



Substitute Senate Bill No. 165

Public Act No. 18-32

AN ACT CONCERNING THE DEPARTMENT OF DEVELOPMENTAL SERVICES' RECOMMENDATIONS FOR REVISIONS TO ITS STATUTES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsection (b) of section 17a-210 of the 2018 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

(b) The commissioner shall be responsible for the development of criteria as to the eligibility of any person with intellectual disability for residential care in any public or state-supported private facility and, after considering the recommendation of a properly designated diagnostic agency, may assign such person to a public or state-supported private facility. The commissioner may transfer such [persons] person from one such facility to another when necessary and desirable for their welfare, provided such person and such person's legal representative receive written notice of their right to object to such transfer at least ten days prior to the proposed transfer of such person from any such facility. Such prior notice shall not be required when transfers are made between residential units within the training school or a state developmental services region or when necessary to avoid a serious and immediate threat to the life or physical or mental

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health of such person or others residing in such facility. The notice required by this subsection shall notify [the recipient of his or her] such person and such person's legal representative of the person's right to object to such transfer, except in the case of an emergency transfer as provided in this subsection, and shall include the name, address and telephone number of the nonprofit entity designated by the Governor in accordance with section 46a-10b to serve as the Connecticut protection and advocacy system. In the event of an emergency transfer, the notice required by this subsection shall notify [the recipient of his or her] such person and such person's legal representative of the person's right to request a hearing in accordance with subsection (c) of this section and shall be given within ten days following the emergency transfer. In the event of an objection to the proposed transfer, the commissioner shall conduct a hearing in accordance with subsection (c) of this section and the transfer shall be stayed pending final disposition of the hearing, provided no such hearing shall be required if the commissioner withdraws such proposed transfer.

Sec. 2. Subsections (a) and (b) of section 17a-210a of the general statutes are repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

(a) There is established an independent ombudsman office within the Department of Developmental Services that is responsible for receiving and making recommendations to the commissioner for resolving complaints affecting [consumers] individuals under the care or supervision of the department or of any public or private agency with which the department has contracted for the provision of services.

(b) The director of the ombudsman office shall be appointed by the Governor, with the approval of the General Assembly. Said director shall be an elector of the state with expertise and experience in the fields of developmental services and advocacy for the rights of the

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[consumers] individuals specified in subsection (a) of this section and shall be exempt from the classified service.

Sec. 3. Subsection (a) of section 17a-211 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

(a) In 1991, and every five years thereafter, the Department of Developmental Services shall develop and review a five-year plan in accordance with this section. The plan shall: (1) Set priorities; (2) identify goals and objectives and the strategies to be employed to achieve them; (3) define the criteria to be used in evaluating whether the department is making progress toward the achievement of such goals and objectives; (4) identify changes in priorities, goals, objectives and strategies from the prior plan; (5) describe and document progress made in achieving the goals and objectives outlined in the prior plan; and (6) estimate the type and quantity of staff and [client] services that will be needed over the life of the plan.

Sec. 4. Section 17a-212 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

(a) On or before September 30, 1991, the Commissioner of Developmental Services shall adopt regulations, in accordance with the provisions of chapter 54, establishing (1) criteria for (A) determining eligibility for services provided by the department, (B) determining which [clients] individuals shall receive a specific service, and (C) selecting private sector service providers, and (2) uniform procedures to be used by the regional offices in determining which [clients] individuals shall receive services and in selecting private sector service providers. Such procedures shall specify the decision-making authority of the department's central office and the regional offices and set parameters within which each shall operate.

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(b) Each regional office, following a format developed by the department's central office and taking into account the regulations developed by the commissioner, shall prepare a written protocol to be used in determining which [clients] individuals shall receive services and in selecting service providers. The protocol shall be approved by the commissioner.

Sec. 5. Section 17a-212a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

The Commissioner of Developmental Services shall adopt regulations, in accordance with chapter 54, to establish and implement the policy of the Department of Developmental Services with respect to the placement and care of [department clients] individuals who are evaluated by the department as posing a serious threat to others without specific measures for their supervision and security. Such regulations shall include, but not be limited to, provisions concerning the criteria or factors to be considered in: (1) Evaluating and placing such [clients] individuals; (2) siting of residential facilities for such [clients] individuals; (3) giving notice, if any, to the [community] communities in which such [client is] individuals are to be placed; (4) determining appropriate levels of security and supervision; and (5) providing appropriate programs and quality of life for such [clients] individuals in the least restrictive environment. Such regulations shall not permit the siting of more than one such facility in any one municipality.

Sec. 6. Subsection (a) of section 17a-217a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

(a) There shall be a Camp Harkness Advisory Committee to advise the Commissioner of Developmental Services with respect to issues concerning the health and safety of persons who attend and utilize the

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facilities at Camp Harkness. The advisory committee shall be composed of twelve members as follows: (1) [The] Six members appointed by the Governor, one of whom shall be the director of Camp Harkness, who shall serve ex officio, one [member representing] of whom shall represent the Southeastern Connecticut Association for Developmental Disabilities, one [member representing] of whom shall represent the Southbury Training School, one [member representing] of whom shall represent the Arc of New London County, one [consumer representing persons who use] of whom who is a person who uses the camp on a residential basis and one [member representing parents or guardians of persons who use] of whom is a relative or guardian of a person who uses the camp; [, all of whom shall be appointed by the Governor;] and (2) six members appointed by the General Assembly, one [member representing parents or guardians of persons who use] of whom shall be a relative or guardian of a person who uses the camp, who shall be appointed by the president pro tempore of the Senate; [(3)] one [member] of whom shall be a member of the Family Support Council established pursuant to section 17a-219c [representing] and represent persons who use the camp on a day basis, who shall be appointed by the speaker of the House of Representatives; [(4)] one [member representing] of whom shall represent the board of selectmen of the town of Waterford, who shall be appointed by the majority leader of the House of Representatives; [(5)] one [member representing] of whom shall represent a private nonprofit corporation that is: (A) Tax exempt under Section 501(c)(3) of the Internal Revenue Code of 1986, or any subsequent internal revenue code of the United States, as amended from time to time, and (B) established to promote and support Camp Harkness and its camping programs, who shall be appointed by the majority leader of the Senate; [(6)] one [member representing] of whom shall represent the Connecticut Institute for the Blind and the Oak Hill School, who shall be appointed by the minority leader of the House of Representatives; and [(7)] one [member representing] of whom shall

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represent the United Cerebral Palsy Association, who shall be appointed by the minority leader of the Senate.

Sec. 7. Subsections (a) to (e), inclusive, of section 17a-218 of the general statutes are repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

(a) For purposes of this section, the following terms have the following meanings: "Commissioner" means the Commissioner of Developmental Services; "department" means the Department of Developmental Services; and "emergency placement" means cases in which there has been a request for a residential accommodation for an individual for whom there is an unforeseen emergency in [his] the individual's current living arrangement, or cases in which the department has had no previous knowledge of a need for placement, or cases in which such a placement is needed because of actions of another state agency or department, including, but not limited to, the Department of Mental Health and Addiction Services, the Department of Children and Families, and any court, or cases prior to any other planned placements, because the health or safety of the individual needing such placement would be adversely affected without such placement.

(b) The commissioner shall plan, develop and administer a comprehensive program of community-based residential facilities including, but not limited to, transitional facilities, group homes, community companion homes, community living arrangements and supervised apartments.

(c) The commissioner may provide, within available appropriations, subsidies to persons with intellectual disability who are placed in supervised apartments, condominiums or homes which do not receive housing payments under section 17b-244, in order to assist such persons to meet housing costs.

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(d) The commissioner may provide, within available appropriations, respite care services which may be administered directly by the department, or through contracts for services with providers of such services, or by means of direct subsidy to [parents of persons] the family or legal representative of a person with intellectual disability to enable the [parents] family or legal representative to purchase such services.

(e) The commissioner may, within available appropriations and in accordance with individualized plans of care, provide a full range of services to support persons with intellectual disability living with their families, [caretakers] caregivers, independently or in community-based residential facilities licensed pursuant to section 17a-227, as amended by this act. Such services may include, but are not limited to, education and training programs, social services, counseling services, medical services, physical or occupational therapy, parent training, recreation and transportation. Such services may be provided by the department or be purchased from persons or private agencies through contracts pursuant to subsection (d) of section 4-70b or purchased directly by the [service recipient or his family] person receiving services or the person's family or legal representative. The department may provide a direct subsidy to persons with intellectual disability or their families or legal representatives to be used for such purchases of such support services. The [recipient of] person receiving such subsidy or the person's family or legal representative shall provide a documented accounting of such subsidy to the department.

Sec. 8. Subsection (a) of section 17a-218a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

(a) The Commissioner of Developmental Services shall continue the operation of the Southbury Training School and shall establish criteria to evaluate the current population of the training school in regard to

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community placement and training school placement. The criteria shall include, at a minimum, consideration of the [client's] resident's age, physical disabilities, medical fragility, level of intellectual disability, length of residence at the school and availability of an appropriate placement.

Sec. 9. Subsection (e) of section 17a-228 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

(e) Whenever the Department of Developmental Services refuses to renew the authorization of a person for continued state-assisted care in a licensed residential facility for persons with intellectual disability pursuant to subsection (d) of this section and either authorizes the individual for admission into alternate facilities or refuses to authorize the individual for continued state-assisted care in any alternative facility, the Department of Developmental Services shall give thirty days' notice of its determination to the previously authorized individual and to such individual's [parent, conservator, guardian or other] legal representative. Such notice shall [also notify each such individual or his legal representative of the] inform the individual and the individual's representative of such individual's right to contest the determination by submitting a request for a hearing in writing to the Commissioner of Developmental Services not later than fifteen days after the date of receiving the notice required by this subsection. Such hearing, if requested, shall be conducted in accordance with the provisions of sections 4-176e to 4-184, inclusive. State-assisted care shall continue in the present facility pending final disposition of any such hearing.

Sec. 10. Section 17a-229 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

The Commissioner of Developmental Services may, upon

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application by a residential facility licensed under section 17a-227, as amended by this act, at his or her discretion and prior to the opening of such facility, make payments for operating costs to be incurred up to forty-five days in advance of the initial admission of residents by such facility. [He] The commissioner shall ensure that all payments made pursuant to this section and section 17a-228, as amended by this act, have been properly expended and shall recoup payments improperly expended.

Sec. 11. Subsections (a) to (d), inclusive, of section 17a-230 of the general statutes are repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

(a) The Commissioner of Developmental Services shall adopt regulations in accordance with the provisions of chapter 54 to implement the provisions of section 17a-229, as amended by this act, and subsection (a) of section 17a-228 pertaining to the Commissioner of Developmental Services. Such regulations shall include, but not be limited to, standards for [client] eligibility for programmatic services provided under subsection (a) of section 17a-228 which standards may address [client] a person with intellectual disability's need for such services and departmental priorities for [clients] such person to receive services under subsection (a) of section 17a-228, criteria for determining [resident] such person's ability to pay for all or part of the cost of such services, standards for advance payments to private entities for the provision of such services, standards for the recovery of payments improperly expended and standards for fair hearing or case review for persons denied eligibility or admission.

(b) The commissioner shall adopt regulations in accordance with the provisions of chapter 54 to govern the annual reviews mandated by subsection (d) of section 17a-228. Such regulations shall address individual need for continued authorization to receive residential care and the continued appropriateness of the facility. Such regulations

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shall recognize the characteristics of persons deemed authorized for admission pursuant to subsection (b) of section 17a-228.

(c) The commissioner may grant exemptions from regulations adopted pursuant to subsections (a) and (b) of this section for group homes in operation prior to October 1, 1983, and shall adopt regulations concerning the criteria and procedures for such exemptions.

(d) The commissioner shall allow any authorized [client] resident of a private residential facility licensed in accordance with section 17a-227, as amended by this act, to be absent from such facility for not more than thirty-six days per year without affecting reimbursement to such facility. In order to be reimbursed for absences in excess of thirty-six days, the facility shall obtain prior approval for the absence from the commissioner. The commissioner shall adopt regulations in accordance with the provisions of chapter 54 to implement the provisions of this subsection.

Sec. 12. Section 17a-232 of the 2018 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

(a) An application to appoint a receiver for a residential facility for persons with intellectual disability may be filed in the Superior Court by the Commissioner of Developmental Services. A resident of the facility or the resident's [legally liable relative, conservator, or guardian] legal representative may file a written complaint with the Commissioner of Developmental Services specifying conditions at the facility which warrant an application to appoint a receiver. If the Commissioner of Developmental Services fails to resolve the complaint within forty-five days of its receipt or, in the case of a facility which intends to close, within seven days of its receipt, the person who filed the complaint may file an application in the Superior Court for the

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appointment of a receiver for the facility. The court shall immediately notify the Attorney General of the application. The court shall hold a hearing not later than ten days after the date the application is filed. Notice of the hearing shall be given to the owner of the facility or the owner's agent for service of process not less than five days prior to the hearing. The notice shall be posted by the court in a conspicuous place inside the facility for not less than three days prior to the hearing.

(b) Notwithstanding the provisions of subsection (a) of this section the court may appoint a receiver upon an ex parte motion when affidavits, testimony or any other evidence presented indicates that there is a reasonable likelihood an emergency exists in the facility which must be remedied immediately to [insure] ensure the health, safety and welfare of the residents of the facility. Notice of the application and order shall be served on the owner or [his] the owner's agent for service of process and shall be posted in a conspicuous place inside the facility not later than twenty-four hours after issuance of the order. A hearing on the application shall be held not later than five days after the issuance of the order unless the owner consents to a later date.

Sec. 13. Subsection (b) of section 17a-233 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

(b) It shall be a sufficient defense to a receivership application if any owner of a residential facility for persons with intellectual disability establishes that: (1) [He] Such owner did not have knowledge or could not reasonably have known that any conditions in violation of section 17a-227, as amended by this act, existed, or (2) [he] such owner did not have a reasonable time in which to correct such violations, or (3) the violations listed in the application do not, in fact, exist, or (4) in the event the grounds upon which the petition is based are those set forth in subdivision (2) of subsection (a) of this section, the facility does not

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intend to close.

Sec. 14. Section 17a-234 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

A receiver appointed pursuant to the provisions of sections 17a-231 to 17a-237, inclusive, as amended by this act, in operating such facility, shall have the same powers as a receiver of a corporation under section 52-507 and shall exercise such powers to remedy the conditions which constituted grounds for the imposition of receivership, assure adequate care for the residents and preserve the assets and property of the owner. If a facility is placed in receivership it shall be the duty of the receiver to notify residents and ~~[family]~~ the residents' legal representatives, except where medically contraindicated. The receiver may correct or eliminate any deficiency in the structure or furnishings of the facility which endangers the safety or health of the residents while they remain in the facility, provided the total cost of correction does not exceed three thousand dollars. The court may order expenditures for this purpose in excess of three thousand dollars upon the application of the receiver. If any resident is transferred or discharged the receiver shall provide for: (1) Transportation of the resident and the resident's belongings and records to the place where the resident is being transferred or discharged; (2) aid in locating an alternative placement and discharge planning; (3) preparation for transfer to mitigate transfer trauma, including, but not limited to, participation by the resident or the resident's ~~[guardian]~~ legal representative in the selection of the resident's alternative placement, explanation of alternative placements and orientation concerning the placement chosen; and (4) custodial care of all property or assets of residents which are in the possession of the owner of the facility. The receiver shall preserve all property, assets and records of residents which the receiver has custody of and shall provide for the prompt transfer of the property, assets and records to the alternative placement

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of any transferred resident. In no event may the receiver transfer all residents and close a facility without a court order and without preparing a discharge plan for each resident.

Sec. 15. Section 17a-236 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

(a) The court may name any responsible [individual] person to act as a receiver, including an employee of the Department of Developmental Services. The court may remove such receiver in accordance with section 52-513. A receiver, other than an employee of the Department of Developmental Services, appointed pursuant to this section shall be entitled to a reasonable receiver's fee as determined by the court. The receiver shall be liable only in his or her official capacity for injury to person and property by reason of the conditions of the residential facility. [He] Such receiver shall not be personally liable, except for acts or omissions constituting gross, wilful or wanton negligence.

(b) The court, in its discretion, may require a bond of such receiver in accordance with section 52-506.

(c) Each receiver shall, during the first week of January, April, July and October in each year, sign, swear to and file with the clerk of the court by which [he] such receiver was appointed a full and detailed account of [his] the receiver's doings [as such receiver] for the previous three months [next preceding,] together with a statement of all court orders [passed] issued during such three months and the present condition and prospects of the facility in [his] the receiver's charge, and cause a motion for a hearing and approval of the same to be [placed on the short calendar] filed with the court.

Sec. 16. Section 17a-237 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

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The Superior Court, upon a motion by the receiver or the owner of such facility, may terminate the receivership if it finds that the facility has been rehabilitated so that the violations complained of no longer exist or, if the receivership was instituted pursuant to subdivision (2) of subsection (a) of section 17a-233, the orderly transfer of the [patients] residents has been completed and the facility is ready to be closed. Upon such finding, the court may terminate the receivership and return the facility to its owner. In its termination order the court may include such terms as it deems necessary to prevent the conditions complained of from recurring.

Sec. 17. Subsection (b) of section 17a-238a of the 2018 supplement to the general statutes, as amended by section 2 of public act 17-61, is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

(b) An individual determined by the department to be eligible for funding or services from the department, or such individual's legal [guardian or] representative, may request and, if requested, shall obtain from the department a copy of (1) such individual's category for residential funding or services, if the individual has an unmet need for residential services, (2) such individual's request for funding or services submitted to the regional planning and resource allocation team, and (3) any decision on the individual's request for funding or services made by the regional planning and resource allocation team. Additionally, any such individual who receives annual funding or services from the department, or such individual's legal [guardian or] representative, may request and, if requested, shall obtain from the department a copy of such individual's (A) individual plan, and (B) level of need assessment.

Sec. 18. Subsection (f) of section 17a-238 of the 2018 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

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(f) The Commissioner of Developmental Services shall require the attending physician of any person placed or treated in a residential facility under the direction of the commissioner to obtain informed written consent from the following persons prior to authorizing any surgical procedure or any medical treatment, excluding routine medical treatment which is necessary to maintain the general health of [a resident] the person or to prevent the spread of any communicable disease: (1) The [resident] person if such [resident] person is eighteen years of age or over or is legally emancipated and competent to give such consent; (2) the parent of a [resident] person under eighteen years of age who is not legally emancipated; or (3) the legal [guardian or conservator] representative of a [resident] person of any age who is adjudicated unable to make informed decisions about matters relating to such [resident's] person's medical care. The person whose consent is required shall be informed of the nature and consequences of the particular treatment or surgical procedure, the reasonable risks, benefits and purpose of such treatment or surgical procedure and any alternative treatment or surgical procedures which are available. The consent of any [resident] person or of any parent [, guardian or conservator] or legal representative of any [resident] person may be withdrawn at any time prior to the commencement of the treatment or surgical procedure. The regional or training school director having custody and control of a [resident of any] person living in a residential facility may authorize necessary surgery for such [resident] person where, in the opinion of the [resident's] person's attending physician, the surgery is of an emergency nature and there is insufficient time to obtain the required written consent provided for in this section. The attending physician shall prepare a report describing the nature of the emergency which necessitated such surgery and shall file a copy of such report in the patient's record.

Sec. 19. Subsection (h) of section 17a-238 of the 2018 supplement to the general statutes is repealed and the following is substituted in lieu

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thereof (*Effective July 1, 2018*):

(h) Any person applying for services from the Commissioner of Developmental Services or any person placed by a [probate court] Probate Court under the direction of the Commissioner of Developmental Services, and such person's [parents or guardian] legal representative, shall be informed orally and in writing at the time of application or placement of the rights guaranteed by this section. A summary of such rights shall be posted conspicuously in the public areas of every public or private facility providing services to persons under the care of the Commissioner of Developmental Services.

Sec. 20. Section 17a-247 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

(a) Any employee of the Department of Developmental Services appointed as a guardian or limited guardian pursuant to subsection (f) of section 45a-676 shall exercise judgment, independent of the department, for the benefit and best interests of the [ward] protected person.

(b) The Department of Developmental Services shall not take or threaten to take any action against any employee of the department in retaliation for such employee's conduct as a plenary guardian or limited guardian of a person with intellectual disability.

Sec. 21. Subsection (a) of section 17a-247c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

(a) No employer shall hire a person whose name appears on the registry and no employer shall retain an employee after receiving notice that [his or her] such employee's name so appears.

Sec. 22. Subsection (b) of section 17a-272 of the general statutes is

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repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

(b) Each director may with the approval of the Commissioner of Developmental Services appoint four assistant directors for the efficient conduct of the business of each training school or state developmental services region. Each director shall designate an assistant director who shall in the event of the director's absence, [or] disqualification [of the director or on his] or death, exercise the powers and duties of the director until [he] the director resumes his or her duties or the vacancy is filled. [Assistant directors shall be removable by the] The director may remove an assistant director.

Sec. 23. Subsections (a) and (b) of section 17a-273 of the general statutes are repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

(a) The Commissioner of Developmental Services shall appoint at least one advisory and planning council for each state developmental services region operated by the Department of Developmental Services, which council shall have the responsibility of consulting with and advising the director of the region on the needs of persons with intellectual disability in the region, the annual plan and budget of the region and other matters deemed appropriate by the council. The Commissioner of Developmental Services shall, at least annually, provide to any individual who receives annual funding or receives services from the department, or such individual's legal [guardian or] representative, information about the regional advisory and planning council's statutory responsibilities and the process to access information concerning such council's meetings.

(b) Each such council shall consist of at least ten members appointed from the state developmental services region. No employee of any state agency engaged in the care or training of individuals with

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intellectual disability shall be eligible for appointment. At least one member shall be designated by a local chapter of the Arc of Connecticut in the region. At least one member shall be an individual who is eligible for and receives services from the Department of Developmental Services. At least two members shall be [parents of individuals] a relative of an individual with intellectual disability. Members shall be appointed for terms of three years. No member may serve more than two consecutive terms, except a member may continue to serve until a successor is appointed. Each council shall appoint annually, from among its members, a chairperson, vice-chairperson and secretary. The council may make rules for the conduct of its affairs. The director of the region shall be an ex-officio member of the council without vote and shall attend its meetings.

Sec. 24. Subsection (a) of section 17a-274 of the 2018 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

(a) Any Probate Court shall have the power to place any person residing in its district whom it finds to be a person with intellectual disability with the Department of Developmental Services for placement in any appropriate setting which meets the person's habilitative needs in the least restrictive environment available or which can be created within existing resources of the department, in accordance with the provisions of this section and section 17a-276. No person shall be so placed unless the court has found the person has intellectual disability and (1) is unable to provide for himself or herself at least one of the following: Education, habilitation, care for personal health and mental health needs, meals, clothing, safe shelter or protection from harm; (2) has no family or legal representative or other person to care for him or her, or [his or her] such person's family or legal representative or other person can no longer provide adequate care for him or her; (3) is unable to obtain adequate, appropriate

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services which would enable [him or her] such person to receive care, treatment and education or habilitation without placement by a Probate Court; and (4) is not willing to be placed under the custody and control of the Department of Developmental Services or its agents or voluntary admission has been sought by the legal representative of such person and such voluntary admission has been opposed by the protected person or [his or her] the protected person's next of kin.

Sec. 25. Subsection (d) of section 17a-274 of the 2018 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

(d) Notice to the respondent and Commissioner of Developmental Services shall include: The names of all persons filing the petition, the allegations made in the petition, the time, date and place of the hearing, and the name, address and telephone number of the attorney who will represent the respondent. The notice shall state the right of the respondent to be present at the hearing, to present evidence, to cross-examine witnesses who testify at the hearing, and to an independent diagnostic and evaluative examination by a licensed psychologist of [his or her] the respondent's own choice, who may testify on [his or her] the respondent's behalf. If the court finds the respondent is indigent, the notice shall further state the respondent may be represented by counsel of [his or her] the respondent's own choosing, and, if the court finds the respondent is indigent, that counsel shall be provided without cost. The reasonable compensation for counsel provided to indigent respondents shall be established by, and paid from funds appropriated to, the Judicial Department, however, if funds have not been included in the budget of the Judicial Department for such purposes, such compensation shall be established by the Probate Court Administrator and paid from the Probate Court Administration Fund.

Sec. 26. Subsection (k) of section 17a-274 of the 2018 supplement to

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the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

(k) Any person or agency having reasonable cause to believe that a person has intellectual disability and is in need of immediate care and treatment for [his or her] such person's safety and welfare, which care and treatment is not being provided by [his or her] such person's family, legal representative or other person responsible for [his or her] such person's care, shall make a written report to the Commissioner of Developmental Services. The report shall contain the name and address of the person believed to have intellectual disability and be in need of immediate care and treatment, and [his or her] such person's family, legal representative or other person responsible for [his or her] such person's care, and all evidence forming the basis for such belief and shall be signed and dated by the person making such report. The Commissioner of Developmental Services shall promptly determine whether there is reasonable cause to believe that the person named in the report has intellectual disability and is in need of immediate care and treatment, which care and treatment is not being provided by [his or her] such person's family, legal representative or other person responsible for [his or her] such person's care and if the commissioner so determines, shall assume the care and custody of such person. The commissioner or [his] the commissioner's designee shall, within twenty-four hours, excluding Saturdays, Sundays and legal holidays, after assuming the care and custody of such person, file a petition pursuant to subsection (b) of this section in the Probate Court for the district in which such person resided prior to emergency placement. The Probate Court in which such application is filed shall assign a time and place for a hearing pursuant to subsection (c) of this section.

Sec. 27. Section 17a-277 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

[The] A regional or training school director [of any state training

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school, regional facility or other facility for the care and training of persons with intellectual disability] may place any resident with intellectual disability committed or admitted to such training school, regional facility or other residential facility provided for the care and training of persons with intellectual disability, under the provisions of sections 17a-210 to 17a-247, inclusive, as amended by this act, and 17a-273, as amended by this act, in a community companion home, community living arrangement, [private boarding home,] group home, other residential facility or residential program to be cared for in accordance with the following conditions:

(1) Such resident shall, despite such transfer, remain subject to the control of the regional or training school director [of such training school, regional facility or other facility provided for the care and training of persons with intellectual disability] and the director may, at any time, order and provide for the return of any such resident to such training school, regional facility or other residential facility provided for the care and training of persons with intellectual disability; [subject to any limitations of the term of commitment contained in the order of commitment under which such resident was committed;]

(2) When the transfer of any such resident has been authorized or when, having been transferred to a community companion home, community living arrangement, [private boarding home,] group home, other residential facility or residential program for persons with intellectual disability, such resident has [been] returned to the training school, regional facility or other residential facility, the regional or training school director [of such training school, regional facility or other facility] shall forthwith so notify the Commissioner of Developmental Services;

(3) Such community companion home, community living arrangement, [private boarding home,] group home, other residential facility or residential program shall be licensed by the Department of

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Developmental Services, the Department of Children and Families or the Department of Public Health under such regulations as the departments adopt, in accordance with chapter 54; and

(4) The Commissioner of Developmental Services shall, upon request, be given access to the complete record of any resident placed in a community companion home, community living arrangement, [private boarding home,] group home, other residential facility or residential program pursuant to this section.

Sec. 28. Section 17a-281 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

Any person who is a resident of Connecticut at the time an application is made by [such resident] or on behalf of such resident under the provisions of this section, and who is, or appears to be, or believes [himself or herself] such resident to be a person with intellectual disability, may apply, in writing, to the Commissioner of Developmental Services, on a form prescribed by the commissioner, for admission to any facility for persons with intellectual disability. Such application shall be accompanied by a medical history of the applicant, including any medical or physical condition requiring special attention, treatment or precautions, a written psychological report provided by a psychologist either licensed under the provisions of chapter 383 or employed by the Department of Developmental Services, who has personally examined the applicant prior to the filing of application for residential placement or a copy of the determination of eligibility made in accordance with section 17a-212, as amended by this act, and the regulations adopted thereunder. The written psychological report shall include (1) a statement that the psychologist has personally examined the applicant not more than ninety days prior to the date of filing of the application, (2) the results of a psychometric assessment conducted not more than one year prior to the date of filing of the application, and (3) an evaluation of the applicant's current

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level of adaptive functioning, including self-care, mental health, social, academic and vocational needs. In the event of an emergency, admission to a residential facility may be made and the required medical history and psychologist's report may be submitted not later than thirty days after the date of such admission. The application for such person, if such person is a minor, may be made by a parent, [guardian of the person] legal representative of, or person having custody of, such minor. If such person is an adult who has had a plenary or limited guardian appointed pursuant to sections 45a-669 to 45a-683, inclusive, such person's guardian may apply for admission and the commissioner may admit such person, provided the commissioner is satisfied that there is no conflict concerning the admission between the guardian and [his or her ward] the protected person or the [ward's] protected person's next of kin. If such conflict exists, the applicant may only be admitted under the provisions of section 17a-274, as amended by this act. The commissioner may approve any such application for admission if the person on whose behalf application is made is suitable for admission and if space is available and may terminate such admission at any time when the commissioner feels such person will not profit from continued placement. The provisions of this section shall not apply to persons who apply to the commissioner for respite care services for a period not to exceed thirty days.

Sec. 29. Section 17a-282 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

No person admitted to a facility for persons with intellectual disability under the provisions of section 17a-281, as amended by this act, shall be detained in such facility for more than seven days after such person or such person's legal representative has given notice in writing [, or, if such person is a minor or an adult for whom a guardian or an involuntary conservator has been appointed, after such notice

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has been given on his or her behalf by his or her parent, guardian, conservator or person having custody,] to the Commissioner of Developmental Services, of [his or her] such person's intention or desire to leave such facility. If the commissioner is of the opinion that such person is in need of further treatment or observation, the commissioner may make and file, in the [probate court] Probate Court for the district within which such person resides, an application for the involuntary placement of such person to such facility and the [probate court] Probate Court shall proceed thereon in the same manner as is provided in section 17a-274, as amended by this act.

Sec. 30. Subdivisions (1) to (3), inclusive, of section 46a-11a of the 2018 supplement to the general statutes are repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

For the purposes of sections 46a-11a to 46a-11g, inclusive, as amended by this act:

(1) "Abuse" means the wilful infliction of physical pain or injury or the wilful deprivation by a [caretaker] caregiver of services which are necessary to the person's health or safety;

(2) "Neglect" means a situation where a person with intellectual disability either is living alone and is not able to [provide for himself or herself] obtain the services which are necessary to maintain [his or her] such person's physical and mental health or is not receiving such necessary services from the [caretaker] caregiver;

(3) ["Caretaker"] "Caregiver" means a person who has the responsibility for the care of a person with intellectual disability as a result of a family relationship or who has assumed the responsibility for the care of the person with intellectual disability voluntarily, by contract or by order of a court of competent jurisdiction. The legal representative of a person with intellectual disability need not be such

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person's [caretaker] caregiver;

Sec. 31. Subsection (e) of section 46a-11b of the 2018 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

(e) Any person who makes any report pursuant to sections 46a-11a to 46a-11g, inclusive, as amended by this act, or who testifies in any administrative or judicial proceeding arising from such report shall be immune from any civil or criminal liability on account of such report or testimony, except for liability for perjury, unless such person acted in bad faith or with malicious purpose. Any person who obstructs, hinders or endangers any person reporting or investigating abuse or neglect or providing protective services or who makes a report in bad faith or with malicious purpose and who is not subject to any other penalty shall be fined not more than five hundred dollars. No resident or employee of a facility, as defined in section 46a-11a, as amended by this act, shall be subject to reprisal or discharge because of [his] such resident's or employee's actions in reporting pursuant to sections 46a-11a to 46a-11g, inclusive, as amended by this act.

Sec. 32. Subsection (a) of section 46a-11c of the 2018 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

(a) The commissioner, upon receiving a report that a person with intellectual disability allegedly is being or has been abused or neglected, shall make an initial determination whether such person has intellectual disability, shall determine if the report warrants investigation and shall cause, in cases that so warrant, a prompt, thorough evaluation to be made to determine whether the person has intellectual disability and has been abused or neglected. For the purposes of sections 46a-11a to 46a-11g, inclusive, as amended by this act, the determination of intellectual disability may be made by means

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of a review of records and shall not require the commissioner to conduct a full psychological examination of the person. Any delay in making such determination of intellectual disability shall not delay the investigation of abuse or neglect or recommendation of provision of protective services. The evaluation shall include a visit to the named person with intellectual disability and consultation with those individuals having knowledge of the facts of the particular case. All state, local and private agencies shall have a duty to cooperate with any investigation conducted by the Department of Developmental Services under this section, including the release of complete records of the named person for review, inspection and copying, except where the person with intellectual disability refuses to permit [his or her record] such records to be released. The commissioner shall have subpoena powers to compel any information related to such investigation. All records of the named person shall be kept confidential by said department. Upon completion of the evaluation of each case, written findings shall be prepared which shall include a determination of whether abuse or neglect has occurred and recommendations as to whether protective services are needed. The commissioner, except in cases where the legal representative is the alleged perpetrator of abuse or neglect or is residing with the alleged perpetrator, shall notify the legal representative, if any, of the person with intellectual disability if a report of abuse or neglect is made which the commissioner determines warrants investigation. The commissioner shall provide the legal representative who the commissioner determines is entitled to such information with further information upon request. The person filing the report of abuse or neglect shall be notified of the findings upon such person's request.

Sec. 33. Subsections (a) and (b) of section 46a-11d of the 2018 supplement to the general statutes are repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

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(a) If it is determined by an investigation that a person with intellectual disability has been abused or neglected, the commissioner shall develop and implement a plan of protective services. The name of the person making the report of abuse or neglect shall not be disclosed without [his or her] such person's consent.

(b) If the [caretaker] caregiver of a person with intellectual disability who has consented to the receipt of protective services refuses to allow the provision of such services to such person, the commissioner may petition the Superior Court for an order enjoining the [caretaker] caregiver from interfering with the provision of protective services to the person. The petition shall allege specific facts sufficient to show that the person with intellectual disability is in need of protective services and consents to their provision and that the [caretaker] caregiver refuses to allow the provision of such services. If the court finds that the person is in need of such services and has been prevented by the [caretaker] caregiver from receiving the same, the court may issue an order enjoining the [caretaker] caregiver from interfering with the provision of protective services to the person.

Sec. 34. Subsection (a) of section 46a-11e of the 2018 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

(a) If a person with intellectual disability does not consent to the receipt of protective services, or if such person withdraws [his] consent to the receipt of such services, such services shall not be provided or continued, except that if the commissioner has reason to believe that such person lacks capacity to consent to or refuse such services, the commissioner may petition the Probate Court for the appointment of a legal representative. If any legal representative, appointed pursuant to the provisions of this section, does not consent to the provision of such services, the commissioner may petition the Probate Court for the removal and replacement of such legal representative.

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Sec. 35. Section 46a-11g of the 2018 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

If, as a result of any investigation initiated under the provisions of sections 17a-247f and 46a-11a to 46a-11f, inclusive, as amended by this act, a determination is made that a [caretaker] caregiver or other person has abused a person with intellectual disability or a person receiving services from the Department of Social Services' Division of Autism Spectrum Disorder Services, the commissioner shall refer such information in writing to the appropriate office of the state's attorney, which shall conduct such further investigation as may be deemed necessary and shall determine whether criminal proceedings should be initiated against such [caretaker] caregiver or other person, in accordance with applicable state law. If any initial investigation by the commissioner discloses evidence of an immediate and serious threat to the health or life of a person with intellectual disability or a person receiving services from the Department of Social Services' Division of Autism Spectrum Disorder Services, said department shall immediately refer the matter to state or local police, as appropriate, who shall immediately investigate the matter. The commissioner shall notify the Commissioner of Social Services, or his or her designee, of any referral of information to the office of the state's attorney or to state or local police concerning an abuse or neglect investigation of a person receiving services from the Department of Social Services' Division of Autism Spectrum Disorder Services.

Sec. 36. Section 46a-13a of the 2018 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2018*):

Each state, local or private agency responsible for the protection of persons with disabilities shall cooperate with any investigation conducted by the Department of Developmental Services and shall

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release [client] records of any named person with intellectual disability or who receives services from the Department of Social Services' Division of Autism Spectrum Disorder Services for review and inspection by [said department] the Department of Developmental Services. No such state, local or private agency shall release the records of a [client] named person without the express consent of such [client] named person or as otherwise provided by law.

Sec. 37. Section 45a-674 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) At any hearing for appointment of a plenary guardian or limited guardian, the court shall receive evidence as to the condition of the respondent, including a written report or testimony by a Department of Developmental Services assessment team appointed by the Commissioner of Developmental Services or his or her designee, no member of which is related by blood, marriage or adoption to either the petitioner or the respondent and each member of which has personally observed or examined the respondent within forty-five days next preceding such hearing. The assessment team shall be comprised of at least two representatives from among appropriate disciplines having expertise in the evaluation of persons alleged to have intellectual disability. The assessment team members shall make their report on a form provided for that purpose by the office of the Probate Court Administrator and shall answer questions on such form as fully and completely as possible. The report shall contain specific information regarding the severity of the intellectual disability of the respondent and those specific areas, if any, in which the respondent needs the supervision and protection of a guardian, and shall state upon the form the reasons for such opinions. The petitioner, respondent or the respondent's counsel shall have the right to present evidence and cross-examine witnesses who testify at any hearing on the petition. If the respondent or the respondent's counsel notifies the

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court not less than three days before the hearing that he or she wishes to cross-examine the witnesses, the court shall order such witnesses to appear. The fees for such assessment team shall be paid from funds appropriated to the Department of Developmental Services.

(b) The written report or testimony by the assessment team shall not be required for a hearing on the appointment of a plenary guardian or limited guardian if the individual has been determined ineligible for services of the Department of Developmental Services by the commissioner or his or her designee, provided such denial of eligibility is based on the determination that the individual does not have intellectual disability as defined in section 1-1g. A copy of the eligibility determination letter indicating that the basis of ineligibility is the absence of intellectual disability, as defined in section 1-1g, shall be provided to the Probate Court in lieu of a report by the assessment team and no further assessment by the team shall be required.

Sec. 38. Subsections (a) to (c), inclusive, of section 17a-227 of the general statutes are repealed and the following is substituted in lieu thereof (*Effective October 1, 2018*):

(a) No person, firm or corporation shall operate within this state a community living arrangement or community companion home which it owns, leases or rents for the lodging, care or treatment of persons with intellectual disability, Prader-Willi syndrome or autism spectrum disorder unless such person, firm or corporation, upon written application, [verified by oath,] has obtained a license issued by the Department of Developmental Services. An application for licensure under this section shall be verified by oath, but need not be notarized.

(b) The commissioner shall adopt regulations, in accordance with the provisions of chapter 54, to [insure] ensure the comfort, safety, adequate medical care and treatment of such persons at the residential facilities described in subsection (a) of this section. Such regulations

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shall include requirements that: (1) All residential facility staff be certified in cardiopulmonary resuscitation in a manner and time frame prescribed by the commissioner; (2) records of staffing schedules and actual staff hours worked, by residential facility, be available for inspection by the department upon advance notice; (3) each residential facility develop and implement emergency plans and staff training to address emergencies that may pose a threat to the health and safety of the residents of the facility; (4) department staff verify during quality service reviews and licensing inspections, that (A) staff is adequately trained to respond in an emergency, and (B) a summary of information on each resident is available to emergency medical personnel for use in an emergency; (5) all residential facilities serving persons with Down syndrome fifty years of age or older have at least one staff member trained in Alzheimer's disease and dementia symptoms and care; and (6) [not less than one-half of the quality service reviews, licensing inspections or facility visits conducted by the department after initial licensure] for community living arrangements, the commissioner shall determine a minimum number of licensure-related visits that are unannounced.

(c) After receiving an application and making such investigation as is deemed necessary and after finding the specified requirements to have been fulfilled, the department shall grant a license to such applicant to operate a facility of the character described in such application, which license shall specify the name of the person to have charge and the location of each facility operated under the license. Any person, firm or corporation aggrieved by any requirement of the regulations or by the refusal to grant any license may request an administrative hearing in accordance with the provisions of chapter 54. If the licensee of any such facility desires to place in charge thereof a person other than the one specified in the license, application shall be made to the Department of Developmental Services, in the same manner as provided for the original application, for permission to

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make such change. Such application shall be acted upon not later than ten calendar days from the date of the filing of the application. Each such license shall be renewed annually upon such terms as may be established by regulations and may be revoked by the department upon proof that the facility for which such license was issued is being improperly operated, or for the violation of any of the provisions of this section or of the regulations adopted pursuant to this section, provided the licensee shall first be given a reasonable opportunity to be heard in reference to such proposed revocation. Any person, firm or corporation aggrieved by such revocation may request an administrative hearing in accordance with the provisions of chapter 54. Each person, firm or corporation, upon filing an application under the provisions of this section for a license for a community living arrangement, shall pay to the State Treasurer the sum of fifty dollars unless such fee is waived by the commissioner.

Sec. 39. Subsection (g) of section 17a-238 of the 2018 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2018*):

(g) The commissioner's oversight and monitoring of the medical care of persons placed or treated under the direction of the commissioner does not include the authority to make treatment decisions, except in limited circumstances in accordance with statutory procedures. In the exercise of such oversight and monitoring responsibilities, the commissioner shall not impede or seek to impede a properly executed medical order to withhold cardiopulmonary resuscitation. For purposes of this subsection, "properly executed medical order to withhold cardiopulmonary resuscitation" (1) means [(1)] (A) a written order by the attending physician or advanced practice registered nurse; [(2)] (B) in consultation and with the consent of the patient or a person authorized by law; [(3)] (C) when the attending physician or advanced practice registered nurse is of the

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opinion that the patient is in a terminal condition, as defined in section 19a-570; [which condition will result in death within days or weeks;] and [(4)] (D) when such physician or advanced practice registered nurse has requested and obtained a second opinion from a Connecticut licensed physician or advanced practice registered nurse in the appropriate specialty that confirms the patient's terminal condition; and (2) includes the entry of such an order when the attending physician or advanced practice registered nurse (A) is of the opinion that the patient is in the final stage of a terminal condition but cannot state that the patient may be expected to expire during the next several days or weeks, or [,] (B) in consultation with a physician qualified to make a neurological diagnosis, deems the patient to be permanently unconscious, provided the commissioner has reviewed the decision with the department's director of [community medical services] health and clinical services, or such director's designee, the [family and guardian] legal representative of the patient and others whom the commissioner deems appropriate, and determines that the order is a medically acceptable decision. The provisions of this subsection shall not apply to individuals with a legally valid advance directive.

Approved May 24, 2018