

HOUSE BILL 970

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71r3012

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

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 21, 2007

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~~
10 ~~include certain elements; requiring the Department to complete implementation~~
11 ~~of the Rosewood transition plan on or before a certain date; requiring the~~
12 ~~Department to report, on or before certain dates, to the Governor and the~~
13 ~~General Assembly on the Rosewood transition plan; requiring the Comptroller~~
14 ~~to transfer certain moneys from the Developmental Disabilities Administration~~
15 ~~account of the Community Services Trust Fund over certain fiscal years;~~
16 ~~prohibiting the moneys transferred from supplanting certain funds; requiring~~
17 ~~the Department to seek certain federal funds; requiring the moneys transferred~~
18 ~~to be repaid over certain fiscal years; and generally relating to a Rosewood~~
19 ~~transition plan to develop a plan for providing services to Rosewood Center~~
20 residents in certain settings, in accordance with certain provisions of law;

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.



1 requiring the plan to make certain recommendations, discuss certain uses for
 2 the Rosewood Center property, and identify certain items; requiring the
 3 Department to report on the plan to certain committees of the General
 4 Assembly; and generally relating to a plan for services to residents of the
 5 Rosewood Center.

6 ~~BY adding to~~

7 ~~Article — Health — General~~

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

9 ~~Annotated Code of Maryland~~

10 ~~(2005 Replacement Volume and 2006 Supplement)~~

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

12 ~~Article — Health — General~~

13 ~~Section 24-1101 through 24-1104~~

14 ~~Annotated Code of Maryland~~

15 ~~(2005 Replacement Volume and 2006 Supplement)~~

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

17 ~~Article — Health — General~~

18 ~~Section 24-1105~~

19 ~~Annotated Code of Maryland~~

20 ~~(2005 Replacement Volume and 2006 Supplement)~~

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

22 ~~Article — State Finance and Procurement~~

23 ~~Section 5-101(a) and (b) and 5-310(a), (b), and (c)(2) through (6)~~

24 ~~Annotated Code of Maryland~~

25 ~~(2006 Replacement Volume and 2006 Supplement)~~

26 Preamble

27 ~~WHEREAS, In September 2006 and January 2007, the Department of Health~~
 28 ~~and Mental Hygiene’s Office of Health Care Quality found that residents of the~~
 29 ~~Rosewood Center were in immediate jeopardy of harm and identified significant~~
 30 ~~deficiencies in the services provided at Rosewood Center, in violation of federal and~~
 31 ~~State regulations for intermediate care facilities for the mentally retarded; and~~

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

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

1 ~~WHEREAS, Studies overwhelmingly demonstrate that individuals with~~
2 ~~developmental disabilities thrive and do better living with home and~~
3 ~~community based supports; and~~

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

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

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

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

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

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

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

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

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

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

7 ~~WHEREAS, Closure of a State residential center generates long term savings~~
 8 ~~that benefit individuals with developmental disabilities living in the community who~~
 9 ~~are waiting for needed services through the Waiting List Equity Fund and the~~
 10 ~~Community Services Trust Fund; and~~

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

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

16 ~~WHEREAS, Generally for State employees who are displaced, there are more~~
 17 ~~job opportunities in the Central Maryland region than in other regions of the State;~~
 18 ~~and~~

19 ~~WHEREAS, After its closure, an effective use was found for the Great Oaks~~
 20 ~~Center that resulted in positive economic gains for the surrounding community~~
 21 ~~through increased tax revenues for the local jurisdiction and an increased workforce;~~
 22 ~~now, therefore,~~

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

25 ~~**Article Health General**~~

26 ~~**7-518. RESERVED.**~~

27 ~~**7-519. RESERVED.**~~

28 ~~**PART IV. ROSEWOOD TRANSITION PLAN.**~~

29 ~~**7-520.**~~

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

4 ~~(B) (1) THE ROSEWOOD TRANSITION PLAN SHALL PROVIDE FOR THE~~
5 ~~TRANSITION, ON OR BEFORE JUNE 30, 2010, OF ALL RESIDENTS OF THE~~
6 ~~ROSEWOOD CENTER TO SERVICES AND SETTINGS APPROPRIATE TO THEIR~~
7 ~~NEEDS.~~

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

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

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

19 ~~(1) INDIVIDUALIZED PLANNING FOR EACH RESIDENT, INCLUDING~~
20 ~~BOTH THE RESIDENT AND THE INTERDISCIPLINARY TEAM OF THE RESIDENT IN~~
21 ~~THE PLANNING PROCESS, TO ENSURE DEVELOPMENT AND IMPLEMENTATION OF~~
22 ~~AN APPROPRIATE TRANSITION;~~

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

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

30 ~~(4) ASSISTANCE, INCLUDING RETRAINING IF NECESSARY AND~~
31 ~~DESIRED, TO PERMANENT STATE EMPLOYEES OF THE ROSEWOOD CENTER IN~~

1 ~~FILLING VACANT POSITIONS WITHIN THE DEPARTMENT OR OTHER STATE~~
2 ~~AGENCIES.~~

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

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

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

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

18 ~~24-1101.~~

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

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

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

24 ~~24-1102.~~

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

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

29 ~~24-1103.~~

1 ~~(a) The Trust Fund is a continuing, nonlapsing fund that is not subject to §~~
2 ~~7-302 of the State Finance and Procurement Article.~~

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

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

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

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

11 ~~24-1104.~~

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

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

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

19 ~~24-1105.~~

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

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

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

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

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

9 ~~(2) THE MONEYS TRANSFERRED UNDER PARAGRAPH (1) OF THIS~~
 10 ~~SUBSECTION MAY NOT SUPPLANT FUNDS BUDGETED FOR~~
 11 ~~DEINSTITUTIONALIZATION OF INDIVIDUALS FROM STATE RESIDENTIAL~~
 12 ~~CENTERS.~~

13 ~~(3) THE DEPARTMENT SHALL SEEK ALL AVAILABLE FEDERAL~~
 14 ~~FUNDS TO REDUCE THE AMOUNT REQUIRED TO BE TRANSFERRED FROM THE~~
 15 ~~TRUST FUND.~~

16 ~~(4) THE MONEYS TRANSFERRED UNDER PARAGRAPH (1) OF THIS~~
 17 ~~SUBSECTION SHALL BE REPAID TO THE DEVELOPMENTAL DISABILITIES~~
 18 ~~ADMINISTRATION ACCOUNT OF THE TRUST FUND FROM GENERAL FUND~~
 19 ~~REVENUES OVER THE PERIOD OF FISCAL YEARS 2011 AND 2012.~~

20 ~~Article State Finance and Procurement~~

21 ~~5-101.~~

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

23 ~~(b) "Department" means the Department of Planning.~~

24 ~~5-310.~~

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

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

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

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

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

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

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

8 ~~(e) (2) When a unit notifies the Department under subsection (a) of this~~
9 ~~section, the unit shall include with the notification:~~

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

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

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

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

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

16 ~~(vi) the relationship of the property to surrounding and nearby~~
17 ~~real properties;~~

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

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

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

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

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

1 (i) ~~notify:~~

2 ~~1. the Senate Budget and Taxation Committee, the~~
3 ~~Senate Education, Health, and Environmental Affairs Committee, the House~~
4 ~~Environmental Matters Committee, and the House Appropriations Committee by~~
5 ~~electronic mail or facsimile and by first-class mail;~~

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

9 ~~3. owners of property adjacent to the property declared~~
10 ~~excess;~~

11 ~~A. in writing by first-class mail; and~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (1) services in the most integrated settings appropriate for the
18 resident;

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

20 (3) a timetable for making the transition.

21 (c) Services and settings recommended for court-committed residents shall
22 be identified separately from services and settings recommended for residents who are
23 not court-committed.

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

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

30 (1) other employment opportunities with the State;

1 (2) the availability of training; and

2 (3) other assistance that may be required.

3 (f) In conjunction with the Department of Planning and, in accordance with
4 § 5-310 of the State Finance and Procurement Article, the plan shall discuss
5 alternative uses for the Rosewood Center property, and shall:

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

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

9 (g) The plan shall identify:

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

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

13 (3) any obstacles, including legal obstacles, to implementation of the
14 plan; and

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

16 (h) On or before December 31, 2007, the Department shall report on the plan
17 to the Governor and, in accordance with § 2-1246 of the State Government Article, the
18 Senate Finance Committee and the House Health and Government Operations
19 Committee.

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