VOR
Speaking out for people with intellectual & developmental disabilities

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VOR Statement in SUPPORT of A3975 and S2600

Prohibiting the Transfer of Individuals with Developmental Disabilities from Out-of-State to In-State Placements if Written Objection Provided and One or More Conditions Exist

January 14, 2015 - VOR (www.vor.net) is a national, nonprofit organization advocating for high quality care and human rights for people with intellectual and developmental disabilities (I/DD). We represent thousands of individuals with I/DD, and their families and legal guardians, in New Jersey and around the country.

VOR supports A3975 and S2600 which protect against the transfers of individuals now receiving out-of-state care when the individual or his/her legal guardian objects in writing and when certain conditions relating to the length of placement, proximity to family, cost to the state or level of care needs exist.

A3975 and S2600's consideration of individual choice, need and state resources is consistent with the U.S. Supreme Court's landmark *Olmstead v. L.C.* decision. The Court in *Olmstead* held that the Americans with Disabilities Act (ADA) only requires the provision of community-based care when –

(1) The State's treatment professionals have determined that community placement is appropriate;

(2) the transfer from institutional care to a less restrictive setting is not opposed by the affected individual; and

(3) the placement can be reasonably accommodated, taking into account the resources available to the State and the needs of others with mental disabilities. *Olmstead v. L.C.*, 527 U.S. 581, 587 (1999).

Like *Olmstead*, A3975 and S2600 strike a prudent balance between individual need, choice and state resources in making placement decisions. As recognized by *Olmstead*, community care is appropriate for some individuals, but not all.

As stated by the Supreme Court, "the ADA is not reasonably read to impel States to phase out institutions, placing patients in need of close care at risk... 'Each disabled person is entitled to treatment in the most integrated setting possible for that person — recognizing on a case-by-case basis, that setting may be an institution'[quoting VOR's *Amici Curiae* brief]." Id. at 605.

VOR supports the passage of A3975 and S2600.

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