

**SENATE, No. 2383**

**STATE OF NEW JERSEY**  
**215th LEGISLATURE**

INTRODUCED DECEMBER 17, 2012

**Sponsored by:**

**Senator ROBERT M. GORDON**

**District 38 (Bergen and Passaic)**

**SYNOPSIS**

Requires residential community release programs to file certain financial disclosure documents with DOC.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning residential community release programs and  
2 supplementing chapter 4 of Title 30 of the Revised Statutes.

3

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

6

7 1. a. For the purposes of this act:

8 “Assessment and treatment center” means a residential  
9 community release program that provides eligible inmates with a  
10 comprehensive assessment of their needs and risks, an orientation to  
11 a treatment regimen, and a referral to a halfway house, substance  
12 use disorder treatment program, or mutual agreement program;

13 “Facility” means the physical location of a residential  
14 community release program as defined under this subsection.

15 “Residential community release program” means an assessment  
16 and treatment center, halfway house, or substance use disorder  
17 treatment program operating under the authority of the Department  
18 of Corrections, or any non-profit or for-profit subcontractor thereof  
19 that operates a residential community release program under the  
20 authority of the department.

21 “Service provider” means any owner or operator of a private  
22 non-profit, or subcontractor thereof, of a residential community  
23 release program.

24 b. Each service provider operating in this State shall file an  
25 initial disclosure statement with the Commissioner of Corrections  
26 within 90 days following the effective date of this act. Thereafter,  
27 annual disclosure statements shall be filed on or before April 30th  
28 of each year. The cover page of the disclosure statement shall  
29 prominently state the name of the service provider and the date of  
30 the disclosure statement. The disclosure statement shall contain the  
31 following information:

32 (1) the name and business address of the service provider and a  
33 statement of whether the service provider is a partnership,  
34 corporation, or other type of legal entity;

35 (2) the names and business addresses of the officers, directors,  
36 trustees, managing or general partners and any person having a 10  
37 percent or greater equity or beneficial interest in the service  
38 provider and a description of that person’s interest in or occupation  
39 with the service provider;

40 (3) the location and description of the physical property of the  
41 service provider’s facility;

42 (4) the provisions that have been made or will be made, if any,  
43 to provide reserve funding or security which will enable the service  
44 provider to fully perform its obligation under contracts, including  
45 the establishment of escrow accounts, trusts or reserve funds, the  
46 manner in which the funds shall be invested and the names and  
47 experience of persons who will make the investment decisions;

1 (5) certified financial statements of the service provider, which  
2 include balance sheets and income statements for the two most  
3 recently completed fiscal years or for as long as the service provider  
4 has been in existence, whichever is less;

5 (6) a proposed method of housing inmates in an alternative  
6 location in the event that the service provider's contract is  
7 terminated for reasons of an actual closure of a facility, financial  
8 default by the service provider, or any other event in which the  
9 service provider is no longer capable of fully performing its  
10 obligations under a contract with the department;

11 (7) any other material information concerning the facility or the  
12 provider as required by the department or as the provider wishes to  
13 include;

14 (8) with respect to the service provider, any person named in  
15 response to paragraph (2) of this subsection or any other operator, if  
16 the residential community release program is managed on a day-to-  
17 day basis by a person other than the service provider:

18 (a) a description of the person's business experience, if any, in  
19 the operation or management of similar facilities;

20 (b) the name and address of any professional service firm,  
21 association, trust, partnership or corporation in which the person  
22 has a 10 percent or greater interest and which may provide goods,  
23 leases or services to the service provider of a value of \$500 or more,  
24 within any year;

25 (c) a description of the goods, leases or services provided  
26 pursuant to paragraph (2) of this subsection and the probable or  
27 anticipated cost thereof to the service provider;

28 (d) a description of any matter in which the person has been  
29 convicted of a felony or pleaded nolo contendere or other  
30 disposition to a felony charge, or has been held liable or enjoined in  
31 a civil action which involved fraud, embezzlement, fraudulent  
32 conversion, or misappropriation of property; and

33 (e) a description of any matter in which the person is subject to  
34 a currently effective injunctive or restrictive court order or, within  
35 the past five years, had a State or federal license or permit  
36 suspended or revoked as a result of an action brought by a  
37 governmental agency or department, which arose out of or related  
38 to business activity, including actions affecting the operation of a  
39 residential community release program.

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41 2. If operation of the service provider's facility has not yet  
42 commenced, the disclosure statement submitted to the Department  
43 of Corrections pursuant to P.L. , c. (C. ) (pending before  
44 the Legislature as this bill) shall contain a statement of the  
45 anticipated source and application of the funds used or to be used in  
46 the purchase or construction of the facility, including:

47 a. An estimate of the cost of purchasing or construction and  
48 equipping the facility, which includes related costs such as

1 financing expenses, legal expenses, land costs, marketing and  
2 development costs, and other similar costs the provider expects to  
3 incur or become obligated for prior to the commencement of  
4 operations;

5 b. Description of any mortgage loan or other long-term  
6 financing intended to be used for the financing of the facility and  
7 the anticipated terms and costs of the financing;

8 c. A projection of estimated operating expenses of the facility,  
9 including a description of the assumptions used in calculating the  
10 expenses and separate allowances, if any, the replacement of  
11 equipment and furnishings, and any anticipated major structural  
12 repairs or additions;

13 d. Identification of assets pledged as collateral for any purpose;  
14 and

15 e. An estimate of annual payments of principal and interest  
16 required by any mortgage loan or other long-term financing.

17

18 3. A service provider shall amend its currently filed annual  
19 disclosure statement filed pursuant to P.L. , c. (C. )(pending  
20 before the Legislature as this bill) at any time if, in the opinion of  
21 the provider or the Department of Corrections, an amendment is  
22 necessary to prevent the disclosure statement from containing any  
23 material misstatement of fact or omission to state a material fact as  
24 required pursuant to this act.

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26 4. No service provider or person acting on behalf of the service  
27 provider shall file with the Department of Corrections or make,  
28 publish, disseminate, circulate or deliver to the department a  
29 financial disclosure statement required pursuant to  
30 P.L. , c. (C. )(pending before the Legislature as this bill)  
31 that contains an assertion, representation, or statement which is  
32 untrue, deceptive or misleading.

33 A person who knowingly violates the provisions of this section is  
34 guilty of a crime of the third degree.

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36 5. a. In addition to the financial disclosure statement required  
37 to be filed pursuant to P.L. , c. (C. )(pending before the  
38 Legislature as this bill) a service provider shall, by April 30 of each  
39 year, file with the Department of Corrections, in a form and manner  
40 prescribed by the Commissioner of Corrections an Internal Revenue  
41 Service Form 990 and all schedules and supporting documentation  
42 required to be submitted to the Internal Revenue Service in  
43 conjunction with Form 990 for the prior year.

44 If the service provider operates as a for-profit entity that does not  
45 file a Form 990 with the Internal Revenue Service, all governance,  
46 financial, and operating information that would otherwise be  
47 reported on Form 990 for the prior year, including the information  
48 that would be required to be submitted in the schedules and

1 supporting documentation in conjunction with Form 990, shall, by  
2 April 30 of each year, be filed with the department, to the extent  
3 that such information exists with respect to a for-profit service  
4 provider.

5 b. The information submitted to the department pursuant to  
6 subsection a. of this section shall be posted on the department's  
7 Internet web site.

8  
9 6. Any service provider that fails to file a disclosure statement,  
10 or an Internal Revenue Service Form 990 or equivalent operating  
11 information as required by P.L. , c. (C. ) (pending before  
12 the Legislature as this bill) within the time frames specified by this  
13 act, shall be subject to a civil penalty of \$10,000 for each month  
14 that the service provider fails to submit such information, which  
15 shall be recovered in a civil action by a summary proceeding in the  
16 name of the municipality pursuant to "The Penalty Enforcement  
17 Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). At the  
18 discretion of the Commissioner of Corrections, a service provider's  
19 authority to operate in this State may be revoked while such default  
20 continues.

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22 7. This act shall take effect immediately.

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25 STATEMENT

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27 This bill requires the owners and operators of residential  
28 community release programs, also known as halfway houses, to  
29 annually submit a financial disclosure form with the Department of  
30 Corrections (DOC). Specifically, the bill requires each halfway  
31 house owner and operator to file an initial disclosure statement with  
32 the Commissioner of Corrections within 90 days following the  
33 effective date of the bill. Thereafter, annual disclosure statements  
34 are to be filed on or before April 30th of each year.

35 Under the provisions of the bill, financial disclosures are to  
36 include the names and business addresses of the officers, directors,  
37 trustees, managing or general partners and any person having a 10  
38 percent or greater equity or beneficial interest in the service  
39 provider and a description of that person's interest in or occupation  
40 with the service provider. The bill requires that the following  
41 information be provided for each such person listed under the  
42 disclosure statement:

43 (1) a description of the person's business experience, if any, in  
44 the operation or management of similar facilities;

45 (2) the name and address of any professional service firm,  
46 association, trust, partnership or corporation in which the person  
47 has a 10 percent or greater interest and which may provide goods,

1 leases or services to the service provider of a value of \$500.00 or  
2 more, within any year;

3 (3) a description of the goods, leases or services provided by the  
4 person and the probable or anticipated cost thereof to the halfway  
5 house;

6 (4) a description of any matter in which the person was  
7 convicted of a crime or subject to a civil action which involved  
8 fraud, embezzlement, fraudulent conversion, or misappropriation of  
9 property; and

10 (5) a description of any matter in which the person is subject to  
11 a currently effective injunctive or restrictive court order or, within  
12 the past five years, had a State or federal license or permit  
13 suspended or revoked as a result of an action brought by a  
14 governmental agency or department, which arose out of or related  
15 to business activity, including actions affecting the operation of a  
16 residential community release program.

17 In addition, the bill requires that the disclosure statements  
18 include information relating to the financial standings of the  
19 residential community release program. This information is to  
20 include the program's obligations under other contracts, as well as  
21 balance sheets and income statements. The bill further requires that  
22 financial disclosure statements include a proposed method of  
23 housing inmates in an alternative location should the service  
24 provider no longer be capable of fully performing its obligations  
25 under a contract with the DOC.

26 If construction of a residential community release program has  
27 not yet commenced the initial disclosure statement is to include a  
28 description of the cost of purchasing or constructing the facility, as  
29 well as a description of any mortgage used to finance the facility.

30 In addition to the financial disclosure statement, the bill requires  
31 that all residential community release programs file the program's  
32 Internal Revenue Service Form 990 with the DOC by April 30 of  
33 each year. If the residential community release program operates as  
34 a for-profit entity that does not file a Form 990 with the Internal  
35 Revenue Service, the bill requires the program to file the same  
36 information that is required under a Form 990.

37 Finally, the bill imposes civil and criminal penalties for non-  
38 compliance. A person is guilty of a crime of the third degree if that  
39 person knowingly files information in the disclosure form which is  
40 untrue, deceptive or misleading. Crimes of the third degree are  
41 punishable by three to five years of imprisonment, a fine of up to  
42 \$15,000, or both. In addition, failure on the part of the residential  
43 community release program to file the disclosure statement or  
44 Internal Revenue Service Form 990 within the designated time  
45 frame is to result in a civil penalty of \$10,000 for each month that  
46 the information is delinquent. In addition, the commissioner may  
47 revoke the residential community release program's ability to  
48 operate while the default continues.