be admitted to the MSU for a time-specified period to evaluate the individual's appropriateness for the program at the MSU.

C.30:4-25.16 Actions of the court relative to admission to MSU.

4. a. After the Director of the MSU advises the court that the individual may be admitted to the facility, in accordance with the provisions of subsection c. of section 3 of this act, the court may order the individual:

- (1) to be housed at and participate in the program at the MSU as a condition of probation;
- (2) to be housed at and participate in the program at the MSU until disposition of pending criminal charges against the individual; or
- (3) to be housed at and participate in the program at the MSU, and to be committed to the custody of the Commissioner of Human Services, in accordance with the provisions of N.J.S.2C:4-6, if the court finds that the individual is unfit to proceed.

b. The Director of the MSU shall notify the individual's legal guardian and his legal representative, if applicable, of the date of admission to the MSU.

C.30:4-25.17 Court review of order every six months, possible actions.

5. a. The court shall review its order to admit an individual to the MSU at least every six months. The court shall notify the Director of the MSU of the date of the review at least 30 days prior to that date.

b. The Director of the MSU shall, seven days prior to the court review, report to the court in writing regarding the status and progress of the individual admitted to the MSU, and shall send a copy of the report to the individual or his legal guardian, his legal representative, if applicable, the county prosecutor and any other person as ordered by the court.

c. (1) In the case of an individual admitted to the MSU as a condition of probation, the Director of the MSU may, as he determines appropriate, recommend to the court in his report that the individual be transferred to a less restrictive environment.

(2) The court may modify its order concerning probation in accordance with the recommendation of the Director of the MSU.

(3) If the order is modified, any further reports to the court required pursuant to this section shall be provided by the appropriate division employee or service provider.

C.30:4-25.18 Release from MSU.

6. a. An individual shall be released from the MSU when his probation period or his commitment to the custody of the Commissioner of Human Services ends or upon disposition of pending criminal charges.

b. Prior to the individual's release date, the Director of the MSU and the director of the division, or his designee, shall develop a plan of appropriate division services to be provided or made available to the individual after his release from the MSU.

c. Before an individual who has committed a sexually violent offense as defined in section 3 of P.L.1998, c.71 (C.30:4-27.26) is released from the MSU, the Director of the MSU shall require that the individual be evaluated by a psychiatrist for referral for commitment under P.L.1998, c.71 (C.30:4-27.24 et seq.).

C.30:4-25.19 Construction of act relative to commitment to functional services.

7. Nothing in this act shall be construed to limit the authority of the court to commit a person to the custody of the Commissioner of Human Services in accordance with the provisions of section 13 of P.L.1965, c.59 (C.30:4-25.1) for admission to functional services in an environment that is less restrictive than that of the MSU.

8. The Commissioner of Human Services shall adopt rules and regulations, pursuant to

the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to carry out the purposes of this act.

9. This act shall take effect on the 90th day after enactment, but the Commissioner of Human Services may take such anticipatory administrative action in advance as shall be necessary for the implementation of the act.

Approved April 11, 2006