
By: Senators Cade, Hogan, Currie, Van Hollen, Hoffman, Middleton, and Kasemeyer

Introduced and read first time: February 2, 1996

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Community Services Trust Fund**

3 FOR the purpose of establishing a Community Services Trust Fund for the purpose of
4 holding certain moneys that result from the long-term lease or sale of property and
5 equipment of a Developmental Disabilities Administration facility or Mental
6 Hygiene Administration facility; specifying the accounts in the Trust Fund;
7 specifying the transfer of certain moneys from the accounts in the Trust Fund under
8 certain circumstances; specifying the method of expenditures from the Trust Fund;
9 specifying that any unspent funds in the Trust Fund may not be transferred or revert
10 to the General Fund of the State; requiring the Governor to include in the annual
11 Budget Bill a certain appropriation from specified special funds for a certain
12 purpose; repealing a certain termination date related to certain special funds;
13 repealing a certain provision concerning the proposed appropriation of certain
14 moneys by the Governor in the annual Budget Bill under certain circumstances;
15 providing for the effective date of this Act; defining a certain term; and generally
16 relating to establishing a Community Services Trust Fund.

17 BY adding to

18 Article 41 - Governor - Executive and Administrative Departments
19 Section 18-205
20 Annotated Code of Maryland
21 (1993 Replacement Volume and 1995 Supplement)

22 BY repealing and reenacting, without amendments,

23 Article - Health - General
24 Section 7-206 and 10-208
25 Annotated Code of Maryland
26 (1994 Replacement Volume and 1995 Supplement)

27 BY repealing

28 Chapter 401 of the Acts of the General Assembly of 1994
29 Section 2

30 BY repealing and reenacting, with amendments,

31 Chapter 401 of the Acts of the General Assembly of 1994

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1 Section 3

2 Preamble

3 WHEREAS, As of January 1, 1996, the Developmental Disabilities Administration
4 reports a waiting list of 4,986 individuals awaiting community services; and

5 WHEREAS, The Mental Hygiene Administration estimates that there are
6 hundreds of individuals presently confined to institutions only because more appropriate
7 community-based services are not available to them; and

8 WHEREAS, In 1994, the General Assembly passed legislation establishing a
9 Waiting List Equity Fund in the Developmental Disabilities Administration and a Mental
10 Hygiene Community-Based Services Fund in the Mental Hygiene Administration; and

11 WHEREAS, The establishment of a community services trust fund would be the
12 logical vehicle to provide a source of annual funding to the Waiting List Equity Fund and
13 the Mental Hygiene Community-Based Services Fund, resulting in additional moneys to
14 serve individuals on the waiting for community services on the lists of the Development
15 Disabilities Administration and the Mental Hygiene Administration; now, therefore,

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

18 **Article 41 - Governor - Executive and Administrative Departments**

19 18-205.

20 (A) IN THIS SECTION, "TRUST FUND" MEANS THE COMMUNITY SERVICES
21 TRUST FUND.

22 (B) THERE IS A COMMUNITY SERVICES TRUST FUND WITHIN THE OFFICE OF
23 THE TREASURER.

24 (C) THE PURPOSE OF THE TRUST FUND IS TO RECEIVE AND HOLD THE
25 PROCEEDS FROM THE SALE OR LONG-TERM LEASE OF PROPERTY AND EQUIPMENT
26 THAT RESULTS FROM THE CLOSURE OF A DEVELOPMENTAL DISABILITIES
27 ADMINISTRATION FACILITY OR A MENTAL HYGIENE ADMINISTRATION FACILITY.

28 (D) (1) THE TRUST FUND SHALL CONSIST OF TWO ACCOUNTS.

29 (2) (I) ONE ACCOUNT SHALL HOLD THE PROCEEDS FROM THE SALE
30 OR LONG-TERM LEASE OF PROPERTY AND EQUIPMENT RESULTING FROM THE SALE
31 OR LONG-TERM LEASE OF DEVELOPMENTAL DISABILITIES ADMINISTRATION
32 FACILITIES; AND

33 (II) ONE ACCOUNT SHALL HOLD THE PROCEEDS FROM THE SALE
34 OR LONG-TERM LEASE OF PROPERTY AND EQUIPMENT RESULTING FROM THE SALE
35 OR LONG-TERM LEASE OF MENTAL HYGIENE ADMINISTRATION FACILITIES.

36 (E) (1) THE TRUST FUND SHALL BE USED ONLY AS PROVIDED IN THIS
37 SUBSECTION.

38 (2) THE COMPTROLLER MAY TRANSFER:

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1 (I) INTO THE WAITING LIST EQUITY FUND ESTABLISHED UNDER §
2 7-206 OF THE HEALTH - GENERAL ARTICLE THE INVESTMENT EARNINGS THAT
3 ACCRUE IN THE DEVELOPMENTAL DISABILITIES ADMINISTRATION ACCOUNT OF
4 THE TRUST FUND; AND

5 (II) INTO THE MENTAL HYGIENE COMMUNITY-BASED SERVICES
6 FUND ESTABLISHED UNDER § 10-208 OF THE HEALTH - GENERAL ARTICLE
7 INVESTMENT EARNINGS THAT ACCRUE IN THE MENTAL HYGIENE ADMINISTRATION
8 ACCOUNT OF THE TRUST FUND.

9 (3) TRANSFERS FROM THE TRUST FUND UNDER PARAGRAPH (2) OF
10 THIS SUBSECTION MAY BE MADE ONLY IN ACCORDANCE WITH AN APPROPRIATION
11 APPROVED BY THE GENERAL ASSEMBLY IN THE ANNUAL STATE BUDGET.

12 (F) (1) THE STATE TREASURER SHALL HOLD THE TRUST FUND AND THE
13 COMPTROLLER SHALL ACCOUNT FOR THE TRUST FUND.

14 (2) THE TRUST FUND SHALL BE INVESTED AND REINVESTED IN THE
15 SAME MANNER AS OTHER STATE FUNDS AND ANY INVESTMENT EARNINGS OF THE
16 TRUST FUND SHALL BE PAID INTO THE TRUST FUND.

17 (3) THE STATE TREASURER SHALL DEPOSIT FUNDS INTO THE TWO
18 ACCOUNTS OF THE TRUST FUND IN THE MANNER DESCRIBED IN SUBSECTION (D) OF
19 THIS SECTION.

20 (G) (1) THE TRUST FUND IS A CONTINUING, NONLAPSING FUND AND IS NOT
21 SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

22 (2) NO PART OF THE TRUST FUND MAY REVERT OR BE CREDITED TO
23 THE GENERAL FUND OF THE STATE.

24 **Article - Health - General**

25 7-206.

26 (a) (1) There is a continuing, nonlapsing Waiting List Equity Fund in the
27 Department of Health and Mental Hygiene.

28 (2) The purpose of the Waiting List Equity Fund is to ensure that:

29 (i) When individuals leave State residential centers, the net average
30 cost of serving them in the State residential center, as defined in subsection (d)(2) of this
31 section, shall follow them to community-based services; and

32 (ii) Any funds remaining after the individuals leaving State residential
33 centers are served, are used to provide community-based services to individuals eligible
34 for, but not receiving, the community-based services listed in subsection (c) of this
35 section.

36 (b) Subject to the appropriation process in the annual operating budget, the
37 Department shall use the Waiting List Equity Fund for:

38 (1) Providing community-based services to each individual who leaves a
39 State residential center on or after October 1, 1994; and

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1 (2) Providing community-based services to individuals eligible for, but not
2 receiving, services from the Developmental Disabilities Administration, with the funds
3 remaining after each individual who leaves a State residential center on or after October
4 1, 1994 is served in the community.

5 (c) For individuals eligible for, but not receiving, services from the
6 Developmental Disabilities Administration in the Department, the Waiting List Equity
7 Fund shall be used to provide:

8 (1) Individualized supported living arrangements services;

9 (2) Respite care;

10 (3) Individual and family support services;

11 (4) Supported employment; and

12 (5) Individualized community integration day services.

13 (d) (1) Subject to the appropriation process in the annual operating budget, the
14 Waiting List Equity Fund shall consist of funds which are equal to the cost of providing
15 services to an individual in a State residential center for each fiscal year, or part of a fiscal
16 year, that the individual is no longer served in a State residential center and is provided
17 community-based services as defined in paragraph (2) of this subsection.

18 (2) In determining funding for the Waiting List Equity Fund, the cost of
19 providing services to an individual in a State residential center shall be calculated by:

20 (i) Dividing the State residential center's appropriation by the daily
21 average census reported in the State residential center's annual operating budget for the
22 last full fiscal year the individual was served in the State residential center prorated over
23 the number of months the individual is served in the community; and

24 (ii) Subtracting the following:

25 1. The average annual itemized expenses associated with
26 institutional services and administrative overhead costs that are demonstrated to be
27 directly attributable to serving individuals remaining in the State residential center;

28 2. The cost for new admissions certified in accordance with the
29 provisions of §§ 7-502 and 7-503 of this title;

30 3. The cost for respite care in accordance with § 7-509 of this
31 title;

32 4. The cost for court-ordered commitments; and

33 5. Reimbursable federal revenues under TEFRA attributable
34 to direct client costs.

35 (e) (1) (i) The Department shall adopt regulations for the management and
36 use of the money in the Fund.

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1 (ii) The regulations shall authorize the use of money in the Fund to
2 provide services to individuals:

- 3 1. Who are in crisis and need emergency services; and
- 4 2. Who are not in crisis and do not need emergency services.

5 (2) The Waiting List Equity Fund may not be used to supplant funds
6 appropriated for:

- 7 (i) Emergency community placements; or
- 8 (ii) Transitioning students.

9 (f) (1) On or before January 1 of each year the Secretary shall prepare a report
10 to be submitted to the General Assembly and the Department of Fiscal Services on the
11 Waiting List Equity Fund.

12 (2) The report shall include:

- 13 (i) An accounting of all receipts and expenditures to and from the
14 Fund;
- 15 (ii) The number of individuals who left and entered State residential
16 centers during the previous year;
- 17 (iii) The number of additional persons who were on the waiting list for
18 developmental disabilities services during the previous year; and
- 19 (iv) An accounting of each of the factors used in determining the cost
20 of providing services to an individual in a State residential center in accordance with the
21 provisions of subsection (d) (2) of this section.

22 (g) Any unspent portions in the Waiting List Equity Fund and any interest earned
23 on money in the Waiting List Equity Fund may not be transferred or revert to the
24 General Fund of the State, but shall remain in the Waiting List Equity Fund to be used
25 for the purposes specified in this section.

26 10-208.

27 (a) (1) There is a continuing nonlapsing Mental Hygiene Community-Based
28 Services Fund.

29 (2) Subject to the appropriation process, the purpose of the Mental Hygiene
30 Community-Based Services Fund is to ensure that funds realized from the downsizing of
31 Mental Hygiene Administration facilities are used to provide community-based services.

32 (3) In determining funding for the Mental Hygiene Community-Based
33 Services Fund, the cost of providing services to an individual in a mental hygiene facility
34 shall be calculated by:

- 35 (i) Dividing the mental hygiene facility's appropriation by the daily
36 average census reported in the mental hygiene facility's annual operating budget for the
37 last full year the individual was served in the mental hygiene facility prorated over the
38 number of months the individual is served in the community; and

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1 (ii) Subtracting the following:

2 1. The average annual itemized expenses associated with
3 institutional services and administrative overhead costs that are demonstrated to be
4 directly attributable to serving individuals remaining in the mental hygiene facility;

5 2. The cost for new admissions certified in accordance with the
6 provisions of Subtitle 6 of this title; and

7 3. The cost for court-ordered commitments.

8 (b) If a facility operated by the Mental Hygiene Administration is downsized such
9 that the net resident population declines:

10 (1) State general funds may be appropriated as necessary, in advance, to
11 assist in the downsizing; and

12 (2) Any funds in the Mental Hygiene Community-Based Services Fund:

13 (i) May not supplant resources for existing community services; and

14 (ii) Shall be used to meet the needs of:

15 1. Individuals leaving facilities to enter community-based
16 services; and

17 2. Individuals who are identified but not yet provided with
18 community-based services.

19 (c) The Secretary shall adopt regulations for the management and use of the
20 money in the Mental Hygiene Community-Based Services Fund.

21 (d) On or before January 1 of each year, the Secretary shall prepare a report to be
22 submitted to the General Assembly and the Department of Fiscal Services on the Mental
23 Hygiene Community-Based Services Fund.

24 (e) Any unspent portions of the Mental Hygiene Community-Based Services
25 Fund and any interest earned on money in the Waiting List Equity Fund may not be
26 transferred or revert to the General Fund of the State but shall remain in the Mental
27 Hygiene Community-Based Services Fund to be used for the purposes specified in this
28 section.

29 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
30 read as follows:

31 **Chapter 401 of the Acts of 1994**

32 [SECTION 2. AND BE IT FURTHER ENACTED, That the Governor should
33 include in the annual Budget Bill a proposed General Fund appropriation to the Waiting
34 List Equity Fund and the Community-based Services Fund, as appropriate, the total
35 amount of all proceeds from the sale of property and equipment assets resulting from the
36 closure of a Developmental Disabilities Administration facility or a mental hygiene
37 facility. If the annual Budget Bill does not include a proposed General Fund
38 appropriation equal to or greater than the amount of all proceeds from the sale of

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1 property and equipment assets resulting from the closure of the appropriate facilities, the
2 Governor shall report to the General Assembly, subject to § 2-1312 of the State
3 Government Article, as to why the proposed General Fund appropriation was less than
4 the total amount of the proceeds.]

5 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 1994. [It shall remain effective for a period of 4 years and, at the end of
7 September 30, 1998, with no further action required by the General Assembly, this Act
8 shall be abrogated and of no further force and effect.]

9 SECTION 3. AND BE IT FURTHER ENACTED, That the Governor shall include
10 in the annual Budget Bill a General Fund appropriation from the WaitingList Equity
11 Fund and the Community-Based Services Fund, as appropriate, for the purpose of
12 serving individuals on the waiting lists for services from the Developmental Disabilities
13 Administration and the Mental Hygiene Administration.

14 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 June 1, 1996.