

HOUSE BILL 970

J3

(71r3012)

ENROLLED BILL

— Health and Government Operations / Finance —

Introduced by **Delegates Hubbard, Benson, Bromwell, Costa, Elliott, Kipke, Kullen, Mizeur, Montgomery, Oaks, Pena-Melnyk, Tarrant, Taylor, and Weldon**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Rosewood Transition Plan Center – Plan for Services to Residents**

3 FOR the purpose of requiring the Department of Health and Mental Hygiene, ~~on or~~
4 ~~before a certain date, to develop a Rosewood transition plan; requiring the~~
5 ~~Rosewood transition plan to provide, on or before a certain date, for the~~
6 ~~transition of all residents to certain services and settings; requiring certain~~
7 ~~residents to transition to certain services and settings in accordance with a~~
8 ~~certain assessment; requiring certain residents to transition to certain services~~
9 ~~in accordance with a certain plan; requiring the Rosewood transition plan to~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber / conference committee amendments.



~~include certain elements; requiring the Department to complete implementation of the Rosewood transition plan on or before a certain date; requiring the Department to report, on or before certain dates, to the Governor and the General Assembly on the Rosewood transition plan; requiring the Comptroller to transfer certain moneys from the Developmental Disabilities Administration account of the Community Services Trust Fund over certain fiscal years; prohibiting the moneys transferred from supplanting certain funds; requiring the Department to seek certain federal funds; requiring the moneys transferred to be repaid over certain fiscal years; and generally relating to a Rosewood transition plan to develop a plan for providing services to Rosewood Center residents in certain settings, in accordance with certain provisions of law; requiring the plan to make certain recommendations, discuss certain uses for the Rosewood Center property, and identify certain items; requiring the Department to report on the plan to certain committees of the General Assembly; and generally relating to a plan for services to residents of the Rosewood Center.~~

~~BY adding to~~

~~Article — Health — General
 Section 7-520 to be under the new part “Part IV. Rosewood Transition Plan”
 Annotated Code of Maryland
 (2005 Replacement Volume and 2006 Supplement)~~

~~BY repealing and reenacting, without amendments,~~

~~Article — Health — General
 Section 24-1101 through 24-1104
 Annotated Code of Maryland
 (2005 Replacement Volume and 2006 Supplement)~~

~~BY repealing and reenacting, with amendments,~~

~~Article — Health — General
 Section 24-1105
 Annotated Code of Maryland
 (2005 Replacement Volume and 2006 Supplement)~~

~~BY repealing and reenacting, without amendments,~~

~~Article — State Finance and Procurement
 Section 5-101(a) and (b) and 5-310(a), (b), and (c)(2) through (6)
 Annotated Code of Maryland
 (2006 Replacement Volume and 2006 Supplement)~~

~~Preamble~~

1 ~~WHEREAS, In September 2006 and January 2007, the Department of Health~~
2 ~~and Mental Hygiene's Office of Health Care Quality found that residents of the~~
3 ~~Rosewood Center were in immediate jeopardy of harm and identified significant~~
4 ~~deficiencies in the services provided at Rosewood Center, in violation of federal and~~
5 ~~State regulations for intermediate care facilities for the mentally retarded; and~~

6 ~~WHEREAS, The Rosewood Center has a record dating back to the 1980s of~~
7 ~~noncompliance with federal certification standards; and~~

8 ~~WHEREAS, Substantial cost will be incurred to bring the Rosewood Center into~~
9 ~~compliance with State and federal requirements; and~~

10 ~~WHEREAS, Studies overwhelmingly demonstrate that individuals with~~
11 ~~developmental disabilities thrive and do better living with home and~~
12 ~~community based supports; and~~

13 ~~WHEREAS, The policy of the State, expressed in § 7-102 of the Developmental~~
14 ~~Disabilities Law, is to support and provide resources to operate community services to~~
15 ~~sustain individuals with developmental disability in the community, rather than in~~
16 ~~institutions; and~~

17 ~~WHEREAS, The U.S. Supreme Court concluded in the 1999 case of Olmstead v.~~
18 ~~L.C. that individuals with disabilities residing in institutions have a right to live in~~
19 ~~the most integrated setting appropriate to the individual's needs; and~~

20 ~~WHEREAS, The Olmstead decision encourages states to develop and implement~~
21 ~~a plan that ensures that institutionalized individuals receive services in the most~~
22 ~~integrated setting appropriate to each individual's needs; and~~

23 ~~WHEREAS, The State developed such a plan in the Final Report of the~~
24 ~~Community Access Steering Committee, but little progress has been made in~~
25 ~~implementing the plan; and~~

26 ~~WHEREAS, 200 individuals currently reside at the Rosewood Center, including~~
27 ~~individuals placed under court order; and~~

28 ~~WHEREAS, Less restrictive and more appropriate evaluation and service~~
29 ~~models exist for persons with cognitive and developmental disabilities, including those~~
30 ~~who are under court order; and~~

31 ~~WHEREAS, The Department determined in 2004 that: (1) if a State residential~~
32 ~~center were to be closed, the Department would recommend the Rosewood Center; and~~
33 ~~(2) closure of the Rosewood Center would yield the most savings to the State; and~~

1 ~~7-518. RESERVED.~~

2 ~~7-519. RESERVED.~~

3 ~~PART IV. ROSEWOOD TRANSITION PLAN.~~

4 ~~7-520.~~

5 ~~(A) ON OR BEFORE DECEMBER 31, 2007, THE DEPARTMENT SHALL~~
6 ~~DEVELOP A ROSEWOOD TRANSITION PLAN WITH THE OBJECTIVE OF CLOSING~~
7 ~~THE ROSEWOOD CENTER BY FISCAL YEAR 2010.~~

8 ~~(B) (1) THE ROSEWOOD TRANSITION PLAN SHALL PROVIDE FOR THE~~
9 ~~TRANSITION, ON OR BEFORE JUNE 30, 2010, OF ALL RESIDENTS OF THE~~
10 ~~ROSEWOOD CENTER TO SERVICES AND SETTINGS APPROPRIATE TO THEIR~~
11 ~~NEEDS.~~

12 ~~(2) RESIDENTS WHO HAVE BEEN COMMITTED TO THE ROSEWOOD~~
13 ~~CENTER BY A COURT UNDER TITLE 3 OF THE CRIMINAL PROCEDURE ARTICLE~~
14 ~~SHALL TRANSITION TO TREATMENT SERVICES AND SETTINGS, WHICH MAY~~
15 ~~INCLUDE HOME AND COMMUNITY BASED SERVICES, IN ACCORDANCE WITH AN~~
16 ~~INDIVIDUALIZED ASSESSMENT.~~

17 ~~(3) RESIDENTS WHO HAVE NOT BEEN COMMITTED TO THE~~
18 ~~ROSEWOOD CENTER BY A COURT UNDER TITLE 3 OF THE CRIMINAL~~
19 ~~PROCEDURE ARTICLE SHALL TRANSITION TO APPROPRIATE HOME AND~~
20 ~~COMMUNITY BASED SERVICES, IN ACCORDANCE WITH AN INDIVIDUALIZED~~
21 ~~PLAN.~~

22 ~~(C) THE ROSEWOOD TRANSITION PLAN SHALL INCLUDE:~~

23 ~~(1) INDIVIDUALIZED PLANNING FOR EACH RESIDENT, INCLUDING~~
24 ~~BOTH THE RESIDENT AND THE INTERDISCIPLINARY TEAM OF THE RESIDENT IN~~
25 ~~THE PLANNING PROCESS, TO ENSURE DEVELOPMENT AND IMPLEMENTATION OF~~
26 ~~AN APPROPRIATE TRANSITION;~~

27 ~~(2) DEVELOPMENT AND IMPLEMENTATION OF SERVICE MODELS~~
28 ~~THAT COMPLY WITH BEST PRACTICES IN EVALUATING AND SUPPORTING~~
29 ~~RESIDENTS WHO HAVE BEEN COMMITTED TO THE ROSEWOOD CENTER BY A~~
30 ~~COURT UNDER TITLE 3 OF THE CRIMINAL PROCEDURE ARTICLE;~~

1 ~~(3) QUARTERLY BENCHMARKS AND TARGET DATES, INCLUDING~~
2 ~~BENCHMARKS WITH SPECIFIC NUMBERS OF RESIDENTS TO BE TRANSITIONED~~
3 ~~TO APPROPRIATE SERVICES; AND~~

4 ~~(4) ASSISTANCE, INCLUDING RETRAINING IF NECESSARY AND~~
5 ~~DESIRED, TO PERMANENT STATE EMPLOYEES OF THE ROSEWOOD CENTER IN~~
6 ~~FILLING VACANT POSITIONS WITHIN THE DEPARTMENT OR OTHER STATE~~
7 ~~AGENCIES.~~

8 ~~(D) THE DEPARTMENT SHALL COMPLETE IMPLEMENTATION OF THE~~
9 ~~ROSEWOOD TRANSITION PLAN ON OR BEFORE JUNE 30, 2010.~~

10 ~~(E) (1) ON OR BEFORE JANUARY 1, 2008, THE DEPARTMENT SHALL~~
11 ~~REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE~~
12 ~~STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE ELEMENTS~~
13 ~~OF THE ROSEWOOD TRANSITION PLAN.~~

14 ~~(2) ON OR BEFORE JANUARY 1, 2009, JANUARY 1, 2010, AND~~
15 ~~JANUARY 1, 2011, THE DEPARTMENT SHALL REPORT TO THE GOVERNOR AND,~~
16 ~~IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE~~
17 ~~GENERAL ASSEMBLY ON ITS PROGRESS IN IMPLEMENTING THE ROSEWOOD~~
18 ~~TRANSITION PLAN.~~

19 ~~(F) IN DETERMINING ALTERNATIVE USE OR SALE OF THE PROPERTY,~~
20 ~~THE STATE SHALL SEEK INPUT FROM LOCAL COUNTY OFFICIALS AND~~
21 ~~LEGISLATORS, COMMUNITY REPRESENTATIVES, AND OTHER STAKEHOLDERS, AS~~
22 ~~APPROPRIATE.~~

23 ~~24-1101.~~

24 ~~(a) In this subtitle the following words have the meanings indicated.~~

25 ~~(b) "Trust Fund" means the Community Services Trust Fund.~~

26 ~~(c) "Proceeds" means the gross proceeds minus the costs associated with the~~
27 ~~sale, lease, or disposition of property and equipment, as determined by the~~
28 ~~Department of General Services.~~

29 ~~24-1102.~~

1 ~~(a) There is a Community Services Trust Fund in the Office of the Treasurer.~~

2 ~~(b) The purpose of the Trust Fund is to receive and hold the proceeds from~~
3 ~~the sale or long-term lease of property and equipment of a Developmental Disabilities~~
4 ~~Administration facility or a Mental Hygiene Administration facility.~~

5 ~~24-1103.~~

6 ~~(a) The Trust Fund is a continuing, nonlapsing fund that is not subject to §~~
7 ~~7-302 of the State Finance and Procurement Article.~~

8 ~~(b) (1) The Treasurer shall hold the Trust Fund and the Comptroller shall~~
9 ~~account for the Trust Fund.~~

10 ~~(2) (i) The Trust Fund shall be invested and reinvested in the~~
11 ~~same manner as other State funds.~~

12 ~~(ii) Any investment earnings of the Trust Fund shall be paid~~
13 ~~into the Trust Fund.~~

14 ~~(3) The Treasurer shall deposit funds into the two accounts of the~~
15 ~~Trust Fund in accordance with § 24-1104 of this subtitle.~~

16 ~~24-1104.~~

17 ~~(a) The Trust Fund consists of two accounts.~~

18 ~~(b) (1) One account holds the proceeds from the sale or long-term lease of~~
19 ~~property and equipment resulting from the sale or long-term lease of Developmental~~
20 ~~Disabilities Administration facilities.~~

21 ~~(2) One account holds the proceeds from the sale or long-term lease of~~
22 ~~property and equipment resulting from the sale or long-term lease of Mental Hygiene~~
23 ~~Administration facilities.~~

24 ~~24-1105.~~

25 ~~(a) The Trust Fund may only be used in accordance with this section.~~

26 ~~(b) In accordance with an appropriation approved by the General Assembly~~
27 ~~in the State budget, the Comptroller shall transfer the investment earnings of:~~

1 ~~(1) The Developmental Disabilities Administration account of the~~
 2 ~~Trust Fund into the Waiting List Equity Fund established under § 7-206 of this~~
 3 ~~article; and~~

4 ~~(2) The Mental Hygiene Administration account of the Trust Fund~~
 5 ~~into the Mental Hygiene Community-Based Services Fund established under § 10-208~~
 6 ~~of this article.~~

7 ~~(C) (1) IN ACCORDANCE WITH AN APPROPRIATION APPROVED BY THE~~
 8 ~~GENERAL ASSEMBLY IN THE STATE BUDGET OR THE BUDGET AMENDMENT~~
 9 ~~PROCEDURE PROVIDED IN § 7-209 OF THE STATE FINANCE AND PROCUREMENT~~
 10 ~~ARTICLE, THE COMPTROLLER SHALL TRANSFER FROM THE DEVELOPMENTAL~~
 11 ~~DISABILITIES ADMINISTRATION ACCOUNT OF THE TRUST FUND INTO THE~~
 12 ~~GENERAL FUND, SOLELY FOR THE PURPOSES OF § 7-520 OF THIS ARTICLE, UP~~
 13 ~~TO \$5,500,000 OVER THE 3-YEAR PERIOD OF FISCAL YEARS 2008 THROUGH~~
 14 ~~2010.~~

15 ~~(2) THE MONEYS TRANSFERRED UNDER PARAGRAPH (1) OF THIS~~
 16 ~~SUBSECTION MAY NOT SUPPLANT FUNDS BUDGETED FOR~~
 17 ~~DEINSTITUTIONALIZATION OF INDIVIDUALS FROM STATE RESIDENTIAL~~
 18 ~~CENTERS.~~

19 ~~(3) THE DEPARTMENT SHALL SEEK ALL AVAILABLE FEDERAL~~
 20 ~~FUNDS TO REDUCE THE AMOUNT REQUIRED TO BE TRANSFERRED FROM THE~~
 21 ~~TRUST FUND.~~

22 ~~(4) THE MONEYS TRANSFERRED UNDER PARAGRAPH (1) OF THIS~~
 23 ~~SUBSECTION SHALL BE REPAYED TO THE DEVELOPMENTAL DISABILITIES~~
 24 ~~ADMINISTRATION ACCOUNT OF THE TRUST FUND FROM GENERAL FUND~~
 25 ~~REVENUES OVER THE PERIOD OF FISCAL YEARS 2011 AND 2012.~~

26 ~~Article – State Finance and Procurement~~

27 ~~5-101.~~

28 ~~(a) In this title the following words have the meanings indicated.~~

29 ~~(b) “Department” means the Department of Planning.~~

30 ~~5-310.~~

1 ~~(a) Each unit of the State government shall notify the Department in writing~~
2 ~~of:~~

3 ~~(1) any real property that is in excess of the needs of the unit; or~~

4 ~~(2) any substantial change to any real property owned by the State.~~

5 ~~(b) Subject to subsection (c) of this section, for any real property identified~~
6 ~~under subsection (a) of this section, the Department shall:~~

7 ~~(1) study the proper disposition of the property;~~

8 ~~(2) determine whether any local government or unit of the State~~
9 ~~government is interested in the property; and~~

10 ~~(3) make an appropriate recommendation to the using unit of the~~
11 ~~State government and to the Board of Public Works.~~

12 ~~(c) (2) When a unit notifies the Department under subsection (a) of this~~
13 ~~section, the unit shall include with the notification:~~

14 ~~(i) the history of the acquisition of the property;~~

15 ~~(ii) the rationale for the acquisition provided to the Board of~~
16 ~~Public Works at the time of the acquisition;~~

17 ~~(iii) any future conservation plans for the property;~~

18 ~~(iv) the environmental and ecological attributes of the property;~~

19 ~~(v) the cultural and historical significance of the property;~~

20 ~~(vi) the relationship of the property to surrounding and nearby~~
21 ~~real properties;~~

22 ~~(vii) the actual cost savings, if any, that the unit anticipates will~~
23 ~~result from the disposal of the property;~~

24 ~~(viii) any expected revenues that would be generated from the~~
25 ~~disposal of the property; and~~

26 ~~(ix) any other justification or basis that the unit relied on in its~~
27 ~~determination that the property is in excess of its needs.~~

1 ~~(3) The information provided under paragraph (2) of this subsection~~
2 ~~shall be made available by the unit or the Department on request.~~

3 ~~(4) After the Department receives notice from a unit under subsection~~
4 ~~(a) of this section, the Department shall:~~

5 ~~(i) notify:~~

6 ~~1. the Senate Budget and Taxation Committee, the~~
7 ~~Senate Education, Health, and Environmental Affairs Committee, the House~~
8 ~~Environmental Matters Committee, and the House Appropriations Committee by~~
9 ~~electronic mail or facsimile and by first class mail;~~

10 ~~2. the General Assembly members who represent the~~
11 ~~legislative district in which the property is located by electronic mail or facsimile and~~
12 ~~by certified mail; and~~

13 ~~3. owners of property adjacent to the property declared~~
14 ~~excess;~~

15 ~~A. in writing by first class mail; and~~

16 ~~B. if practicable, by posting public notification signs on~~
17 ~~the property declared excess;~~

18 ~~(ii) 1. hold a public hearing in the county or legislative~~
19 ~~district in which the property is located within 14 days after receiving a request for a~~
20 ~~hearing if:~~

21 ~~A. within 14 days after the Department provides the~~
22 ~~notice required under item (i) of this paragraph, the Department receives a request for~~
23 ~~a public hearing from a person who received notice under item (i) of this paragraph or~~
24 ~~who resides in the county in which the property is located; and~~

25 ~~B. the property has an estimated value of over \$100,000;~~
26 ~~or~~

27 ~~2. if a public hearing is not required under item 1 of this~~
28 ~~item, accept and consider written public comments on the declaration of the property~~
29 ~~as excess;~~

1 ~~(iii) in conjunction with the local governing body of the~~
2 ~~jurisdiction in which the property is located, determine whether any proposed~~
3 ~~disposition would conform to the local comprehensive plan; and~~

4 ~~(iv) 1. consolidate all information received by and all~~
5 ~~determinations made by the Department into a public record available on request; and~~

6 ~~2. submit the record to the using unit.~~

7 ~~(5) After review of the record created under paragraph (4) of this~~
8 ~~subsection, the using unit may rescind the notice of excess property submitted under~~
9 ~~subsection (a) of this section.~~

10 ~~(6) If the using unit does not rescind the notice of excess property, the~~
11 ~~Department shall:~~

12 ~~(i) based on all of the information collected by the Department,~~
13 ~~make an appropriate recommendation to the using unit and the Board of Public~~
14 ~~Works; and~~

15 ~~(ii) notify the persons identified under paragraph (4)(i)1 and 2 of~~
16 ~~this subsection of the recommendation.~~

17 (a) The Department of Health and Mental Hygiene shall develop a plan for
18 providing services to Rosewood Center residents in the most integrated settings
19 appropriate to their needs, in accordance with § 7-1006 of the Health – General
20 Article.

21 (b) Based on an assessment of individual needs and preferences, the plan
22 shall recommend for each resident:

23 (1) services in the most integrated settings appropriate for the
24 resident;

25 (2) the cost of providing those services and settings; and

26 (3) a timetable for making the transition.

27 (c) Services and settings recommended for court-committed residents shall
28 be identified separately from services and settings recommended for residents who are
29 not court-committed.

1 (d) If institutional services and settings are recommended for any resident in
2 the written plan of habilitation required under § 7–1006 of the Health – General
3 Article, the plan shall discuss ways to address those recommendations, particularly for
4 court–committed residents who may pose a danger to themselves or others.

5 (e) The plan shall include recommendations for permanent State employees
6 working at the Rosewood Center, including:

7 (1) other employment opportunities with the State;

8 (2) the availability of training; and

9 (3) other assistance that may be required.

10 (f) In conjunction with the Department of Planning ~~and~~, consistent with the
11 Department of Health and Mental Hygiene’s Phase II Facility Review issued in
12 January, 2007, and in accordance with § 5–310 of the State Finance and Procurement
13 Article, the plan shall discuss alternative uses for the Rosewood Center property, and
14 shall:

15 (1) consider the need for open space in the area; and

16 (2) provide for the involvement of local residents in determining the
17 most appropriate use of the property.

18 (g) The plan shall identify:

19 (1) the total cost, including both operating and any capital costs, of
20 implementing the plan recommendations;

21 (2) potential sources of funds to support the total cost;

22 (3) any obstacles, including legal obstacles, to implementation of the
23 plan; and

24 (4) a proposed schedule for implementation of the plan.

25 (h) On or before December 31, 2007, the Department shall report on the plan
26 to the Governor and, in accordance with § 2–1246 of the State Government Article, the
27 Senate Finance Committee and the House Health and Government Operations
28 Committee.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 ~~July~~ June 1, 2007.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.