
By: Senators Cade, Hogan, Currie, Van Hollen, Hoffman, Middleton, and Kasemeyer
Kasemeyer, McFadden, Lawlah, Ruben, Munson, Boozer, and Amoss

Introduced and read first time: February 2, 1996

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 12, 1996

CHAPTER ____

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 specifying that the Act applies to certain sales or leases occurring after a certain
16 date; providing for the effective date of this Act; defining a certain term certain
17 terms; and generally relating to establishing a Community Services Trust Fund.

18 BY adding to

- 19 Article 41 - Governor - Executive and Administrative Departments
- 20 Section 18-205
- 21 Annotated Code of Maryland
- 22 (1993 Replacement Volume and 1995 Supplement)

23 BY repealing and reenacting, without amendments,

- 24 Article - Health - General
- 25 Section 7-206 and 10-208

2

1 Annotated Code of Maryland
2 (1994 Replacement Volume and 1995 Supplement)

3 BY repealing

4 Chapter 401 of the Acts of the General Assembly of 1994
5 Section 2

6 BY repealing and reenacting, with amendments,

7 Chapter 401 of the Acts of the General Assembly of 1994
8 Section 3

9 Preamble

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

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

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

18 WHEREAS, The establishment of a community services trust fund would be the
19 logical vehicle to provide a source of annual funding to the Waiting List Equity Fund and
20 the Mental Hygiene Community-Based Services Fund, resulting in additional moneys to
21 serve individuals on the waiting lists for community services ~~on the lists~~ of the
22 Development Disabilities Administration and the Mental Hygiene Administration; now,
23 therefore,

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

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

27 18-205.

28 (A) IN THIS SECTION, "TRUST FUND" MEANS THE COMMUNITY SERVICES
29 TRUST FUND.

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

32 (C) (1) THE PURPOSE OF THE TRUST FUND IS TO RECEIVE AND HOLD THE
33 PROCEEDS FROM THE SALE OR LONG-TERM LEASE OF PROPERTY AND EQUIPMENT
34 THAT RESULTS FROM THE CLOSURE OF A DEVELOPMENTAL DISABILITIES
35 ADMINISTRATION FACILITY OR A MENTAL HYGIENE ADMINISTRATION FACILITY.

36 (2) FOR PURPOSES OF THIS SECTION, PROCEEDS ARE THE GROSS
37 PROCEEDS MINUS THE COSTS ASSOCIATED WITH THE SALE, LEASE OR DISPOSITION

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1 OF PROPERTY AND EQUIPMENT AS DETERMINED BY THE DEPARTMENT OF
2 GENERAL SERVICES.

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

4 (2) (I) ONE ACCOUNT SHALL HOLD THE PROCEEDS FROM THE SALE
5 OR LONG-TERM LEASE OF PROPERTY AND EQUIPMENT RESULTING FROM THE SALE
6 OR LONG-TERM LEASE OF DEVELOPMENTAL DISABILITIES ADMINISTRATION
7 FACILITIES; AND

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

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

13 (2) THE COMPTROLLER ~~MAY~~ SHALL TRANSFER:

14 (I) INTO THE WAITING LIST EQUITY FUND ESTABLISHED UNDER §
15 7-206 OF THE HEALTH - GENERAL ARTICLE THE INVESTMENT EARNINGS THAT
16 ACCRUE IN THE DEVELOPMENTAL DISABILITIES ADMINISTRATION ACCOUNT OF
17 THE TRUST FUND; AND

18 (II) INTO THE MENTAL HYGIENE COMMUNITY-BASED SERVICES
19 FUND ESTABLISHED UNDER § 10-208 OF THE HEALTH - GENERAL ARTICLE
20 INVESTMENT EARNINGS THAT ACCRUE IN THE MENTAL HYGIENE ADMINISTRATION
21 ACCOUNT OF THE TRUST FUND.

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

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

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

30 (3) THE STATE TREASURER SHALL DEPOSIT FUNDS INTO THE TWO
31 ACCOUNTS OF THE TRUST FUND IN THE MANNER DESCRIBED IN SUBSECTION (D) OF
32 THIS SECTION.

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

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

4

1 **Article - Health - General**

2 7-206.

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

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

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

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

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

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

17 (2) Providing community-based services to individuals eligible for, but not
18 receiving, services from the Developmental Disabilities Administration, with the funds
19 remaining after each individual who leaves a State residential center on or after October
20 1, 1994 is served in the community.

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

24 (1) Individualized supported living arrangements services;

25 (2) Respite care;

26 (3) Individual and family support services;

27 (4) Supported employment; and

28 (5) Individualized community integration day services.

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

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

36 (i) Dividing the State residential center's appropriation by the daily
37 average census reported in the State residential center's annual operating budget for the

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1 last full fiscal year the individual was served in the State residential center prorated over
2 the number of months the individual is served in the community; and

3 (ii) Subtracting the following:

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

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

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

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

12 5. Reimbursable federal revenues under TEFRA attributable
13 to direct client costs.

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

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

18 1. Who are in crisis and need emergency services; and

19 2. Who are not in crisis and do not need emergency services.

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

22 (i) Emergency community placements; or

23 (ii) Transitioning students.

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

27 (2) The report shall include:

28 (i) An accounting of all receipts and expenditures to and from the
29 Fund;

30 (ii) The number of individuals who left and entered State residential
31 centers during the previous year;

32 (iii) The number of additional persons who were on the waiting list for
33 developmental disabilities services during the previous year; and

34 (iv) An accounting of each of the factors used in determining the cost
35 of providing services to an individual in a State residential center in accordance with the
36 provisions of subsection (d) (2) of this section.

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

5 10-208.

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

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

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

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

18 (ii) Subtracting the following:

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

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

24 3. The cost for court-ordered commitments.

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

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

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

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

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

32 1. Individuals leaving facilities to enter community-based
33 services; and

34 2. Individuals who are identified but not yet provided with
35 community-based services.

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

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

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

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

11 **Chapter 401 of the Acts of 1994**

12 [SECTION 2. AND BE IT FURTHER ENACTED, That the Governor should
13 include in the annual Budget Bill a proposed General Fund appropriation to the Waiting
14 List Equity Fund and the Community-based Services Fund, as appropriate, the total
15 amount of all proceeds from the sale of property and equipment assets resulting from the
16 closure of a Developmental Disabilities Administration facility or a mental hygiene
17 facility. If the annual Budget Bill does not include a proposed General Fund
18 appropriation equal to or greater than the amount of all proceeds from the sale of
19 property and equipment assets resulting from the closure of the appropriate facilities, the
20 Governor shall report to the General Assembly, subject to § 2-1312 of the State
21 Government Article, as to why the proposed General Fund appropriation was less than
22 the total amount of the proceeds.]

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

27 SECTION 3. AND BE IT FURTHER ENACTED, That the Governor shall include
28 in the annual Budget Bill a General Fund appropriation from the Waiting List Equity
29 Fund and the Community-Based Services Fund, as appropriate, for the purpose of
30 serving individuals on the waiting lists for services from the Developmental Disabilities
31 Administration and the Mental Hygiene Administration.

32 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall apply to
33 property and equipment that is sold or leased after April 1, 1996.

34 SECTION 4. 5. AND BE IT FURTHER ENACTED, That this Act shall take effect
35 June 1, 1996.

