

HOUSE BILL 970

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

Introduced and read first time: February 9, 2007

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

Rosewood Transition Plan

2 FOR the purpose of requiring the Department of Health and Mental Hygiene, on or
3 before a certain date, to develop a Rosewood transition plan; requiring the
4 Rosewood transition plan to provide, on or before a certain date, for the
5 transition of all residents to certain services and settings; requiring certain
6 residents to transition to certain services and settings in accordance with a
7 certain assessment; requiring certain residents to transition to certain services
8 in accordance with a certain plan; requiring the Rosewood transition plan to
9 include certain elements; requiring the Department to complete implementation
10 of the Rosewood transition plan on or before a certain date; requiring the
11 Department to report, on or before certain dates, to the Governor and the
12 General Assembly on the Rosewood transition plan; requiring the Comptroller
13 to transfer certain moneys from the Developmental Disabilities Administration
14 account of the Community Services Trust Fund over certain fiscal years;
15 prohibiting the moneys transferred from supplanting certain funds; requiring
16 the Department to seek certain federal funds; requiring the moneys transferred
17 to be repaid over certain fiscal years; and generally relating to a Rosewood
18 transition plan.

19

20 BY adding to

21 Article – Health – General

22 Section 7-520 to be under the new part “Part IV. Rosewood Transition Plan”

23 Annotated Code of Maryland

24 (2005 Replacement Volume and 2006 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, without amendments,
2 Article – Health – General
3 Section 24–1101 through 24–1104
4 Annotated Code of Maryland
5 (2005 Replacement Volume and 2006 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article – Health – General
8 Section 24–1105
9 Annotated Code of Maryland
10 (2005 Replacement Volume and 2006 Supplement)

11 BY repealing and reenacting, without amendments,
12 Article – State Finance and Procurement
13 Section 5–101(a) and (b) and 5–310(a), (b), and (c)(2) through (6)
14 Annotated Code of Maryland
15 (2006 Replacement Volume and 2006 Supplement)

16 **Preamble**

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

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

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

26 WHEREAS, Studies overwhelmingly demonstrate that individuals with
27 developmental disabilities thrive and do better living with home and
28 community-based supports; and

29 WHEREAS, The policy of the State, expressed in § 7–102 of the Developmental
30 Disabilities Law, is to support and provide resources to operate community services to
31 sustain individuals with developmental disability in the community, rather than in
32 institutions; and

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

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

7 WHEREAS, The State developed such a plan in the Final Report of the
8 Community Access Steering Committee, but little progress has been made in
9 implementing the plan; and

10 WHEREAS, 200 individuals currently reside at the Rosewood Center, including
11 individuals placed under court order; and

12 WHEREAS, Less restrictive and more appropriate evaluation and service
13 models exist for persons with cognitive and developmental disabilities, including those
14 who are under court order; and

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

18 WHEREAS, The Department's January 2004 Report on Closure of a Residential
19 Facility for People with Developmental Disabilities stated that "... the Central Region
20 ... provider community has the capacity, experience and expertise to serve all the
21 residents of Rosewood" and that "the Central Region has a wealth of medical
22 resources, more available housing, entertainment, job opportunities, more public
23 transportation, and a host of other features that make it a more desirable and easier
24 place to help people find lives in the community"; and

25 WHEREAS, The Department's report indicated the costs associated with the
26 first year of closure of Rosewood Center would be \$7,464,000, with long-term net
27 savings ultimately realized; and

28 WHEREAS, The Department of Legislative Services in 2004 projected general
29 fund savings of approximately \$11,800,000 over 5 years by moving residents from the
30 Rosewood Center to the community; and

31 WHEREAS, Closure of a State residential center generates long-term savings
32 that benefit individuals with developmental disabilities living in the community who
33 are waiting for needed services through the Waiting List Equity Fund and the
34 Community Services Trust Fund; and

1 WHEREAS, The closure of the Great Oaks Center in 1996 demonstrated that
2 individuals with profound and multiple disabilities, including medical and behavioral
3 needs, can live successfully in the community with the proper supports; and

4 WHEREAS, The closure of the Great Oaks Center was accomplished without a
5 significant loss of jobs to employees who sought to remain in State employment; and

6 WHEREAS, Generally for State employees who are displaced, there are more
7 job opportunities in the Central Maryland region than in other regions of the State;
8 and

9 WHEREAS, After its closure, an effective use was found for the Great Oaks
10 Center that resulted in positive economic gains for the surrounding community
11 through increased tax revenues for the local jurisdiction and an increased workforce;
12 now, therefore,

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

Article - Health - General

16 7-518. RESERVED.

17 7-519. RESERVED.

PART IV. ROSEWOOD TRANSITION PLAN.

19 7-520.

23 **(B) (1) THE ROSEWOOD TRANSITION PLAN SHALL PROVIDE FOR THE**
24 **TRANSITION, ON OR BEFORE JUNE 30, 2010, OF ALL RESIDENTS OF THE**
25 **ROSEWOOD CENTER TO SERVICES AND SETTINGS APPROPRIATE TO THEIR**
26 **NEEDS**

1 SHALL TRANSITION TO TREATMENT SERVICES AND SETTINGS, WHICH MAY
2 INCLUDE HOME- AND COMMUNITY-BASED SERVICES, IN ACCORDANCE WITH AN
3 INDIVIDUALIZED ASSESSMENT.

4 (3) RESIDENTS WHO HAVE NOT BEEN COMMITTED TO THE
5 ROSEWOOD CENTER BY A COURT UNDER TITLE 3 OF THE CRIMINAL
6 PROCEDURE ARTICLE SHALL TRANSITION TO APPROPRIATE HOME- AND
7 COMMUNITY-BASED SERVICES, IN ACCORDANCE WITH AN INDIVIDUALIZED
8 PLAN.

9 (C) THE ROSEWOOD TRANSITION PLAN SHALL INCLUDE:

10 (1) INDIVIDUALIZED PLANNING FOR EACH RESIDENT, INCLUDING
11 BOTH THE RESIDENT AND THE INTERDISCIPLINARY TEAM OF THE RESIDENT IN
12 THE PLANNING PROCESS, TO ENSURE DEVELOPMENT AND IMPLEMENTATION OF
13 AN APPROPRIATE TRANSITION;

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

18 (3) QUARTERLY BENCHMARKS AND TARGET DATES, INCLUDING
19 BENCHMARKS WITH SPECIFIC NUMBERS OF RESIDENTS TO BE TRANSITIONED
20 TO APPROPRIATE SERVICES; AND

21 (4) ASSISTANCE, INCLUDING RETRAINING IF NECESSARY AND
22 DESIRED, TO PERMANENT STATE EMPLOYEES OF THE ROSEWOOD CENTER IN
23 FILLING VACANT POSITIONS WITHIN THE DEPARTMENT OR OTHER STATE
24 AGENCIES.

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

27 (E) (1) ON OR BEFORE JANUARY 1, 2008, THE DEPARTMENT SHALL
28 REPORT TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE
29 STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE ELEMENTS
30 OF THE ROSEWOOD TRANSITION PLAN.

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

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

10 24-1101.

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

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

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

16 24-1102.

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

21 24-1103.

22 (a) The Trust Fund is a continuing, nonlapsing fund that is not subject to §
23 7-302 of the State Finance and Procurement Article.

24 (b) (1) The Treasurer shall hold the Trust Fund and the Comptroller shall
25 account for the Trust Fund.

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

28 (ii) Any investment earnings of the Trust Fund shall be paid
29 into the Trust Fund.

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

3 24-1104.

4 (a) The Trust Fund consists of two accounts.

5 (b) (1) One account holds the proceeds from the sale or long-term lease of
6 property and equipment resulting from the sale or long-term lease of Developmental
7 Disabilities Administration facilities.

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

11 24-1105.

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

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

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

29 (2) THE MONEYS TRANSFERRED UNDER PARAGRAPH (1) OF THIS
30 SUBSECTION MAY NOT SUPPLANT FUNDS BUDGETED FOR

1 **DEINSTITUTIONALIZATION OF INDIVIDUALS FROM STATE RESIDENTIAL**
2 **CENTERS.**

3 **(3) THE DEPARTMENT SHALL SEEK ALL AVAILABLE FEDERAL**
4 **FUNDS TO REDUCE THE AMOUNT REQUIRED TO BE TRANSFERRED FROM THE**
5 **TRUST FUND.**

6 **(4) THE MONEYS TRANSFERRED UNDER PARAGRAPH (1) OF THIS**
7 **SUBSECTION SHALL BE REPAYED TO THE DEVELOPMENTAL DISABILITIES**
8 **ADMINISTRATION ACCOUNT OF THE TRUST FUND FROM GENERAL FUND**
9 **REVENUES OVER THE PERIOD OF FISCAL YEARS 2011 AND 2012.**

10 **Article – State Finance and Procurement**

11 **5–101.**

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

13 (b) “Department” means the Department of Planning.

14 **5–310.**

15 (a) Each unit of the State government shall notify the Department in writing
16 of:

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

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

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

21 (1) study the proper disposition of the property;

22 (2) determine whether any local government or unit of the State
23 government is interested in the property; and

24 (3) make an appropriate recommendation to the using unit of the
25 State government and to the Board of Public Works.

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

- (i) the history of the acquisition of the property;
- (ii) the rationale for the acquisition provided to the Board of Public Works at the time of the acquisition;
- (iii) any future conservation plans for the property;
- (iv) the environmental and ecological attributes of the property;
- (v) the cultural and historical significance of the property;
- (vi) the relationship of the property to surrounding and nearby real properties;
- (vii) the actual cost savings, if any, that the unit anticipates will result from the disposal of the property;
- (viii) any expected revenues that would be generated from the disposal of the property; and
- (ix) any other justification or basis that the unit relied on in its determination that the property is in excess of its needs.

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

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

(i) notify:

1. the Senate Budget and Taxation Committee, the Senate Education, Health, and Environmental Affairs Committee, the House Environmental Matters Committee, and the House Appropriations Committee by electronic mail or facsimile and by first-class mail;
2. the General Assembly members who represent the legislative district in which the property is located by electronic mail or facsimile and by certified mail; and
3. owners of property adjacent to the property declared excess:

- A. in writing by first-class mail; and
- B. if practicable, by posting public notification signs on the property declared excess;

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

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

21 2. submit the record to the using unit.

25 (6) If the using unit does not rescind the notice of excess property, the
26 Department shall:

27 (i) based on all of the information collected by the Department,
28 make an appropriate recommendation to the using unit and the Board of Public
29 Works; and

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

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