

# SENATE, No. 1610

## STATE OF NEW JERSEY 211th LEGISLATURE

INTRODUCED MAY 17, 2004

**Sponsored by:**

**Senator JOSEPH F. VITALE**

**District 19 (Middlesex)**

**Senator THOMAS H. KEAN, JR.**

**District 21 (Essex, Morris, Somerset and Union)**

**Co-Sponsored by:**

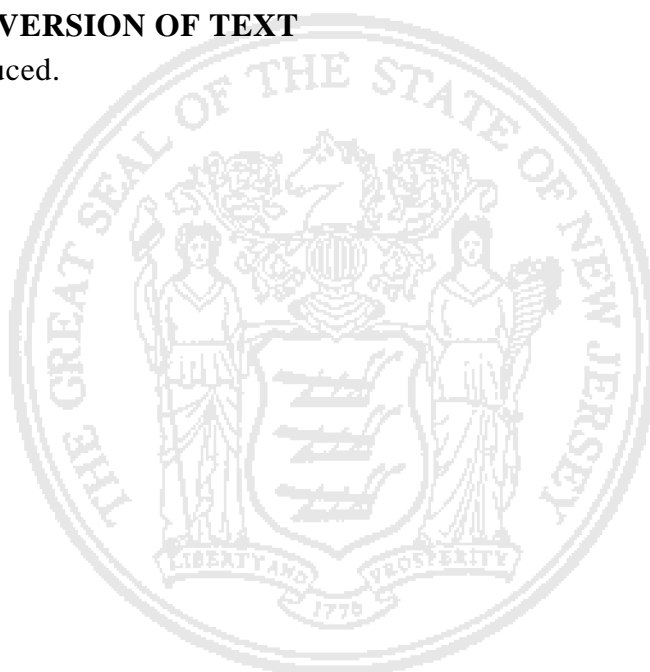
**Senators Sarlo and Karcher**

**SYNOPSIS**

Establishes procedures for placement of individuals in Division of Developmental Disabilities moderate security unit.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 5/13/2005)**

1 AN ACT concerning certain Division of Developmental Disabilities  
2 facilities and supplementing Title 30 of the Revised Statutes.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. As used in this act:

8 "Director" means the Director of the Division of Developmental  
9 Disabilities in the Department of Human Services.

10 "Division" means the Division of Developmental Disabilities in the  
11 Department of Human Services.

12 "Moderate Security Unit," hereafter referred to as "MSU," means  
13 a specialized, institutional facility authorized and established by the  
14 Director of the Division of Developmental Disabilities in the  
15 Department of Human Services, which is: used as an alternative to  
16 incarceration in a correctional facility; and characterized primarily by  
17 physical security for the confinement of males, 18 years of age or  
18 older, who are adjudicated to be dangerous to self, others or property  
19 and in need of a highly structured therapeutic program.

20  
21 2. A person shall not be admitted to the MSU unless the admission  
22 is ordered by a court of competent jurisdiction pursuant to this act.

23  
24 3. The procedures provided in this section shall be implemented  
25 prior to admission of an individual to the MSU.

26 a. If the division is advised by a court of competent jurisdiction  
27 that an individual who may be developmentally disabled is involved in  
28 a criminal proceeding before the court, the division shall determine  
29 whether the individual is eligible for services provided by the division  
30 in accordance with N.J.A.C.10:46-1.1 et seq.

31 If the division determines that the individual is not eligible for  
32 services provided by the division, the individual may request a hearing  
33 to contest the decision pursuant to the "Administrative Procedure  
34 Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

35 b. If the individual is determined eligible for services provided by  
36 the division, a person designated by the director shall request the  
37 Director of the MSU to determine whether the individual is  
38 appropriate for, and will benefit from, admission to the MSU and  
39 whether a vacancy exists at the facility.

40 c. (1) If the individual is appropriate for admission to the MSU, the  
41 Director of the MSU shall so advise the court and request an order to  
42 require the individual to participate in the program at the MSU.

43 (2) The Director of the MSU may recommend to the court that the  
44 individual be admitted to the MSU for a time-specified evaluation  
45 period to evaluate the individual's appropriateness for the program at  
46 the MSU, if the director is not certain about the appropriateness of the

1 admission of the individual.

2

3 4. After the Director of the MSU advises the court that a vacancy  
4 exists at the MSU and the individual may be admitted to the facility,  
5 the court may:

6 a. order the individual as a condition of probation to participate in  
7 the program at the MSU;

8 b. order the individual to be committed to the custody of the  
9 Commissioner of Human Services in accordance with the provisions  
10 of N.J.S.2C:4-6, if the court finds that the individual is unfit to  
11 proceed; or

12 c. request that the individual be housed at the MSU until  
13 sentencing. If the court does not sentence the individual, the  
14 individual shall be released immediately to the appropriate law  
15 enforcement authority, unless the court specifies otherwise.

16

17 5. The Director of the MSU shall notify the individual's legal  
18 guardian, the director and such other persons as the director shall  
19 specify of the date of admission to the MSU.

20

21 6. a. The Director of the MSU shall send periodic reports to the  
22 court regarding the status and progress of the individual admitted to  
23 the MSU, and shall send a copy of the periodic reports to the  
24 individual or his legal guardian or legal representative, as appropriate.

25 b. In the case of an individual admitted to the MSU as a condition  
26 of probation, the Director of the MSU may, when appropriate,  
27 recommend a less restrictive environment for the individual and  
28 petition the court to modify its order of placement.

29

30 7. a. An individual shall be released from the MSU when his  
31 probation period or his commitment to the custody of the  
32 Commissioner of Human Services ends. However, prior to the  
33 individual's scheduled release date, the Director of the MSU may offer  
34 the individual the option of staying at the MSU on a voluntary basis,  
35 but unless the individual is deemed dangerous to self, others or  
36 property, the individual may remain at the MSU on a voluntary basis  
37 only if no other individuals are awaiting admission to the MSU.

38 b. If an individual who wishes to leave the MSU at the end of his  
39 probation period or commitment to the custody of the commissioner  
40 has committed a sexually violent offense as defined in section 3 of  
41 P.L.1998, c.71 (C.30:4-27.26), the director of the MSU shall require  
42 that the individual be evaluated by a psychiatrist for referral for  
43 commitment under P.L.1998, c.71 (C.30:4-27.24 et seq.) prior to his  
44 release from the MSU.

45

46 8. The Commissioner of Human Services shall adopt rules and

1 regulations, pursuant to the "Administrative Procedure Act,"  
2 P.L.1968, c.410 (C.52:14B-1 et seq.), to carry out the purposes of this  
3 act.

4  
5 9. This act shall take effect on the 90th day after enactment, but  
6 the Commissioner of Human Services may take such anticipatory  
7 administrative action in advance as shall be necessary for the  
8 implementation of the act.

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10  
11 STATEMENT

12  
13 This bill provides that a person shall not be admitted to the  
14 Moderate Security Unit (MSU) at the New Lisbon Developmental  
15 Center unless the admission is ordered by a court of competent  
16 jurisdiction.

17 The MSU is a specialized facility at New Lisbon Developmental  
18 Center, operated by the Division of Developmental Disabilities, that is  
19 used as an alternative to incarceration in a correctional facility. The  
20 unit is characterized primarily by physical security for the confinement  
21 of males, 18 years of age or older, who are adjudicated to be  
22 dangerous to self, others or property and in need of a highly structured  
23 therapeutic program.

24 The bill sets forth the procedures that must be followed prior to and  
25 following the admission of an individual to the MSU.

26 -- If the division is advised by a court of competent jurisdiction that  
27 an individual who may be developmentally disabled is involved in a  
28 criminal proceeding before the court, the division shall determine  
29 whether the individual is eligible for services provided by the division  
30 in accordance with N.J.A.C.10:46-1.1 et seq. If the division  
31 determines that the individual is not eligible for services, the individual  
32 may request a hearing to contest the decision;

33 --If the individual is determined eligible for services provided by the  
34 division, a person designated by the director shall request the MSU to  
35 determine whether the individual is appropriate for, and will benefit  
36 from, admission to the MSU, and whether a vacancy exists at the  
37 facility;

38 --If the individual is appropriate for admission to the MSU, the  
39 MSU shall so advise the court and request an order to require the  
40 individual to participate in the program at the MSU;

41 --The MSU may recommend to the court that the individual be  
42 admitted to the MSU for a time-specified evaluation period to evaluate  
43 the individual's appropriateness for the program at the MSU, if the  
44 director of the MSU is not certain about the appropriateness of the  
45 admission of the individual;

46 --After the MSU advises the court that a vacancy exists at the MSU

1 and the individual may be admitted to the facility, the court may:

2 \* order the individual, as a condition of probation, to participate in  
3 the program at the MSU;

4 \* order the individual to be committed to the custody of the  
5 Commissioner of Human Services in accordance with the provisions  
6 of N.J.S.A.2C:4-6, if the court finds that the individual is unfit to  
7 proceed to trial; or

8 \* request that the individual be housed at the MSU until sentencing,  
9 and if the court does not sentence the individual, the individual shall  
10 be released immediately to the appropriate law enforcement  
11 authority, unless the court specifies otherwise;

12 --The MSU shall notify the individual's legal guardian, the director  
13 and such other persons as the director shall specify of the date of  
14 admission;

15 --The Director of the MSU shall send periodic reports to the court  
16 regarding the status and progress of an individual admitted to the  
17 MSU, and when appropriate in the case of an individual admitted as a  
18 condition of probation, the director may recommend a less restrictive  
19 environment for the individual and petition the court to modify its  
20 order of placement. The director shall also provide the individual or  
21 his legal guardian or legal representative, as appropriate, with a copy  
22 of the periodic report to the court;

23 --An individual may be released from the MSU when the time  
24 period of the individual's probation has ended or the commitment to  
25 the custody of the Commissioner of Human Services ends; however,  
26 prior to the individual's scheduled release date, the Director of the  
27 MSU may offer the individual the option of staying at the MSU on a  
28 voluntary basis, but unless the individual is deemed dangerous to self,  
29 others or property, the individual may remain at the MSU on a  
30 voluntary basis only if no other individuals are awaiting admission to  
31 the MSU; and

32 --If an individual has committed a sexually violent offense as  
33 defined in N.J.S.A.30:4-27.26, the director of the MSU shall require  
34 that the individual be evaluated by a psychiatrist for referral for  
35 commitment under N.J.S.A.30:4-27.23 et seq., the "New Jersey  
36 Sexually Violent Predator Act," prior to his release from the MSU.

37 The procedures required in this bill codify into law the policy of the  
38 Division of Developmental Disabilities, as provided in Division  
39 Circular #16, regarding admission into the division's MSU.